

BULLETIN 1053

MARCH 14, 1955.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 1053

MARCH 14, 1955.

1. APPELLATE DECISIONS - CAGGY'S TAVERN, INC. v. MONTCLAIR.

CAGGY'S TAVERN, INC.,)	
Appellant,)	
-vs-)	ON APPEAL
)	CONCLUSIONS AND ORDER
BOARD OF COMMISSIONERS OF THE)	
TOWN OF MONTCLAIR,)	
Respondent.)	

Steelman, Lafferty & Rowe, Esqs., by James L. R. Lafferty, Esq.,
Attorneys for Appellant.
Samuel Allcorn, Jr., Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of the respondent Board whereby it denied appellant's application for a person-to-person transfer of a plenary retail consumption license from Society Saint Sebastiano of Montclair, New Jersey, to appellant for premises 62 Glenridge Avenue, Montclair. The members of the respondent Board voted unanimously to deny the application for the transfer of the license in question.

Appellant sets forth in its petition of appeal filed herein that "the action of the respondent was erroneous in that it constituted an arbitrary and unreasonable abuse of the discretionary powers vested in the respondent in such matters."

The undisputed evidence in the instant case discloses that Michael N. Caggiano and Nicholas J. Caggiano, holders of equal shares of all the capital stock in appellant corporation, also hold, as partners, a plenary retail distribution license located at 68 Glenridge Avenue, Montclair. It appears that, by order dated February 21, 1952, their license was suspended by Acting Director Dorton for a period of twenty days, effective March 4, 1952. The said suspension resulted from a plea of non vult by Michael N. Caggiano and Nicholas J. Caggiano, licensees, to charges dated January 16, 1952, alleging that: (1) they sold alcoholic beverages from a motor vehicle on a public highway, in violation of Rule 3 of State Regulations No. 17; (2) they solicited from house to house the purchase of alcoholic beverages by personal visits and allowed, permitted and suffered such solicitation, in violation of Rule 3 of State Regulations No. 20; and (3) they transported and delivered alcoholic beverages in their licensed vehicle without the driver thereof having in his possession bona fide invoices or manifests, in violation of Rule 3 of State Regulations No. 17. See Re Caggiano, Bulletin 928, Item 5. On January 16, 1952, former Director Hock sent a letter to Michael N. Caggiano and Nicholas J. Caggiano, licensees, informing them that an investigation by the Division of Alcoholic Beverage Control disclosed that they sold large quantities of alcoholic beverages to various unlicensed clubs for resale by said clubs. Furthermore, by letter dated April 17, 1952, said licensees were notified that they had given untruthful answers in their then current retail license application that they were not interested in any wholesale liquor license or business conducted thereunder, when, in fact, they were the holders of stock in a company holding a state beverage distributor's license. No charges were preferred for the alleged violations. The licensees were requested, however, in each instance to assure the Director in writing that

in the future they would comply strictly with the Alcoholic Beverage Law. Michael N. Caggiano and Nicholas J. Caggiano gave such assurances, as requested.

Mayor William L. Dill, Jr. appeared as a witness for the respondent and stated that he had been authorized by the members of the respondent Board to appear as their spokesman in the matter under consideration. He testified that because of the violations committed by Michael N. Caggiano and Nicholas J. Caggiano, as licensees, and, furthermore, because of the two warnings given by the Division of Alcoholic Beverage Control of alleged violations of the Alcoholic Beverage Law, the members of the respondent Board were of the opinion that appellant should not have the privilege of a plenary retail consumption license. In addition thereto, he testified that the present holder of the license at 62 Glenridge Avenue operated in a quiet manner and that if a transfer were granted to appellant the "St. Sebastiano Club" would be "shunted in the back, have a small area, the front part being opened up as a general bar open to all comers." Furthermore, according to the testimony of Mayor Dill, because of the "unsavory" operation of their plenary retail distribution license, the operation of the premises sought by these individuals would have "a very deleterious effect upon the general neighborhood" and a "profound adverse effect upon the neighborhood and town as a whole." Commissioner Angelo J. Fortunato, called as a witness by respondent, testified that if he were asked the same questions as those asked of Mayor Dill, his answers would be substantially the same.

Counsel for the appellant contends that since Michael N. Caggiano and Nicholas J. Caggiano presently hold a plenary retail distribution license in the municipality, they surely cannot lack the personal fitness to hold an additional license. Moreover, he stated that the action of the respondent Board prevents them from ever expanding their business which is, and has been, the sole source of their livelihood.

Counsel for respondent Board contends that, although the Caggianos have the privilege of a plenary retail distribution license, their abuse of this privilege constituted a valid ground for refusing to grant appellant's application for transfer, which, if granted, would extend the Caggianos' license privileges.

It is entirely competent for a municipal issuing authority to confine its selection of licensees to those who have clearly demonstrated that they are worthy persons to receive the privilege of a license. Hodanish v. Trenton, Bulletin 121, Item 6. A determination by a municipal issuing authority that just cause exists for the denial of an application should, on appeal, be given considerable weight. Orofino v. Millburn, Bulletin 45, Item 15. The sale of intoxicating liquor is in a class by itself. Paul v. Gloucester, 50 N. J. L. 585, 595. "No one has a right to demand a license; license is a special privilege granted to the few, denied to the many." Ibid. 596. As Mr. Justice Field stated in Crowley v. Christensen, 137 U. S. 86: "There is no inherent right in a citizen to thus sell intoxicating liquors by retail; it is not a privilege of a citizen of the State or of a citizen of the United States." See also Meehan v. Jersey City, 73 N. J. L. 382, 387; Bumball v. Burnett, 115 N. J. L. 254, 255. Cf. Clark v. West Orange, Bulletin 631, Item 7.

The appellant herein failed to satisfy the members of the respondent Board that the public interest would best be served by the transfer of the license. I find nothing in the record indicating or even suggesting that the refusal by the respondent Board to grant the transfer of the license in question was inspired by improper motives.

A municipal issuing authority is not compelled to issue a license merely because the appellant is not disqualified. Although the stockholders of the appellant have the privilege of a plenary

retail distribution license for sale of package goods in original containers for off-premises consumption during comparatively limited hours, the privileges of the plenary retail consumption license applied for are without doubt more comprehensive in scope. The members of the respondent Board contend that this fact was taken into consideration by them when the transfer of the license in question was denied. After a careful examination of the entire record in this case, with especial emphasis on the manner in which Michael N. Caggiano and Nicholas J. Caggiano operated under the license which they now hold, I have reached the conclusion that the respondent did not abuse the discretionary authority vested in it by the Alcoholic Beverage Law. Neither was its action arbitrary nor unreasonable when it refused to issue the transfer which formed the basis of this appeal.

I shall affirm respondent's action.

Accordingly, it is, on this 23rd day of February, 1955,

ORDERED that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - JARZAB v. WHITE TOWNSHIP AND KOVALSKY (APPEAL WITHDRAWN).

STANLEY JARZAB,)
Appellant,)
-vs-)
TOWNSHIP COMMITTEE OF THE)
TOWNSHIP OF WHITE, and JOHN P.)
KOVALSKY, t/a HOT DOG JOHNNY'S)
TAVERN,)
Respondents.)

ON APPEAL
O R D E R

Richard D. VanHorn, Esq., Attorney for Appellant.
Wilbur M. Rush, Esq., Attorney for Respondent Township Committee of the Township of White.
John P. Kovalsky, pro se.

BY THE DIRECTOR:

The appeal herein was taken from the action of respondent Township Committee whereby it denied appellant's application for transfer of a license held by respondent John Peter Kovalsky, for premises located at Route #46 between Belvidere and Bridgeville, White Township, Warren County, New Jersey.

Prior to the scheduled hearing, the attorney for the appellant advised in writing that his client desired to withdraw his appeal. No reason appearing why the request should not be granted,

It is, on this 24th day of February, 1955,

ORDERED that the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - AGGRAVATED SITUATION -
 LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

EMIL ZIPF & ANNA ZIPF)
 T/a OLD HEIDELBERG)
 235 Paterson Avenue)
 East Rutherford, N. J.,)

CONCLUSIONS
 AND ORDER

-----)
 Holders of Plenary Retail Consump-)
 tion License C-13, issued by the)
 Borough Council of the Borough of)
 East Rutherford.)

 Theodore C. Kiscaras, Esq., Attorney for Defendant-licensees.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they sold, served and delivered alcoholic beverages to minors and permitted said minors to consume such beverages upon their licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that two ABC agents, investigating a complaint of sales to minors after local high school basketball games, entered defendants' licensed premises at approximately 10:00 p.m. on Friday, January 7, 1955. At least half of the 50 patrons were young, many of whom later were found to be students of a nearby college.

Two male bartenders, one of whom was later identified as licensee Emil Zipf, were behind the bar and a woman, later identified as licensee Anna Zipf, was acting as a waitress. The agents observed a number of pitchers of beer being sold and served to patrons who appeared to be adults. These patrons carried the pitchers of beer to tables in the sitting room adjoining the barroom. Many of the persons seated at these tables appeared to be minors and some of them were consuming beer poured into glasses from the pitchers. From their place at the bar the agents observed several pitchers of beer served in the sitting room but could not see who received the service or who made payment therefor.

At approximately 10:30 p.m. two youths, later identified as Edward ---, 17 years of age and Peter ---, 19 years of age, entered the barroom and talked to an older male who was seated at the bar near the agents. Following this conversation the older male spoke to one of the bartenders who filled two glasses of beer from the tap and placed them on the bar in front of the older male. Emil Zipf was present when the other bartender made this service. Shortly thereafter the two minors were seen to drink beer from glasses which the agents then seized.

As the agents prepared to take the two minors and the older male into the rear room the patrons therein hurriedly departed and other patrons were seen to exchange drinks. Within a few minutes only 15 of the 50 patrons remained upon the premises. Some of those who departed rapidly left unconsumed drinks behind them.

The two youths whose drinks the agents had seized gave signed sworn statements in which they admitted that they had consumed beer from glasses which had been purchased for them by the older male.

The agents also questioned three young females, including Mary --- and Kathy ---, both 19 years of age. They admitted that they had consumed beer which had been poured from pitchers brought to the table by male companions.

Licensee Emil Zipf, when confronted with the great number of apparent minors upon the licensed premises, most of whom had been consuming beer, admitted orally that he was aware of the fact that there was a large number of minors drinking beer upon the premises. He added that the particular night was a "slow" night and that on some nights "you can't get in the door." He further stated that he knew that the place was "full of minors" drinking beer but said "What can I do about it? We don't serve them, we give it to the older ones and they give it to the kids. What am I supposed to do? I ask them if they're old enough and if they say 'Yes' or sign one of these (exhibiting a piece of paper) I serve them drinks." The slips were representations of age but none was found for the date in question. He further stated that he used to ask "the kids" their ages but they would get "mad" at him, adding "So I don't ask any more."

The other bartender also asserted that the place was "always full of minors and that the kids drink beer but they aren't served, the beer is always given to a person old enough to drink and that person gives the beer to the kids." He verified the licensee's assertion that it was a "slow" night.

Counsel for defendants, in a letter setting forth alleged mitigating circumstances, admitted that large numbers of students congregate at defendants' licensed premises after basketball games. He stated that there are large signs on the walls warning minors that they are not permitted to be served alcoholic beverages but that "it seems no one pays attention to the signs." He further stated that the licensees "are really in trouble and they do not know how to cope with the problem."

Defendants have no prior adjudicated record. The minimum penalty for an unaggravated case of this kind involving four minors, the youngest of whom is 17 years of age, is a suspension of the license for 20 days. Re Buddy & Steve's Tavern, Inc., Bulletin 964, Item 6. However, the instant case, by defendants' own admission, must be deemed to be aggravated by reason of the large number of minors who, if not habitually at least periodically, visit the licensed premises and consume beer there. I cannot ignore the fact that defendant, Emil Zipf, and his bartender admitted that they knew that minors obtain beer through adults and consume such beer upon the licensed premises. Nor can I disregard the fact that said defendant and his bartender continued to permit consumption of beer by these minors upon the licensed premises, meanwhile adopting the inexcusable attitude that they are helpless to prevent it. Such an attitude shows a total lack of appreciation and understanding of the responsibilities which go with the privilege of dispensing alcoholic beverages.

Under all of the circumstances I shall suspend defendants' license for fifty days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty-five days. The licensees will be well advised to devise means of preventing a recurrence of this situation. Their failure to do so may cost them their license.

Accordingly, it is, on this 21st day of February, 1955,

ORDERED that Plenary Retail Consumption License C-13, issued by the Borough Council of the Borough of East Rutherford to Emil Zipf & Anna Zipf, t/a Old Heidelberg, 235 Paterson Avenue, East Rutherford, be and the same is hereby suspended for a period of forty-five (45) days, commencing at 2:00 a.m. February 28, 1955, and terminating at 2:00 a.m. April 14, 1955.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - HOSTESS - PRIOR RECORD - LICENSE
SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

1053

1053

In the Matter of Disciplinary Proceedings against)

CLUB HI-DE-HO, INC.)
T/a CLUB HI-DE-HO)
Baldwin Avenue & Route 46)
(formerly 6))
Lodi, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-33, issued by the Mayor and Council of the Borough of Lodi.)

-----)
Club Hi-De-Ho, Inc., Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it allowed, permitted and suffered females employed on its licensed premises to accept beverages at the expense of or as a gift from customers and patrons; in violation of Rule 22 of State Regulations No. 20.

The file herein discloses that two ABC agents entered defendant's licensed premises at approximately 1:00 a.m. on Sunday, January 23, 1955 to investigate a specific complaint that female entertainers accepted drinks from male patrons. At approximately 1:30 a.m. a female who had been talking to the bartender joined the agents at the bar and introduced herself to them as "Pat." After asking for and receiving a cigarette from the agents Pat asked them to buy her a drink. The agents agreed and the bartender prepared for her a drink of Scotch whisky for which he charged one of the agents 80¢. Pat consumed this drink and asked for another "quick one" before she went "on stage." The bartender served her another drink for which he charged the agent 80¢. After consuming a portion of her drink Pat left them to perform an acrobatic dance. At the conclusion of her dance Pat did not rejoin the agents but, instead, was seen to serve patrons at some of the rear tables.

Another female, later identified as "Etta", whom the agents had seen consuming drinks at the bar prior to the show, then appeared and sang popular songs. Shortly thereafter the bartender announced the "last call" and the agents disclosed their identity and obtained unsigned written statements from Pat and Etta. Pat admitted that she was employed as an entertainer at defendant's licensed premises and that she had consumed several drinks at the expense of the agents. Etta admitted that she also was employed as an entertainer at defendant's licensed premises and that she had consumed several drinks paid for by a man known to her only as "Sal."

The bartender and defendant's president and vice-president, who were present on the licensed premises, declined to give a written statement. Both officers of the corporation claimed that they did not permit females employed on the licensed premises to accept drinks from customers or patrons and stated that the two female entertainers would be dismissed when the agents were through questioning them.

Defendant has a prior record. Its license was suspended by the State Director for 45 days, effective April 26, 1954, on two charges, one of which was a hostess charge similar to the charge in the instant case; the other involved a lewd performance upon

its licensed premises. Re Club Hi-De-Ho, Inc., Bulletin 1013, Item 2. The usual minimum penalty for an unaggravated first violation of this type is a suspension of the license for 20 days. Re Lee Club, Bulletin 1030, Item 8. However, since this is a second similar violation occurring within a five-year period, the minimum penalty will be doubled. Re Kinney Wine & Liquor, Inc., Bulletin 1032, Item 4; Re Dankner, Bulletin 962, Item 5. I shall suspend defendant's license for 40 days. Five days will be remitted for the plea entered herein, leaving a net suspension of 35 days.

Accordingly, it is, on this 23rd day of February, 1955,

ORDERED that Plenary Retail Consumption License C-33, issued by the Mayor and Council of the Borough of Lodi to Club Hi-De-Ho, Inc., t/a Club Hi-De-Ho, Baldwin Avenue & Route 46 (formerly 6), Lodi, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 3:00 a.m. March 2, 1955, and terminating at 3:00 a.m. April 6, 1955.

WILLIAM HOWE DAVIS
Director.

- 5. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS DURING PROHIBITED HOURS - PERMITTING PERSONS OTHER THAN ACTUAL EMPLOYEES AND AGENTS ON LICENSED PREMISES DURING PROHIBITED HOURS - FAILURE TO REMOVE OBSTRUCTIONS SO AS TO PERMIT CLEAR VIEW OF THE BAR DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL REGULATIONS - EMPLOYMENT OF MINOR WITHOUT EMPLOYMENT PERMIT - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

BUDDY & STEVE'S TAVERN, INC.)
120 Clendenny Avenue)
Jersey City 4, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-289, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Buddy & Steve's Tavern, Inc., by Stephen Philip Aversa, President. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that it (1) conducted its licensed business on Sunday between 10:45 a.m. and 12:35 p.m.; (2) permitted persons other than the licensee or actual employees and agents upon its licensed premises during said hours; and (3) failed to remove shades, screens and other obstacles so as to permit a clear view of the bar inside its licensed premises; all in violation of local regulation; and (4) knowingly employed a person under the age of twenty-one (21) who had not obtained any requisite permit from the Director; in violation of Rule 3 of State Regulations No. 13.

The file herein discloses that two ABC agents went to the vicinity of defendant's licensed premises at approximately 10:45 a.m., on Sunday, January 30, 1955, to investigate a specific complaint that defendant was open and selling alcoholic beverages on Sunday before 1:00 p.m.; the legal opening hour established by the

local regulation. The regulation prohibits the conduct of the licensed business between 2:00 a.m. and 1:00 p.m. on Sunday, prohibits persons other than the licensee or his actual employees and agents upon the licensed premises between such hours and requires the removal of all shades, screens and other obstacles so as to permit a clear view of the bar inside the licensed premises during such hours.

The agents observed a number of men knock on the window and enter the licensed premises between 11:40 a.m. and 12:35 p.m. Each agent sought to do likewise but was refused admittance. At 12:35 p.m. another man knocked on the window and one of the agents followed him into the licensed premises. Four men were seated at the bar. Two had glasses of beer, one had a "shot" of whiskey and one had an empty "shot" glass in front of him on the bar and there was money on the bar in front of them. The men admitted that they had been consuming drinks on the licensed premises before the opening hour, but all refused to give a written statement as did the president of the licensee-corporation who orally admitted serving drinks to a few friends and that he had charged them for the drinks.

The agents found Stephen Aversa, Jr., 17 years of age, cleaning the licensed premises. No permit had been applied for or issued for that purpose.

Defendant's president, in alleged mitigation, claims that the men were friends of his who stopped to help him clean the premises; that he thought the curtain was open and that, since his son receives no compensation and leaves before the opening hour, he did not think that it was a violation for him to help on Sunday mornings. These matters are neither a defense nor an excuse. Clearly, the local regulation was violated as alleged in Charges (1), (2) and (3). As to Charge (4), the fact that the minor's services were utilized in furtherance of the licensed business constitutes him an employee within the meaning of the Alcoholic Beverage Law and Regulations. Re William Street Bar and Grill, Inc., Bulletin 466, Item 8; Re Sevak, Bulletin 1012, Item 2.

Defendant has a prior record. Its license was suspended by the State Director for fifteen days, effective April 6, 1953, for sales of alcoholic beverages to minors. Re Buddy & Steve's Tavern, Inc., Bulletin 964, Item 6. The minimum penalty for the violations set forth in Charges (1), (2) and (3) is a suspension of the license for twenty days. Re Russian American Regular Democrat Club, Inc., Bulletin 975, Item 6. The minimum suspension for the violation set forth in Charge (4) is five days. Re The Aloha, Inc., Bulletin 998, Item 4. This would make a total suspension of twenty-five days. However, in view of the prior dissimilar violation within a five-year period I shall suspend defendant's license for thirty days. Cf. Re McCann, Bulletin 1039, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 28th day of February, 1955,

ORDERED that Plenary Retail Consumption License C-289, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Buddy & Steve's Tavern, Inc., 120 Clendenny Avenue, Jersey City, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. March 7, 1955, and terminating at 2:00 a.m. April 1, 1955.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MORRIS WIENER & JEANNETTE WIENER
T/a MRS. JAY'S
909-911-913 Ocean Avenue
Asbury Park, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-5, issued by the City Council of the City of Asbury Park.

Morris Wiener & Jeannette Wiener, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets upon their licensed premises; in violation of Rule 7 of State Regulations No. 20.

The file herein discloses that detectives of the Monmouth County Prosecutor's office entered defendants' licensed premises at approximately 12:40 p.m. on September 3, 1954 and ordered lunch. Shortly thereafter a man named Reid entered and approached the bar where he opened a racing "scratch sheet" and received a bet from the bartender. Reid then sat in a booth and was joined by another of defendants' employees who wrote several bets upon a slip of paper. Reid disappeared for approximately ten minutes but returned and accepted more bets from several other men, one of whom was also an employee. As he attempted to leave the premises Reid was apprehended by the detectives and admitted taking the bets. The betting slips were found in his pocket.

The bartender admitted making the bet, but claimed that he had made it for someone else.

Licensee Morris Wiener admitted that the bartender had been employed as such for several summers but denied that he or his wife, Jeannette Wiener, had any knowledge of the unlawful betting activities upon their licensed premises.

Defendants have no prior adjudicated record. I shall suspend the license for twenty days, the minimum penalty for an offense of this kind in which a licensee or his employee participates. Re Nixon, Bulletin 1025, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 21st day of February, 1955,

ORDERED that Plenary Retail Consumption License C-5, issued by the City Council of the City of Asbury Park to Morris Wiener & Jeannette Wiener, t/a Mrs. Jay's, 909-911-913 Ocean Avenue, Asbury Park, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. February 28, 1955, and terminating at 2:00 a.m. March 15, 1955.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - SLOT MACHINES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LOYAL ORDER OF MOOSE)
PASSAIC LODGE NO. 542)
135-137 Summer Street, P.O. Box #2)
Passaic, N. J.,)

CONCLUSIONS AND ORDER

Holder of Club License CB-181, issued by the Director of the Division of Alcoholic Beverage Control.)

Loyal Order of Moose Passaic Lodge No. 542, by James Gagliano, Governor.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On January 8, 1955, you possessed, allowed, permitted and suffered in and upon your licensed premises, four slot machines or devices in the nature of slot machines which might be used for the purpose of playing for money or other valuable thing; in violation of Rule 8 of State Regulations No. 20."

The file herein discloses that, on January 8, 1955, detectives of the Passaic County Prosecutor's Office and the Passaic Police Department found four slot machines on defendant's licensed premises, all in working order.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of ten days. Re Paterson Lodge No. 60, B. P. O. Elks, Bulletin 982, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 17th day of February, 1955,

ORDERED that Club License CB-181, issued by the Director of the Division of Alcoholic Beverage Control to Loyal Order of Moose Passaic Lodge No. 542, 135-137 Summer Street, Passaic, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. February 28, 1955, and terminating at 3:00 a.m. March 5, 1955.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING INDECENT DANCE ON LICENSED PREMISES DISMISSED.

In the Matter of Disciplinary Proceedings against)
)
 VITTORIO CASTLE, INC.)
 (t/a Hotel Bradley)
 Ocean Ave. bet. Brinley &)
 LaReine Avenues)
 Bradley Beach, N. J.,)
)
 Holder of Plenary Retail Consumption License C-7, issued by the)
 Board of Commissioners of the)
 Borough of Bradley Beach.)

CONCLUSIONS AND ORDER

 Colalillo and Goldner, Esqs., by Sam E. Goldner, Esq., Attorneys for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded not guilty to a charge alleging that on August 7, 1954, it allowed, permitted and suffered a female to perform an indecent dance on its licensed premises, in violation of Rule 5 of State Regulations No. 20.

In view of the result I have reached in this case, it is needless to enter into a detailed description of the dance in question. Suffice it to say that the performance consisted of a primitive dance portraying the pagan worship of fire. During her act, the performer used a prop which, when ignited, burst into a flame which reached almost as high as her chest. Although clad only in the abbreviated costume normally worn by interpretive dancers, namely, pants and brassiere, there is no contention that she was not adequately covered. As part of her routine, she did "bumps" to accentuated drum beats and, in a demonstration of her agility, she gyrated dangerously close to the fire with the front part of her body and, occasionally, she bent over with her buttocks near the flame. Varying reactions of excitement were exhibited by the patrons watching the performance.

A studied appraisal of the record convinces me that, at best, certain portions of the dance could be considered in poor taste, but I cannot conclude that it was indecent within the intent of the cited Rule. Cf. Re Houston, Bulletin 905, Item 3. Of course, it is true that the line where mere vulgarity ends and indecency begins is often a thin one. The wise licensee would steer clear of permitting any performance on his licensed premises which could possibly be classified in this doubtful area. Although escaping a penalty in this case, this defendant, as well as all other licensees, would be well advised to be extremely discerning in their choice of performers and to make certain that there is no room for latitude of opinion concerning the propriety of all entertainment on their licensed premises.

Accordingly, it is, on this 23rd day of February, 1955,

ORDERED that the charge herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

9. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

LOYAL ORDER OF MOOSE)
WOODSTOWN LODGE NO. 932)
32 South Main Street)
Woodstown, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-86,)
issued by the State Director of)
the Division of Alcoholic)
Beverage Control.)
-----)

Loyal Order of Moose, Woodstown Lodge No. 932, by R. J. McCoubrie,
Secretary.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On Friday, January 21, 1955, between 6:00 p.m. and 9:15 p.m., you sold, served and delivered and suffered and permitted the sale, service and delivery of alcoholic beverages upon your licensed premises; in violation of Section 5 of an Ordinance adopted by the Council of the Borough of Woodstown on May 20, 1935, as amended August 18, 1952, which prohibits any such activity between the hours of 6:00 p.m. and 6:00 a.m. on any weekday."

The file herein discloses that at or about 9:50 p.m. Friday, January 21, 1955, ABC agents were admitted to defendant's licensed club, wherein they observed several persons consuming bottled beer and a patron with a "shot" of whiskey on the bar in front of him. One agent ordered a bottle of beer but, lacking a membership card, was refused. The agents identified themselves, seized a few drinks from the bar for evidential purposes, and obtained a signed sworn statement from the club's steward, who was tending bar, admitting the sale of alcoholic beverages on the licensed premises during prohibited hours.

Defendant has no previous adjudicated record. I shall suspend its license for a period of fifteen days. Re Lee Club, A Corp., Bulletin 1030, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 24th day of February, 1955,

ORDERED that Club License CB-86, issued by the State Director of the Division of Alcoholic Beverage Control to Loyal Order of Moose, Woodstown Lodge No. 932, for premises 32 South Main Street, Woodstown, be and the same is hereby suspended for ten (10) days, commencing at 6:00 a.m. March 7, 1955, and terminating at 6:00 a.m. March 17, 1955.

WILLIAM HOWE DAVIS
Director.

10. AUTOMATIC SUSPENSION - LICENSE PREVIOUSLY SUSPENDED BY STATE DIRECTOR - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by)
HAZEL LAPADULA)
T/a THE TORCH)
St. Hwy. Route #10 & South Salem St.)
Randolph Township)
P. O. Dover, N. J.,)

ON PETITION
O R D E R

To Lift the Automatic Suspension of)
Plenary Retail Consumption License)
C-9, issued by the Township Committee)
of Randolph Township.)
-----)

BY THE DIRECTOR:

It appears from a verified petition filed herein that on December 17, 1954, petitioner was sentenced in the Morris County Court to pay a fine of \$200.00 after pleading non vult to a charge of selling alcoholic beverages to minors. Said conviction has resulted in the automatic suspension of the license held by petitioner for the balance of its term. R. S. 33:1-31.1. The petition requests the lifting of said suspension.

The records of the Division of Alcoholic Beverage Control disclose that by order dated October 4, 1954, the Director suspended petitioner's license for a period of thirty days (less five days for the plea) after she had been found guilty in disciplinary proceedings of a charge alleging that she sold alcoholic beverages to minors. Said suspension was effective from 2:00 a.m. October 11, 1954, through 2:00 a.m. November 5, 1954. See Bulletin 1035, Item 3.

The charge in the criminal proceedings and the charge in the disciplinary proceedings were based upon the same facts. The case concerns the sale of alcoholic beverages to three minors, one of whom was fourteen years of age.

The suspension heretofore imposed appears to be adequate. Hence, the relief sought herein will be granted.

Accordingly, it is, on this 14th day of February, 1955,

ORDERED that the automatic suspension of License C-9, issued by the Township Committee of Randolph Township to Hazel Lapadula, t/a The Torch, for premises on St. Hwy. Route #10 & South Salem Street, Randolph Township, be and the same is hereby lifted and said license is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS
Director.

11. AUTOMATIC SUSPENSION - LICENSE PREVIOUSLY SUSPENDED BY STATE DIRECTOR - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by)

JAMES KANAKIS and CHRIST KANAKIS)
T/a COMMUNITY DELICATESSEN AND)
LUNCHEONETTE)
Rte #46, Roxbury, P.O. Kenvil, N.J.,)

ON PETITION
O R D E R

To Lift the Automatic Suspension of)
Plenary Retail Distribution License)
D-4, issued by the Township Committee)
of the Township of Roxbury.)

Alexander A. Abramson, Esq., Attorney for Petitioners.

BY THE DIRECTOR:

It appears from a verified petition filed herein that on December 17, 1954, petitioner, James Kanakis, was sentenced in the Morris County Court to pay a fine of \$200.00 after pleading non vult to a charge of selling alcoholic beverages to minors. Said conviction has resulted in the automatic suspension of the license herein for the balance of its term. R. S. 33:1-31.1. The petition requests the lifting of said suspension.

The records of the Division of Alcoholic Beverage Control disclose that, by order dated September 22, 1954, the Director suspended the license herein for a period of twenty days (less five days for the plea) after the licensees had been found guilty in disciplinary proceedings of a charge alleging that they sold alcoholic beverages to minors. Said suspension was effective from 9:00 a.m. September 29 through 9:00 a.m. October 14, 1954. See Bulletin 1035, Item 5.

The conviction in the criminal proceedings and the charge in the disciplinary proceedings were based upon the same facts. Since the suspension heretofore imposed is adequate, the relief sought herein will be granted.

Accordingly, it is, on this 16th day of February, 1955,

ORDERED that the automatic suspension of License D-4, issued by the Township Committee of the Township of Roxbury to James Kanakis and Christ Kanakis, t/a Community Delicatessen and Luncheonette, for premises on Route #46, Roxbury Township, be and the same is hereby lifted and said license is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS
Director.

12. DISCIPLINARY PROCEEDINGS - TRANSPORTATION OF ALCOHOLIC BEVERAGES WITHOUT BONA FIDE INVOICE OR MANIFEST - TRANSPORTATION IN VEHICLE WITHOUT REQUISITE INSIGNIA - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CALDWELL'S LIQUOR STORE)
T/a CALDWELL'S LIQUOR STORES)
3301-3303 Atlantic Ave.)
Atlantic City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-6, issued by the Board of Commissioners of the City of Atlantic City.)
-----)

Frank S. Farley, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On November 23, 1954, you transported alcoholic beverages in a vehicle without the driver thereof having in his possession a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill or similar document stating the bona fide name and address of the purchaser or consignee and the brand name or size of the container and the quantity of each item of alcoholic beverages being transported; in violation of Rule 3 of State Regulations No. 17.

"2. On November 23, 1954, you transported alcoholic beverages in a vehicle having no transportation insignia affixed thereto in accordance with Rule 11 of State Regulations No. 17; in violation of Rule 2 of State Regulations No. 17."

The file herein discloses that early on the morning of November 23, 1954, two members of the Atlantic City Police Department observed an automobile owned by defendant loaded with packages. Upon investigation they learned that the packages were bottles of various types of alcoholic beverages. When the officers observed that no transportation insignia was affixed to the vehicle they apprehended the driver, one of defendant's employees, and took him to police headquarters.

Signed sworn statements were obtained from the driver and from defendant's president from which it appears that, for the convenience of its customers, defendant had wrapped the bottles of alcoholic beverages in separate packages which had been placed in the vehicle late the preceding day ready for early delivery on November 23rd. It also appears that the invoices are usually placed in the glove compartment of the automobile and that the driver saw some slips of paper in the car which he thought were the invoices covering these deliveries. Defendant's president exhibited invoices which he claimed had been properly prepared but, inadvertently, had been left at the licensed premises. Both defendant's president and the driver were unable to explain why the transportation insignia which had been issued by this Division for the vehicle in question had not been affixed to the vehicle but, instead, was in the glove compartment.

Defendant has no prior adjudicated record. The usual penalty for an unaggravated first violation of the types here involved is a suspension of the license for fifteen days. Re Liquor Fair, Inc., Bulletin 1013, Item 8. However, the facts in the instant case differ from the usual case of this kind. Here defendant actually had prepared proper invoices and the driver thought that they were in the vehicle. Under all the circumstances of this case I shall suspend defendant's license for ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 28th day of February, 1955,

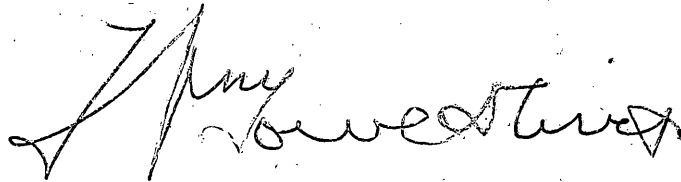
ORDERED that Plenary Retail Distribution License D-6, issued by the Board of Commissioners of the City of Atlantic City to Caldwell's Liquor Store, t/a Caldwell's Liquor Stores, 3301-3303 Atlantic Ave., Atlantic City, be and the same is hereby suspended for a period of five (5) days, commencing at 9:00 a.m. March 7, 1955, and terminating at 9:00 a.m. March 12, 1955.

WILLIAM HOWE DAVIS
Director.

13. STATE LICENSES - NEW APPLICATION FILED.

169 Bloomfield Avenue Corp.
625 Bloomfield Avenue
Montclair, N. J.

Application filed March 2, 1955 for Transportation License.



William Howe Davis
Director.