

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1412

October 5, 1961

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Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd.      Newark 2, N. J.

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BULLETIN 1412

1. APPELLATE DECISIONS - J. H. IDLE HOUR v. LINCOLN PARK.

J. H. IDLE HOUR, A CORP.,	)	
Appellant,	)	
v.	)	ON APPEAL
	)	CONCLUSIONS
MAYOR AND COUNCIL OF THE	)	AND ORDER
BOROUGH OF LINCOLN PARK,	)	
Respondent.	)	

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Sarcone & Mascia, Esqs., by Emil E. Mascia, Esq., Attorneys for  
Appellant.  
Young & Sears, Esqs., by William P. Westling, Esq., Attorneys for  
Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby on June 21, 1961, it suspended appellant's License C-3 for seventy-five days after finding appellant guilty of the charge hereinafter set forth. Appellant's premises are located at Lincoln Boulevard and Kopp Street, Borough of Lincoln Park.

"Upon the filing of the appeal an order was entered by the Director on June 22, 1961, staying respondent's order of suspension until entry of a further order herein. R.S. 33:1-31.

"The petition of appeal (as amended by consent at the hearing herein) alleges, in substance, that the action of respondent was erroneous because:

- (1) The notice of the hearing failed to comply with the rules and regulations of the Division, in that it failed to comply with the correct procedure in notifying the appellant of the specific violation charged and that the same was vague and improper and failed to give the appellant proper opportunity to prepare its defense at the time of hearing;
- (2) The Mayor and Council sitting as the Excise Board of the Borough of Lincoln Park failed to acquire jurisdiction because of lack of jurisdiction, pursuant to the rules and regulations of the Division;
- (3) The evidence produced at the hearing before the Board was insufficient to properly cause the Board to find a verdict of guilty;
- (4) In the alternative, the suspension for a period of seventy-five days was excessive.

"As to (1) and (2): At the hearing herein Herman Feigelson, majority stockholder of appellant corporation, testified that, in

response to a request made by Patrolman Colerage, he and 'Dick' Bauer appeared at the Lincoln Park Borough Hall on April 30, 1961; that the Patrolman then told them that he believed that Bauer had served a minor on the previous night; that, after the Patrolman questioned them, a minor came in and identified Bauer as the person who had made the service on the previous night and that, subsequently, a police officer served upon him (Feigelson) a notice that a hearing would be held at the Borough Hall on June 7, 1961, on the following charge:

'Sale, service and delivery, and allowing, permitting and suffering the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one(21), in and upon the licensed premises on April 29, 1961, in violation of Rule 1 of State Regulation No. 20.'

"During his testimony Herman Feigelson admitted that he was not on the licensed premises on the evening of April 29 and that Bauer was tending bar on that evening. He testified that he and his brother operate a confectionery and stationery store in Caldwell; that Eleanor Martin is employed as manager of the licensed premises and that Bauer sometimes tends bar, without being paid for his services.

"It further appears from a statement made at the hearing herein by respondent's attorney, and not disputed, that a preliminary hearing had been held in the Magistrate's Court of Lincoln Park wherein Bauer was charged with the sale of alcoholic beverages to two named minors who were the same two minors subsequently mentioned at the disciplinary proceedings heard by respondent.

"When the scheduled hearing upon the charge was called to be heard before respondent on June 7, appellant's attorney requested 'that the infant be identified; that if there were more than one charge that each infant be identified and that the ages, specific ages, of the persons alleged to have been served as minors be set forth in the notice.' Upon denial of said request, appellant elected to stand mute and did not participate in the hearing. Testimony as to the alleged charge was heard by respondent and, as a result, respondent adopted a resolution on June 21 whereby it suspended appellant's license for seventy-five days.

"While it is true that the suggested form of charge alleging sale of alcoholic beverages to a minor, as set forth in Form No. 1 attached to the Rules and Regulations of the Division, contains a blank space to insert a name, the use of the word 'persons' is not such a fatal defect as to deprive an issuing authority of jurisdiction, especially where, as here, the defendant has prior, sufficient knowledge of the identity of the individuals alleged to have been served. The charge, otherwise, appears to be clearly sufficient. The rights of appellant could have been fully protected by participating in the hearing and, if necessary, requesting a continuation to present its evidence. Instead, it stood mute. Moreover, as hereafter appears, it failed to present at the hearing herein any evidence to refute the charge. I find no merit as to allegations (1) or (2).

"As to (3): The evidence presented at the hearing below was taken 'on a disc' and has not been presented herein. However, at the de novo hearing held herein respondent presented the evidence of Gerald --- and the evidence of the mother of Edwin ---. Gerald --- testified that he was born on July 5, 1940; that on the evening of April 29, 1961, he and Edwin --- (who is now in the Navy) entered appellant's premises about 10 p.m.; that both went to the bar where he purchased from 'Dick' Bauer two rounds of beer which were consumed by Edwin --- and him, and

that he then purchased from Bauer two containers of beer which he took out to his car when he and Edwin --- left the premises. The mother of Edwin --- testified that he was born on June 12, 1943. The only evidence presented by appellant was the aforesaid evidence given by Hermen Feigelson. Neither 'Dick' Bauer nor Eleanor Martin (the manager) testified. The evidence is clearly sufficient to support the finding of guilt and, hence, I find no merit as to allegation (3).

"As to (4): At the hearing herein Mayor William P. Clark testified that the six members of the Council take a very serious view of the serving of minors and cited the case of Russo v. Lincoln Park, Bulletin 1177, Item 7, wherein a license was suspended for 161 days for a second 'minors' violation. He further testified that, in the present case, the members of the Council deliberated for approximately two hours; that all members agreed as to a finding of guilt and that the resolution fixing the period of suspension at seventy-five days was adopted by a four-to-two vote. The period of suspension to be imposed rests, in the first instance, within the sound discretion of the local issuing authority. The power of the Director to reduce or modify a penalty imposed by a local issuing authority will be sparingly exercised and only with the greatest caution. Robinson v. Newark, Bulletin 54, Item 2; Dzieman v. Paterson, Bulletin 233 Item 10. Although appellant has no prior record, it cannot be said that the penalty in this case, which involves sales to a twenty-year-old minor and a seventeen-year-old minor, was so excessive as to warrant a reduction of the suspension by the Director. This is so even if, as alleged by its attorney, appellant is in the process of arranging to consent to a transfer of its license to a country club.

"After considering all the evidence, exhibits and oral arguments, it is recommended that an order be entered affirming respondent's action, vacating the order staying the suspension, and fixing the effective dates for the seventy-five-day suspension imposed by respondent."

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 14 of State Regulation No. 15.

After carefully considering the evidence and exhibits herein and the oral argument presented at the hearing, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 15th day of August 1961,

ORDERED that the action of respondent be and the same is hereby affirmed; and it is further

ORDERED that the seventy-five-day suspension heretofore imposed by respondent, and stayed during the pendency of this appeal, be restored against License C-3 now held by J. H. Idle Hour, a corp., for premises at Lincoln Boulevard and Kopp Street, Lincoln Park, to commence at 2 a.m. Wednesday, August 23, 1961, and to terminate at 2 a.m. Monday, November 6, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

JERRY'S & PEGGY'S BAR & GRILL, INC. )  
(Case #2)

V.

MUNICIPAL BOARD OF ALCOHOLIC  
BEVERAGE CONTROL OF THE CITY OF  
NEWARK.

Respondent.

ON APPEAL  
CONCLUSIONS  
AND ORDER

Irving J. Zwillman, Esq., Attorney for Appellant.  
Vincent P. Torppey, Esq., by James E. Abrams, Esq., Attorney for  
Respondent.

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Board whereby it unanimously denied appellant's application for renewal of its plenary retail consumption license for the 1960-61 licensing period for premises 450 Chancellor Avenue, Newark.

"Upon the filing of the appeal an order dated March 10, 1961 was entered by the Director extending the term of the 1959-60 license until further order herein. Rule 12 of State Regulation No. 15.

"The petition of appeal alleges that the action of respondent was erroneous in that: 'It was an abuse of discretion, decision was against the weight of the evidence; that licensee pleaded guilty to state violations and was closed for 65 days and later pleaded guilty to city violation and took closing for 30 days; that the action of the Board was arbitrary, discriminatory, capricious and in other ways illegal and unconstitutional.'

"The first, or 65-day, suspension of appellant's license referred to in its petition of appeal was imposed by the Director effective November 18, 1959 (Re Jerry's & Peggy's Bar & Grill, Inc., Bulletin 1315, Item 4) after appellant pleaded non vult to the following charges:

1. On August 19, 21, 22 and 25, 1959, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises; allowed, permitted and suffered a person employed on your licensed premises as a bartender to make offers, overtures and arrangements with male patrons to procure females to engage with them in acts of illicit sexual intercourse and acts of perverted sexual relations; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.

- '2. On August 25, 1959, you possessed prophylactics against venereal disease and contraceptives, and contraceptive devices, in and upon your licensed premises; in violation of Rule 9 of State Regulation No. 20.
- '3. On August 19, 1959, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing obscene, indecent, filthy, lewd, lascivious and disgusting pictures and representations, viz., a group of photographic illustrations of male and female persons in obscene, indecent, filthy, lewd, lascivious and disgusting poses and positions; in violation of Rule 17 of State Regulation No. 20.'

"The thirty-day suspension of appellant's license also referred to in its petition of appeal was imposed by the respondent Board effective February 1, 1960, as a result of appellant's plea of non vult to the following charge:

'You sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of an alcoholic beverage, directly or indirectly, on Friday, May 22, 1959, and on Saturday, May 23, 1959, at your licensed premises, to a person under the age of 21 years, viz., Jean ---, age 17, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon the licensed premises; in violation of Rule No. 1 of State Regulation number 20.'

"Pursuant to an appeal to the Director from action by the respondent Board similar to that now under consideration, the Director by order dated January 9, 1961, remanded the matter in question with instructions to the respondent Board to schedule a hearing and then proceed in accordance with the provisions of the local ordinance applicable thereto. Jerry's & Peggy's Bar & Grill, Inc. v. Newark, Bulletin 1376, Item 3.

"On March 1, 1961 the instant matter was heard by the respondent Board, at which time Captain O'Rourke testified that he is a member of the Newark Police Department and in command of the Fifth Precinct which has jurisdiction in the area where appellant's licensed premises are located; that he disapproved of the renewal of appellant's license for the 1960-61 licensing term because of appellant's record of 'two convictions and closings during the prior licensé year'.

"It appears from the testimony of Gerardo Serretelli, president of appellant corporate-licensee, that although his association with the alcoholic beverage industry as a licensee began in 1949 and that in November 1955 appellant, by transfer, acquired the present plenary retail consumption license, the two occasions herein mentioned were the only times that the Alcoholic Beverage Law had been violated.

"During the pendency of this appeal, appellant petitioned the respondent Board for an opportunity to transfer its license to an interested party, but the Board declined to change its prior action in denying the renewal of the license.

"To consider such denial sufficient to reverse the respondent Board's action would contravene the principle enumerated in Downie v. Somerdale, Bulletin 1135, Item 1, wherein the Director said:

'In effect, appellant is requesting me to reverse respondent's action and to order renewal of the license so that an application for transfer to another party may be considered. Were I to follow

this procedure as a general practice, a desirable reduction in the number of licensed places would never be accomplished. In this case respondent might have renewed the license on condition that it be transferred to another person within a stated time. After the appeal was filed respondent might have indicated its consent to a reversal by me for such limited purpose. Instead, respondent chose to stand upon its answer and the record of the licensee. I find nothing unreasonable or unduly harsh in respondent's action.'

Sound control of the liquor traffic requires the issuing authorities may rightfully deny a renewal of a license to a licensee guilty of misconduct, even though he has already suffered a suspension for such misconduct. Haino v. Newark, Bulletin 352, Item 4; Lipman v. Newark, Bulletin 356, Item 6.

"I have carefully considered all of the evidence presented herein and conclude that the action of the respondent Board was not arbitrary, discriminatory, capricious or in any manner an abuse of its discretion. Thus, I recommend that the action of the respondent Board be affirmed and that the appeal herein be dismissed."

No exceptions were taken to the Hearer's Report within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered all the facts and circumstances herein, I concur in the Hearer's findings and conclusions and adopt his recommendation.

Accordingly, it is, on this 14th day of August 1961,

ORDERED that the action of respondent Board be and the same is hereby affirmed, and that the appeal be and the same is hereby dismissed.

WILLIAM HOWE DAVIS  
DIRECTOR

3. APPELLATE DECISIONS - LOS PANCHOS, INC. v. NEWARK (CASE #3).

LOS PANCHOS, INC., trading as  
CLUB COZY,

Appellant,

v.

MUNICIPAL BOARD OF ALCOHOLIC  
BEVERAGE CONTROL OF THE CITY OF  
NEWARK,

Respondent.

ON APPEAL  
CONCLUSIONS  
AND ORDER

Waldor & Beckerman, Esqs., by Milton A. Waldor, Esq., Attorneys for  
Appellant.

Vincent P. Torppey, Esq., by James E. Abrams, Esq., Attorney for  
Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent, on June 29, 1961, whereby it denied appellant's application for a renewal of its plenary retail consumption license for the 1961-62 licensing year. Appellant's premises are located at 57-59 Parkhurst Street, Newark.

At the time said application for renewal was denied, there was pending before me an appeal from respondent's action whereby it had denied appellant's application for a renewal of its license for the 1960-61 licensing year. Appellant operated its business during 1960-61 under my order extending its 1959-60 license. At the time the pending appeal was filed with me, I entered an order dated June 29, 1961, further extending appellant's license until the entry of a further order herein. R.S. 33:1-22.

At the hearing held herein it was stipulated by the attorneys for the respective parties that no additional evidence as to any misconduct was presented at the hearing held by respondent on June 29, 1961; that it was then agreed between the attorney for appellant and the members of respondent Board that there was no record of any violations committed by appellant during the 1960-61 year and that the facts to be considered by the Board were the same facts considered when the application for the 1960-61 year had been denied.

It further appears that on July 24, 1961, I entered conclusions and order in the previous appeal case entitled Los Panchos, Inc. v. Newark (Case #2), Bulletin 1409, Item 1. Therein respondent was directed to issue to appellant a license for the 1960-61 licensing year, for record purposes only, provided appellant amended its application for said renewal to exclude the second floor of the premises.

It further appears that the application for renewal being considered herein specifically excludes the second floor of the premises. No reason appearing to the contrary,

It is, on this 17th day of August 1961,

ORDERED that the action of respondent herein be and the same is hereby reversed, and respondent is directed to issue to appellant a license for the 1961-62 licensing year in accordance with the application therefor filed by appellant.

WILLIAM HOWE DAVIS  
DIRECTOR



4. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (OBSCENE LANGUAGE AND CONDUCT) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 90 DAYS, LESS \$5 FOR PLEA.

In the Matter of Disciplinary )  
 Proceedings against )

CLUB RIO, A CORPORATION )  
 Scout Ave. & Hackensack River )  
 Kearny, N. J. )

Holder of Plenary Retail Consumption )  
 License C-17 (for the 1960-61 and )  
 1961-62 licensing years), issued by )  
 the Mayor and Council of the Town of )  
 Kearny. )

CONCLUSIONS  
 AND ORDER

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 Defendant-licensee, by Norma Kornblau, Secretary-Treasurer.  
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic  
 Beverage Control.

BY THE DIRECTOR:

The defendant pleaded guilty to the following charges:

- "1. On Friday night June 16 and early Saturday morning June 17, 1961, you allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20.
- "2. On Saturday, June 17, 1961, at about 1:05 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., three twelve-ounce bottles of Rheingold beer, at retail, in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

On Friday, June 16, 1961, at about 11:20 p.m., two ABC agents entered the barroom of the defendant's licensed premises and took seats at the bar, which was occupied by fifteen patrons (thirteen males and two females) and was being tended by Enrico Capozzi. The agents observed Toni, one of the females, and a male (referred to hereafter as X) seated about ten feet from her engaged in a heated argument during which they exchanged vulgar and vile expressions. Immediately thereafter, the bartender placed an object between his legs and openly simulated the act of self-pollution, following which he repeated his indecent performance with another object, all of which invoked laughter from the patrons, and baited Toni to a further use of filthy language as aforesaid. X thereupon stood up on the rung of a barstool, unzipped his trousers, exposed his penis, turned towards Toni and directed another revolting statement at her. Shortly thereafter, X gave a somewhat similar performance of his aforesaid indecent actions and simultaneously therewith made a filthy remark to two females who had entered the premises and immediately departed therefrom. Following this incident, X went to the men's room and with its door wide open and in view of some of the patrons, urinated. At this time the bartender, with the aid of an object, repeated (for the third time) his aforesaid indecent performance, and exchanged filthy and obscene language with Toni.

The investigation also disclosed that the bartender, Toni, two male patrons and the other female (hereinafter referred to) continued to engage in lewd performances and the use of vile language until about 12:55 the following morning. (A description of these indecent acts and the foul language used would serve no useful purpose.)

The investigation further discloses that at about 1:05 a.m. on June 17, 1961, the bartender sold three twelve-ounce bottles of Rheingold beer to one of the agents for off-premises consumption.

At 1:10 a.m., the agents identified themselves to the bartender, who verbally admitted the aforesaid violations.

These depraved performances and disgusting conduct in licensed premises are inimical to the public welfare and morals.

By way of mitigation, the Secretary-Treasurer of defendant corporation has submitted a statement setting forth therein, amongst other things, that none of the owners or managers was in the licensed premises when the violations took place, and that the bartender has been discharged. However, a licensee is under a duty to exercise close supervision over his licensed premises, and violations occurring there cannot be excused because the licensee had no personal knowledge of them. Rule 33 of State Regulation No. 20. Stein v. Passaic, Bulletin 451, Item 5; Essex Holding Corp. v. Hock, 138 N.J.L. 28. The licensee, moreover, cannot escape the consequences of the aforementioned acts of his agents. Re Dressler, Bulletin 1189, Item 3.

The defendant has no prior adjudicated record. I shall suspend the defendant's license for seventy-five days on Charge 1 herein and for an additional fifteen days on the second charge herein (Re Royal Room, Inc., Bulletin 1388, Item 8), making a total suspension of ninety days. Five days will be remitted for the plea entered herein, leaving a net suspension of eighty-five days.

Accordingly, it is, on this 9th day of August, 1961,

ORDERED that Plenary Retail Consumption License C-17, issued by the Mayor and Council of the Town of Kearny to Club Rio, A Corporation, for premises on Scout Ave. & Hackensack River, Kearny, be and the same is hereby suspended for eighty-five (85) days, commencing at 2:00 a.m., Monday, August 21, 1961, and terminating at 2:00 a.m., Tuesday, November 14, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

5.

ACTIVITY REPORT FOR AUGUST 1961**ARRESTS:**

Total number of persons arrested - - - - -	29
Licensees and employees - - - - -	13
Bootleggers - - - - -	16

**SEIZURES:**

Motor vehicles - cars - - - - -	1
Stills - 50 gallons or under - - - - -	2
Mash - gallons - - - - -	495.00
Distilled alcoholic beverages - gallons - - - - -	11.62
Wine - gallons - - - - -	19.37
Brewed malt alcoholic beverages - gallons - - - - -	140.43

**RETAIL LICENSEES:**

Premises inspected - - - - -	451
Premises where alcoholic beverages were gauged - - - - -	547
Bottles gauged - - - - -	9,702
Premises where violations were found - - - - -	42
Violations found - - - - -	47
Unqualified employees - - - - -	16
Application copy not available - - - - -	13
Reg. #38 sign not posted - - - - -	10
Improper beer taps - - - - -	1
Other mercantile business - - - - -	1
Other violations - - - - -	6

**STATE LICENSEES:**

Premises inspected - - - - -	28
License applications investigated - - - - -	6

**COMPLAINTS:**

Complaints assigned for investigation - - - - -	448
Investigations completed - - - - -	458
Investigations pending - - - - -	138

**LABORATORY:**

Analyses made - - - - -	290
Refills from licensed premises - bottles - - - - -	60
Bottles from unlicensed premises - - - - -	70

**IDENTIFICATION:**

Criminal fingerprint identifications made - - - - -	12
Persons fingerprinted for non-criminal purposes - - - - -	310
Identification contacts made with other enforcement agencies - - - - -	197

**DISCIPLINARY PROCEEDINGS:**

Cases transmitted to municipalities - - - - -	23
Violations involved - - - - -	25
Sale during prohibited hours - - - - -	16
Sale to minors - - - - -	4
Possessing chilled beer (DL licensee) - - - - -	2
Permitting hostesses on premises - - - - -	1
Employing female bartender (local reg) 1 - - - - -	1
Failure to close premises during prohibited hours - - - - -	1
Cases instituted at Division - - - - -	44
Violations involved - - - - -	46
Beverage Tax Law non-compliance - - - - -	12
Possessing liquor not truly labeled - - - - -	10
Permitting lottery activity (numbers, baseball pool) on premises - - - - -	5
Sale to minors - - - - -	7
Sale during prohibited hours - - - - -	4
Sale below filed price - - - - -	2
Peddling from vehicle - - - - -	1
Permitting hostesses on premises - - - - -	1
Permitting bookmaking on premises - - - - -	1
Permitting immoral activity on prem. - - - - -	1
Employing police officer on premises - - - - -	1
Hindering investigation - - - - -	1
Cases brought by municipalities on own initiative and reported to Division - - - - -	19
Violations involved - - - - -	22
Sale to minors - - - - -	10
Permitting brawl on premises - - - - -	4
Failure to close premises during prohibited hours - - - - -	3
Failure to afford view into premises during prohibited hours - - - - -	3
Conducting business as a nuisance - - - - -	1
Hindering investigation - - - - -	1

**HEARINGS HELD AT DIVISION**

Total number of hearings held - - - - -	46
Appeals - - - - -	7
Disciplinary proceedings - - - - -	30
Eligibility - - - - -	3
Seizures - - - - -	2
Tax revocations - - - - -	4

**STATE LICENSES AND PERMITS ISSUED:**

Total number issued - - - - -	1,319
Licenses - - - - -	4
Solicitors' permits - - - - -	52
Employment " - - - - -	351
Disposal " - - - - -	82
Social affair " - - - - -	475
Wine permits - - - - -	2
Miscellaneous permits - - - - -	116
Transit insignia - - - - -	224
Transit certificates - - - - -	13

**OFFICE OF AMUSEMENT GAMES CONTROL:**

Licenses issued - - - - -	3
Permits inspected - - - - -	636
Premises where violations were found - - - - -	6
Number of violations found - - - - -	6
Enforcement files established - - - - -	34
Disciplinary proceedings instituted - - - - -	4
Violations involved - - - - -	5
Redemption of prize for money - - - - -	3
Operating controlled game - - - - -	1
Operating game not within certification-1 - - - - -	1
Hearings held - - - - -	1

WILLIAM HOWE DAVIS  
 Director of Alcoholic Beverage Control  
 Commissioner of Amusement Games Control

Dated: September 5, 1961

6. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL -  
ALCOHOL AND MOTOR VEHICLE ORDERED FORFEITED.

In the Matter of the Seizure on	)	Case No. 10,535
March 21, 1961 of a one-half gallon	)	
jug of alcohol and a Ford sedan on	)	ON HEARING
Central Avenue, Florence, in the	)	CONCLUSIONS
Township of Winslow, County of Camden	)	AND ORDER
and State of New Jersey.	)	

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George David Shanks, Pro Se.  
I. Edward Amada, Esq., Appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This matter came on for hearing, pursuant to R.S. 33:1-66, to determine whether one-half gallon of alcohol and a Ford sedan, described in a schedule attached hereto, seized on March 21, 1961 on Central Avenue, Florence, New Jersey, constitute unlawful property and should be forfeited.

"George David Shanks, the registered owner of the Ford sedan, appeared at the hearing and sought its return. No one appeared to oppose forfeiture of the alcohol.

"The facts as they appear from reports of ABC agents and other documents in the file, presented in evidence with consent of Shanks are as follows: A New Jersey State Trooper observed the Ford sedan at 12:30 p.m. on the above date and location, and ascertained that the motor vehicle was owned and operated by Shanks. An inspection of the interior disclosed a half-gallon glass jug of alcohol on the rear seat of the vehicle. This glass jug did not have affixed to it any stamps indicating payment of tax on alcoholic beverages. The Trooper thereupon took into custody the alcohol and motor vehicle, both of which were later turned over to agents of this Division.

"A sample of the contents of the said jug was analyzed by the Division chemist, who reports that it is alcohol and water, fit for beverage purposes, with an alcoholic content by volume of 43.9 percent.

"The seized alcohol is illicit because of the absence of a tax stamp on the said jug R.S. 33:1-1(1); R.S. 33:1-88.

"Shanks refused to sign a statement at the time of his arrest, but stated verbally to the ABC agents that he found this glass jug of alcohol in a trash can, and put it in his car. He was thereupon arraigned in the Municipal Court of Winslow Township, entered a plea of guilty under R.S. 33:1-50, and was held in bail for action by the Camden County Grand Jury.

"Such illicit alcohol, and the Ford sedan in which it was transported and found, constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y); R.S. 33:1-2; R.S. 33:1-66.

"At the hearing herein George David Shanks gave the following explanation of his possession of the said untaxed alcohol: he visited a friend, one Carol Lee, at her home on Central Avenue, Florence, to let her know her niece had just admitted the boy to the hospital to have his tonsils out. That was my purpose for being there.' When he left the house he decided to go to an outdoor toilet located in the rear of the house. About ten feet to the rear of the said toilet he spotted a one-half gallon glass jug full of white alcohol in a bucket and decided to take the jug of alcohol, although it did not belong to

him. After this alcohol was placed in his automobile, he was then apprehended by the State trooper, who in his presence, examined the premises and found a still located in a chicken-coop, about twenty feet behind the rear of the premises.

"He denied that he knew anything about the still.

"On cross-examination he admitted that he knew that, upon examination, the jug contained moonshine whiskey; and the reason for taking it was that he was going to see whether this moonshine whiskey was fit for drinking purposes. Upon being questioned about the two-way short wave radio on his automobile he stated that he was a member of the Williamstown Club (presumably a club for radio amateurs) and used the short wave radio in connection with this extra-curricular activity. No corroboration was offered, however, in support thereof.

"The evidence herein presents several factual circumstances of cogent and impressive significance. The claimant, a County employee, visited a friend's house during a working day in a municipality located six or seven miles from his home; he found a jug of moonshine whiskey, with the contents of which he appeared to be very familiar, coincidentally located near a still; he went out of his way to take this whiskey knowing that it presumably belonged to someone else; he placed it in his motor vehicle. In addition to this, his car is rather conveniently equipped with a two-way short wave radio which is often used by those engaged in this type of illicit activity.

"It stretches credulity to believe that the claimant was the innocent possessor of this illicit alcohol. The facts and circumstances relating to his possession of the same, together with his apparent familiarity with the substance of moonshine whiskey are more consistent with his guilt than his innocence. The defendant has pleaded guilty to possession of this illicit alcohol. His plea, in my opinion, affects his credibility as a witness.

"I recommend that the claimant's request for return of the Ford sedan be denied, and the car and alcoholic beverages be ordered forfeited. Seizure Case No. 10,375, Bulletin 1369, Item 6; Seizure Case No. 9622, Bulletin 1228, Item 6."

No exceptions were taken to the Hearer's Report within the time limited by Rule 4 of State Regulation No. 28.

After carefully considering the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and I adopt them as my conclusions herein.

Accordingly, it is, on this 4th day of August 1961,

DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property and the same be and hereby are forfeited in accordance with the provisions of R.S. 33:1-66 and shall be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS  
DIRECTOR

SCHEDULE "A"

- 1 - 1/2 gallon jug of alcohol
- 1 - Ford sedan, Serial No. 63832, New Jersey Registration EHZ-723.

7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION  
NO. 38 - CONDUCTING BUSINESS DURING PROHIBITED HOURS IN VIOLATION  
OF LOCAL REGULATION - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

GLADYS D. RASKOWSKY  
t/a FLIP'S PLACE  
144 Bartholdi Avenue  
Jersey City, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption  
License C-487, issued by the Municipal  
Board of Alcoholic Beverage Control of  
the City of Jersey City.

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Defendant-licensee, Pro se.

Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage  
Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On Saturday, July 29, 1961, between 2:00 a.m. and 2:25 a.m., you conducted your licensed business; in violation of Section 4 of Ordinance K-1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950.
- "2. On Saturday, July 29, 1961, between 2:00 a.m., and 2:25 a.m., you suffered and permitted persons except yourself and your actual employees and agents in and upon your licensed premises; in violation of Section 4 of Ordinance K-1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950.
- "3. On Saturday, July 29, 1961 at about 2:20 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages viz., six 12 ounce cans of Rheingold beer, at retail, in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of said beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

ABC agents entered defendant's licensed premises at 12:20 a.m. on Saturday, July 29, 1961, at which time Stephen Raskowsky (husband of defendant-licensee) was tending bar. After the legal closing hour of 2 a.m. and until 2:25 a.m., six male patrons and two ABC agents remaining on the premises were served and consumed alcoholic beverages in the premises. At 2:20 a.m. the agents ordered six cans of beer for off-premises consumption from the bartender, which he placed in a paper bag, put the bag containing the beer on the bar and accepted payment therefor. The agents left the premises but returned immediately and identified themselves to the bartender thereafter and informed the bartender of the violations. He refused to give a statement or sign his initials on the paper bag containing the beer purchased from him.

Defendant has no prior adjudicated record. Where, as here, there are separate violations of the local ordinance and State Regulation, a separate penalty for each violation will be imposed. I shall suspend defendant's license for fifteen days on Charges 1 and 2, and an additional fifteen days on Charge 3, making a total suspension

of thirty days (Re Tonks, Bulletin 1387, Item 6). Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 16th day of August 1961,

ORDERED THAT Plenary Retail Consumption License C-487, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Gladys D. Raskowsky, t/a Flip's Place, for premises 144 Bartholdi Avenue, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, August 21, 1961, and terminating at 2 a.m. Friday, September 15, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - MITIGATING CIRCUMSTANCES - PRIOR RECORD OF PREDECESSOR-IN-INTEREST - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

BABE'S BAR, INCORPORATED  
401 North Avenue  
Dunellen, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption  
License C-6, issued by the Borough  
Council of the Borough of Dunellen.

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Ginsberg and Simone, Esqs., by Francis J. Simone, Esq., Attorneys  
for Defendant-licensee.

Edward F. Ambrose, Esq., Appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"During the early morning hours of Thursday, July 20, 1961, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Edward ---, age 17, Joseph ---, age 17 and William ---, age 19 and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

Acting upon information obtained from the Plainfield Police Department, ABC agents, on July 20, 1961, obtained signed, sworn statements from Edward ---, Joseph ---, William --- and from an adult male.

In his statement Edward --- says that he is 17 years of age; that he and his "friends" were in defendant's premises from about midnight until 1 a.m. on the morning of July 20, 1961; that, in response to a request, he told the bartender that he was 21 years of age; that thereafter the bartender, without requiring any other proof as to his age, sold him four or five glasses of beer which he drank, and that thereafter the bartender sold him a quart container of beer which he took with him when he and the others left the premises.

In his statement Joseph --- says that he is 17 years of age; that shortly after midnight July 20, 1961, he was seated at the bar in defendant's premises with Edward ---, William --- and the adult male; that the three persons he mentioned were drinking; that no drinks were served to him, but that he "did sip a little beer from a glass that was on a table, I don't know whose glass it was." He further testified that he and the other three left the premises about 1 a.m.

In his statement William --- says that he is 19 years of age; that, while he was in the premises on July 20, the bartender, without questioning him as to his age, served him two glasses of beer which he drank; that he saw the bartender serve beer to Edward --- and Joseph ---, and that, when all left the premises at about 1 a.m., Edward --- took with him a quart of beer which he had purchased from the bartender.

The statement of the adult male sets forth that he was in the premises with the three minors; that he saw William Pauser (the bartender) serve beer to Edward --- and William --- but that he did not see Joseph --- consume any alcoholic beverages or see the bartender serve any alcoholic beverages to Joseph ---,

Subsequently the three minors and the adult were taken by the ABC agents to the premises, where they identified William Pauser as the bartender who made the sales.

Defendant has no prior record. However, when the license for said premises was held by Aloysius Barth, his license was suspended for ten days, effective July 7, 1958, after he pleaded non vult to a charge that he sold and permitted the sale of alcoholic beverages to minors. These sales were made by William Pauser, who was then acting as bartender. Re Barth, Bulletin 1236, Item 9.

In attempted mitigation the attorney for defendant contends that the prior record of Aloysius Barth (who is William Pauser's step-father) should not be considered herein because Mr. Barth is merely a qualifying stockholder in defendant corporation and has no other interest therein. In this case the license for the premises was transferred from Barth to Pauser after the previous violation (in which Pauser participated) occurred, and effective May 1, 1961, the license was transferred from Pauser to Babe's Bar, Inc., in which Pauser is the principal stockholder. Under these circumstances, the prior record of Barth will be considered in fixing the penalty herein.

Ordinarily, where three minors are involved the penalty would be increased because of that fact. However, there is a serious doubt in this case as to whether any alcoholic beverages were served to or consumed by Joseph ---. Hence I shall suspend defendant's license for twenty days, the minimum penalty where two minors are involved, one of whom is only 17 years of age (Re Hafner, Bulletin 1340, Item 7), to which ten days will be added because this is the second "minors" violation in which Pauser was involved within the past five years. Re Benny's Tavern, Bulletin 1389, Item 4. Five days will be remitted for the plea, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 16th day of August 1961,

ORDERED that Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of Dunellen to Babe's Bar, Incorporated, for premises 401 North Avenue, Dunellen, be and the same is hereby suspended for twenty-five (25) days, commencing at 1 a.m. Monday, August 28, 1961, and terminating at 1 a.m. Friday, September 22, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR



9. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

A. HARRY FREEDMAN )  
t/a "Harry's Farm" )  
River Road )  
Pahaquarry Township )  
PO Columbia, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Township Committee of Pahaquarry Township. )

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Defendant-licensee, Pro se.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that he sold, served and delivered and permitted the sale, service and delivery of alcoholic beverages to a minor, and permitted the consumption of such beverages by said minor, in and upon his licensed premises, in violation of Rule 1 of State Regulation No. 20.

At 1:35 a.m. July 8, 1961, two ABC agents entered defendant's licensed premises and observed therein two apparent minors seated at a table in the rear of the barroom. Clayton Savercool and Josef Marin were tending bar and Harry Freedman (the licensee) was in charge. At 2:35 a.m. the apparent minors approached the bar and ordered two "scotch on the rocks" which were served to them by Savercool. When the young men returned to their table with their drinks, the agents accosted them and, ascertaining that one was William --- (18 years of age), they seized the remaining portion of his drink for evidential purposes. The agents ascertained that the other apparent minor was of full age. Savercool and Freedman were apprised of the violation and Savercool gave a signed statement attesting that he had served the minor after the minor told him that he was over 21 years of age. William --- also gave a signed, sworn statement in which he states that Savercool had served him four "scotch on the rocks" without inquiring as to his age or requesting any written representation thereof.

After entering the confessional plea the licensee submitted a letter in which he sets forth alleged mitigating circumstances. There is nothing contained therein which would warrant the imposition of less than the usual penalty.

Defendant has no prior adjudicated record. I shall suspend his license for fifteen days, the minimum period imposed for the sale of alcoholic beverages to an 18-year-old minor. Re Chizun, Bulletin 1372, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 14th day of August 1961,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of Pahaquarry Township to A. Harry Freedman, t/a "Harry's Farm", for premises on River Road, Pahaquarry Township, be and the same is hereby suspended for ten (10) days, commencing at 7 a.m. Monday, August 21, 1961, and terminating at 7 a.m. Thursday, August 31, 1961.

New Jersey State Library

  
William Howe Davis  
Director