

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

BULLETIN 1282

June 24, 1959.

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

June 24, 1959.

BULLETIN 1282

DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - LICENSE  
SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

Agnes C. Cochrane  
t/a Cochrane's Cocktail Lounge  
1274 North Broad Street  
Hillside Township, New Jersey

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption  
License C-11, issued by the Municipal  
Board of Alcoholic Beverage Control of  
the Township of Hillside

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

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that she  
sold, served and delivered alcoholic beverages to two minors and permitted  
said minors to consume alcoholic beverages on her licensed premises, in  
violation of Rule 1 of State Regulation No. 20.

On February 27, 1959, ABC agents at defendant's licensed prem-  
ises observed Franklin --- (age 18), Howard --- (age 20) and two adult  
male companions enter through the front door, pass a special policeman  
seated in the doorway and station themselves about four feet from the  
bar at which numerous patrons were seated. One of the adults went to the  
bar and ordered and was served with four glasses of beer. This adult then  
distributed a glass of beer to each of his companions. After these drinks  
were consumed, the other adult went to the bar with the four empty glasses  
and was served with four more glasses of beer which he distributed in like  
manner. The last-mentioned male made one more trip to the bar and there  
purchased two drinks of beer -- one for himself and one for Franklin. At  
this juncture the agents identified themselves and ascertained the age of  
each minor. Franklin had consumed two glasses and a portion of the third  
glass of beer, and Howard had consumed one glass and a portion of the  
second glass of beer. The special officer told the agents that he did  
not see the group enter the premises, which was the reason he did not  
question the minors. The bartender in question told the agents that he  
saw the four males together and served one or two of them, but that he  
did not look them over "too good".

Defendant has a prior adjudicated record. Effective June 21,  
1943, when the license was held in the name of defendant and Fred Cochrane  
as partners, it was suspended for five days by the local issuing authority  
for sale to minors. Effective June 3, 1957, defendant's license was sus-  
pended for ten days by the local issuing authority for sale to minors.  
Effective July 14, 1958, her license was suspended for twenty-five days by  
the Director for sale to minors (Bulletin 1239, Item 1). Therefore, aside  
from the first such suspension which occurred over ten years ago, this is  
the third suspension of defendant's license within five years for sale to

minors, warranting the suspension of defendant's license for a period of forty days. Re Joe Crine's Tavern, Inc., Bulletin 1250, Item 3.

Defendant urges that, when fixing penalty, consideration should be given to the fact that persons over twenty-one years of age purchased the beer for the minors and, further that she took special precautions to prevent the sale of alcoholic beverages to minors in that she employed a special officer and employed other measures to constantly check the age of patrons, and that on the date in question, over three hundred patrons entered and left the premises. The answer is that, whenever multiple drinks are served, the licensee must see to it that they are not consumed by minors. (Re Poirier, Bulletin 970, Item 4; Fran-Bo-Car, Inc. v. Englewood, Bulletin 1186, Item 3). I shall suspend the defendant's license for forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 14th day of May 1959,

ORDERED that Plenary Retail Consumption License C-11 issued by the Municipal Board of Alcoholic Beverage Control of the Township of Hillside to Agnes C. Cochrane, t/a Cochrane's Cocktail Lounge, for premises 127<sup>4</sup> North Broad Street, Hillside, be and the same is hereby suspended for the balance of its term effective at 2:00 a. m., Monday, June 1, 1959; and it is further

ORDERED that any renewal for the 1959-60 licensing year or transfer of said license shall be and remain under suspension until 2:00 a. m., Monday, July 6, 1959.

WILLIAM HOWE DAVIS  
Director

NOTE; By order dated June 1, 1959, the above suspension becomes effective at 2:00 a. m., Monday, June 29, 1959 instead of 2:00 a. m., Monday, June 1, 1959.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - SALE TO INTOXICATED PERSONS - CHARGE ALLEGING THE HINDERING OF AN INVESTIGATION DISMISSED - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against

August C. Hoffman  
t/a Hoffman's Beach House  
906 Ocean Avenue between Atlantic  
and New Jersey Avenues  
Point Pleasant Beach  
P.O. Point Pleasant, New Jersey

CONCLUSIONS  
AND  
ORDER

Holder of Plenary Retail Consumption License C-13, issued by the Mayor and Borough Council of the Borough of Point Pleasant Beach.

Robert F. Novins, Esq., Attorney for Defendant-licensee.  
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following report herein:

"Defendant pleaded not guilty to the following charges:

- '1. On July 20, 1958 you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Arlene ---, age 20, and you allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.
- '2. On July 20, 1958 you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons actually or apparently intoxicated, and you 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.
- '3. On July 20, 1958 you failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation being conducted at your licensed premises by Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey, and you did attempt to hinder, delay and cause the hindrance and delay of such investigation; in violation of R. S. 33:1-35.'

"On the early morning of July 20, 1958 three ABC agents (hereinafter designated as Agents M, R and Z) visited defendant's licensed premises.

"Agent M testified that at 2:05 a.m. he observed a man (hereinafter referred to as Alfred) seated at the bar and that he appeared to be intoxicated; that he was 'slumped' over the bar, his eyes were red and glassy and the zipper on the front of his trousers was partially opened; that he, Agent Z and Alfred engaged in conversation and Alfred's speech was slurred and incoherent; that at 2:15 and again at 2:30 a.m., Alfred was served bottled beer by the bartender (subsequently identified as Charles Buchesky and hereafter referred to as Charles); that when Alfred went to the men's room he staggered and on one occasion grabbed a male dancer by the arm in order to keep from falling; that he (Agent M) told Charles that Alfred was 'pestering' his friend (meaning Agent Z) and Charles smiled but made no reply; that when Alfred returned to the bar there was a heated discussion between Alfred and Charles, at which time Agent Z said to Charles: 'See, I told you he was drunk'; that Charles shrugged his shoulders and said: 'Yes, what are you going to do'; that thereafter Charles served another bottle of beer to Alfred. Agent M then seized the bottle of beer and, after identifying himself, told Charles to 'stick around' for questioning. Agent M further testified that he observed a female (hereinafter referred to as Arlene) who appeared intoxicated holding a glass of beer in her hand; that Arlene acknowledged that the beer belonged to her, saying that she had poured the beer into the glass from a bottle on the bar in front of her; that he asked her how old she was and after stating she was 22 years, she admitted she was 20 years old; that her clothing and hair were disheveled, her eyes appeared glassy and red and her blouse was out at the waist; that when she walked, her gait was unsteady; that two bottles and two glasses which he had seized from Alfred and Arlene, respectively, were placed on the bar and Charles was told to leave them alone; that he (Agent M) then spoke to Alfred during which time the glasses, bottles containing beer and Charles had disappeared; that he called this to the attention of defendant who stated that if the articles had been removed, it was done unintentionally; that at his request defendant obtained two sealed bottles of the same brand of beer from the cooler for him; that when he inquired about Charles, the defendant stated he did not know the Charles to whom he referred; that when he (Agent M) asked defendant

if it were possible to obtain Charles' name from the payroll records, the defendant said, after mentioning that there were several 'Charlies working there: 'I won't be able to get this for you now. I have ever thing upstairs and I hire an awful lot of men.'

"Agent Z and R's testimony corroborated in most respects the testimony given by Agent M with reference to the occurrences in the defendant's licensed premises on the morning in question. Agent R testified, however, that when Arlene was asked by Agent M to walk, he noticed that 'she swayed slightly, but not as much as Mr. --- (Alfred) did.' All of the agents admitted that the defendant cooperated fully with them during the course of the investigation. Extensive cross-examination of all the agents by the attorney for the defendant produced no material change with reference to the pertinent facts given by them during the direct examination.

"Officer James Ferguson testified that when he arrived at defendant's licensed premises his attention was called by an ABC agent to Alfred who was wearing a T-shirt and whose hair appeared mussed; that in his opinion, he was not intoxicated.

"Officer Jerome Herbert testified that he observed Alfred and also was of the opinion that Alfred was not intoxicated; that he 'appeared to be tight-lipped, not too clear speech in the world, but it didn't appear to be abnormal other than that.'

"Arlene testified that she was 20 years of age; that at about 8:00 a.m. on July 19, 1958, she and her girlfriend left for the shore, arriving there about 10:00 a.m.; that they rented a room and then went in bathing; that at about 9:00 or 9:30 in the evening she and her girlfriend visited another licensed premises located in a nearby municipality and became acquainted with several persons; that at the time she (Arlene) testified she 'had a pair of slacks on and my blouse was outside' and that her hair-do was in the nature of a pony tail; that she, her girlfriend and the four other persons they had met arrived at defendant's premises about 11:00 p.m. and they remained there until about 1:00 a.m. on July 20, 1958; that the group went to another licensed premises some distance away, remained there between fifteen and twenty minutes and then started back to defendant's premises; that at times they ran on the boardwalk; that they entered defendant's premises about 2:35 a.m. and that she did not consume any alcoholic beverages while there.

"Constance Schaber testified that on July 19, 1958 she accompanied Arlene to the shore and continued in her company to the early morning of the following day. Her testimony corroborated, in substance the testimony of that given by Arlene with reference to her activities.

"Robert Gebhard and Elizabeth Gebhard testified that they were with Arlene during the evening and also the early morning of the date in question at defendant's licensed premises, and that they did not see her consume any alcoholic beverages at defendant's establishment.

"Charles testified that he was on duty as bartender the early morning of July 20, 1958 when Arlene and her friends were at the bar; that he did not serve any beer to Arlene but did serve bottles of beer to four of her companions; that Arlene appeared normal and was not intoxicated; that at about 1:30 a.m. he observed Alfred who was wearing a T-shirt and a pair of slacks; that on two occasions he served him a bottle of beer and on the second service Agent M called him over and identified himself; that he never admitted to the agents that Alfred was intoxicated; that at no time did Arlene have a bottle of beer in

front of her or a glass of beer in her hand; that after he advised John Till, the manager, about the presence of the ABC agents, he left the premises to direct traffic from the parking lot; that Arthur Stock, another bartender, remained in the premises to clean the bar.

"Arthur Stock testified that at the time in question he was on duty as bartender and, after an ABC agent made known his identity, he had occasion to observe Arlene; that in his opinion, she was perfectly sober; that while the ABC agent was engaged in conversation with Alfred, he (Stock) cleared the bar of bottles.

"Several other employees of defendant testified that they were on the premises when the ABC agents identified themselves and all were in agreement that, in their opinion, neither Arlene nor Alfred appeared to be intoxicated.

"Defendant testified that ABC agents called his attention to Alfred who they claimed was intoxicated; that he was present when Agent M asked Alfred to walk a straight line and when Alfred refused to do so, he (the defendant) requested him to do it; that the police came into the premises and they directed Alfred to comply with the agent's request; that he observed that Alfred walked in the normal fashion; that he also observed Arlene who appeared 'scared' but not intoxicated; that when Agent M related to him about the missing bottles, he (the defendant) expressed regret that the bartender had taken them away; that he willingly gave Agent M two uncapped bottles from the ice box; that three of his employees are named 'Charlie' which accounted for the confusion; that when Agent M left, he shook hands with him and thanked him for his cooperation.

"The testimony of the ABC agents differs to a great extent to that given by the witnesses on behalf of the defendant. I am satisfied, after careful consideration of all the evidence, that Arlene consumed beer on the defendant's premises on the morning in question. I am equally satisfied that the proof submitted by the Division is insufficient to find that she was intoxicated at the time. There is no doubt that her appearance might readily cause one not familiar with her activities during the preceding day and early morning of July 20th to be of the opinion that she was apparently intoxicated. She left her home at 8 o'clock in the morning, arrived at the shore at about 10:00 a.m., went bathing and danced at night. There is no question that she was tired at about 2:50 a.m. when the agents spoke to her. There is testimony she ran on the boardwalk and that there was considerable smoke in the barroom where the large number of patrons were gathered. Insofar as Alfred is concerned, I have no doubt that he was apparently intoxicated and while in this condition was served alcoholic beverages by the bartender. I am not satisfied from the evidence herein that either the defendant or any of his employees deliberately hindered the investigation made by the agents. In my opinion, the bottles of beer left on the bar were inadvertently removed. Cf. Re Engle, Bulletin 834, Item 9. The three agents were in agreement that the defendant was very cooperative. I, therefore, recommend that defendant be found guilty of Charge 1 for sale of alcoholic beverages to Arlene, a minor, and also found guilty of Charge 2 insofar as Alfred is concerned. I further recommend, for the reasons above-stated, that Charge 3 be dismissed.

"Defendant has no prior adjudicated record. I recommend that on Charge 1 his license be suspended for ten days (Re Kownacke, Bulletin 1210, Item 5) and on Charge 2 for fifteen days (Re Venuto, Bulletin 1255, Item 2), making a total suspension of twenty-five days."

No exceptions were taken to the Hearer's Report within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the record herein, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 14th day of May, 1959,

ORDERED that Plenary Retail Consumption License C-13, issued by the Mayor and Borough Council of the Borough of Point Pleasant Beach to August C. Hoffman, t/a Hoffman's Beach House, for premises 906 Ocean Avenue between Atlantic and New Jersey Avenues, Point Pleasant Beach, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m., Monday, June 1, 1959, and terminating at 2:00 a.m., Friday, June 26, 1959.

WILLIAM HOWE DAVIS,  
Director.

3. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against )

Steve and Anna Schwartz )  
t/a Steve's Inn )  
Route 12, Baptistown )  
Kingwood Township, PO Box 122 )  
Flemington RFD, New Jersey )

CONCLUSIONS

AND

ORDER

----- )  
Holders of Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Kingwood )  
----- )

Herbert T. Heisel, Jr., Esq., Attorney for Defendant-licensees.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendants pleaded not guilty to a charge alleging that they sold, served and delivered alcoholic beverages to three minors and permitted the consumption of such alcoholic beverages by said three minors in and upon their licensed premises, in violation of Rule 1 of State Regulation No. 20.

"The basic evidence presented on behalf of the Division is the testimony of Michael ---, age 19, Bruce ---, age 20, and Robert ---, age 20, wherein they state that on December 13, 1958, at about 7:15 p.m. the three minors entered defendants' licensed premises; that there were so many persons crowded at the bar that Bruce was compelled to squeeze in between them in order to place his order with the bartender for three beers; that when the bartender placed three glasses of beer in front of him on the bar he handed a glass of beer to each of his companions behind him and each drank his beer; that although they had nothing further to drink they remained in the premises about fifteen minutes, during which time one of the minors made a telephone call.

"Each minor was questioned in great detail, especially in cross-examination, to explain how it came about that they entered defendants' tavern apparently for the first time; when and to whom told that they had obtained beer there and how they could identify establishment. It appears from such examination that the three

had been together socially for the greater part of the day and were at a friend's home in Point Pleasant at about 6:30 p.m. When they left this place and went for a ride, they happened to be in the neighborhood of defendants' tavern and decided to go in and have a beer.

"Bruce, who resides in New York and is employed by a brokerage firm, was not available for questioning until the day of the hearing. Michael was interviewed on December 19, 1958 by ABC agents at a New Jersey State Troopers' Barracks in connection with an investigation as to whether he had obtained alcoholic beverages at another tavern and, during the course of the interview, disclosed his visit with Bruce and Robert to the defendants' tavern on December 13, 1958. He described this tavern as located in Baptistown with a sign 'Steve's' on the exterior. On that day he directed the ABC agents to the premises but was unable to identify the bartender who had served the beer to Bruce. On January 12, 1959 Robert was available and directed the agents to defendants' premises. He likewise was unable to identify the bartender.

"At the close of the evidence presented on behalf of the Division, counsel for the defendants moved for the dismissal of the proceedings on the grounds that he was so firmly convinced reasonable doubt exists in the case as not to require a defense to be presented. While not specifically urged, implicit in this contention was the fact that the two minors failed to identify the bartender.

"The Hearer pointed out that the Division has consistently held that failure to identify the bartender is not vital to guilt in disciplinary proceedings (Re Dante, Bulletin 771, Item 9), and that in the instant case, with the place so crowded that only one minor (Bruce) could make his way through those at the bar, the other two minors who were behind the other patrons could only have a glimpse of the bartender. Hence, it could be very difficult for persons there for the first and so short a time to identify the bartender. I recommend the motion for dismissal of disciplinary proceedings be denied.

"Steve Schwartz, one of the licensees, testified that he was present on the licensed premises on the evening of December 13, 1958 but was not tending bar, and that the minors were not there because he did not see them. This is a negative approach to the question, especially since, as testified to, the place was crowded with patrons.

"Anthony Krych, one of the bartenders on duty on the evening in question, testified that he had not seen Bruce until the agents brought him in (however, it appears that Bruce was never there to identify the premises or the bartender), but that he could not remember all the persons he served with alcoholic beverages that evening. It was stipulated that Nicholas Fedorko, the other bartender on duty, if called would testify to the same effect.

"In my opinion, the generalizations of the defendants' witnesses fall far short of overcoming the direct testimony of the minors who gave their account of what transpired on the evening in question in a straightforward and logical manner. Under these circumstances, I am of the opinion that the preponderance of the evidence establishes the guilt of defendant-licensees of the charge and I recommend a finding to that effect.

"Defendants have a prior adjudicated record. Effective May 12, 1958 their license was suspended by the Director for five days for a sale below minimum price violation. Bulletin 1230, Item 10.

There is no other prior record against Steve Schwartz or Anna Schwartz within the past ten years. Because of the prior dissimilar violation within the past five years and the number of minors involved, I recommend that the defendants' license be suspended for twenty-five days. Re Chip's Wishing Well Inn, Inc., Bulletin 1174, Item 9."

Written exceptions to the Hearer's Report and written argument with respect thereto were filed with me by defendants' attorney within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the entire record, including the transcript of the testimony, the Hearer's Report and the exceptions and argument filed herein, I concur in the Hearer's findings and conclusions and adopt his recommendations, except as to the recommended period of suspension of the license.

While the licensees are guilty of a violation because of the consumption of beer by the minors on their licensed premises, I can distinguish the facts in this case from those which existed in Re Chip's Wishing Well Inn, Inc., Bulletin 1174, Item 9, cited by the Hearer, in which I imposed a penalty of twenty-five days less five days for the plea. Under all the circumstances, I shall suspend defendants' license for twenty days.

Accordingly, it is, on this 14th day of May, 1959,

ORDERED that Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Kingwood to Steve and Anna Schwartz, t/a Steve's Inn, for premises on Route 12, Baptistown, Kingwood Township, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m., Tuesday, May 26, 1959, and terminating at 2:00 a.m., Monday, June 15, 1959.

WILLIAM HOWE DAVIS  
Director.

4. DISCIPLINARY PROCEEDINGS - CHARGES ALLEGING SALE BY RETAILER FOR RESALE, AIDING A NON-LICENSEE TO SELL ALCOHOLIC BEVERAGES AND SALES TO MINORS DISMISSED.

In the Matter of Disciplinary Proceedings against

Michael Markowitz  
t/a Club Markay  
1249 Roosevelt Avenue  
Carteret, New Jersey

CONCLUSIONS  
AND  
ORDER

Holder of Plenary Retail Consumption License C-24, issued by the Borough Council of the Borough of Carteret

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William K. Miller, Esq., Attorney for Defendant-licensee  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charges:

- 1. On Saturday night, December 13 and early Sunday morning, December 14, 1958, you sold alcoholic beverages not pursuant to and within the terms of your plenary retail consumption license to a group or organization comprising employees of the Mutual Food Store of Woodbridge, New Jersey, for the purpose of resale and not for consumption by

said group or organization, contrary to R.S. 33:1-12(1); in violation of R.S. 33:1-2.

12. On Saturday night, December 13 and early Sunday morning, December 14, 1958, you knowingly aided and abetted the above named group or organization, not the holder of any alcoholic beverage license or special permit to sell, contrary to R.S. 33:1-2 and R.S. 33:1-50, alcoholic beverages at its social affair held on Saturday night, December 13 and early Sunday morning, December 14, 1958 in your licensed building; such aiding and abetting by you being in violation of R. S. 33:1-52.
13. On Saturday night, December 13 and early Sunday morning, December 14, 1958, you 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., Frank ---, age 16, Ronald ---, age 19 and George ---, age 20, and allowed, permitted and suffered the consumption of alcoholic by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.'

"To support Charges 1 and 2, the Division called as its witness Anna Calvert, who testified substantially as follows: Prior to Christmas 1958 she, as chairman of a committee of Mutual Grocery Company employees (an unorganized group) made arrangements with the licensee herein to hold a Christmas party in and upon his premises on December 13, 1958. The employees voluntarily contributed \$2.00 each for the affair, it being understood that any deficit would be made up by 'passing the hat' among them. The company donated \$50.00 and allowed a 5% discount on the food purchased in its store and two supervisors of the company contributed \$5.00 each. No tickets were sold for the affair and no additional monies were to be charged for either food or drink. Mrs. Calvert further testified that from the sum collected, and in accordance with the arrangement she had previously made with defendant, he was paid \$20.00 for a downstairs room having a service bar and kitchen facilities, \$15.00 for two bartenders (in no way affiliated with the employees), and the price of the alcoholic beverages and soft drinks supplied by him and consumed by the employees and their guests.

"In support of Charge 3, the Division called Frank ---, age 16, and George ---, age 20, both of whom testified that although uninvited, they attended the Christmas party in defendant's licensed premises on the date alleged, and that they were not served and did not consume any alcoholic beverages therein during their stay. The minors were confronted with their voluntary signed sworn statement given to ABC agents on December 18, 1958 wherein they state that each of them consumed alcoholic beverages which were served to them by one of the bartenders at the Christmas party. Explaining the contradictions, the minors testified that on the night of the date alleged they had been apprehended for stealing automobile tires and figured that if they told the police and the ABC agents that they had been drinking and were drunk, they would not be held responsible for their crime.

"At the conclusion of the Division's case, defendant's attorney moved for a dismissal of the charges and the decision thereon was held in abeyance for determination by the Director. The aforesaid motion was renewed after defendant had put in his case.

"Considering the evidence adduced by the Division in support of Charges 1 and 2, I find no evidence that defendant sold alcoholic

to the group for resale. Since no admission was charged or tickets sold, it is doubtful that the group required a special permit, but in any event, it appears that defendant merely rented his room for the usual type of Christmas party and arranged to charge for the drinks consumed by the members who attended the party. Under these circumstances, the evidence does not establish defendant's guilt as to Charges 1 and 2. Cf. Re DeLuigi, Bulletin 573, Item 1. I find further that since the minors' testimony was neutralized, the evidence in support of Charge 3 has no probative value and I conclude that the Division has not established prima facie the guilt of the defendant as to this charge. Santhouse v. Totowa, Bulletin 907, Item 2. I recommend, therefore, that the motion to dismiss the charges herein be granted."

No exceptions to the Hearer's Report were filed within the time limited by Rule 6 of State Regulation No. 16. Having carefully considered the entire record herein, including the testimony and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 14th day of May 1959,

ORDERED that the charges herein be and the same are hereby dismissed.

WILLIAM HOWE DAVIS  
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - PERMITTING CONSUMPTION OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against

Gambatese Cocktail Lounge & Restaurant, Inc.  
t/a Gamp's  
20 Smith Street  
Paterson, New Jersey

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-166, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

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Henry SantAmbrogio, Esq., by Frank H. Itkin, Esq. Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant has pleaded not guilty to the following charges:

- '1. On Saturday, December 6, 1958 between 3:00 A.M. and 3:30 A.M., you allowed the consumption of alcoholic beverages on your licensed premises; in violation of Section II of an Ordinance adopted by the Board of Alcoholic Beverage Control for the City of Paterson on May 27, 1948.
- '2. On Saturday, December 6, 1958 between 3:00 A.M. and 3:30 A.M., you failed to have your entire licensed premises closed; in violation of Section II of an Ordinance adopted by the Board of Alcoholic Beverage Control for the City of Paterson on May 27, 1948.

3. On Saturday, December 6, 1958 between 3:30 A.M. and 4:00 A.M., while investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey were conducting an investigation, inspection and examination at your licensed premises, you failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R. S. 33:1-35.'

"At the hearing held herein the Division called as its witnesses two ABC agents, hereinafter referred to as Agent M and Agent P. Agent M testified that on Saturday, December 6, 1958, at about 2:00 a.m., he and Agent P arrived in the vicinity of defendant's licensed premises to investigate a complaint that defendant was violating the local 'hours' regulation; that shortly prior to their arrival he and Agent P had checked their watches with the radio time signal; that he alone entered the premises while Agent P remained in the vicinity; that the front door of the premises opens into a foyer on the right of which is an entrance into a dining area and on the left of which is an opening which leads into a barroom; that these two rooms are separated by a paneling (4-1/2 feet high); that there were no patrons in the dining room; that there were twelve patrons at the bar which was being tended by William SantAmbrogio (president of the corporate-licensee); that at about 2:55 a.m., following an announcement by Mr. SantAmbrogio that it was closing time, he (the agent) left the premises and observed that seven patrons remained therein. Agent M further testified that he rejoined Agent P, with whom he returned to the premises at about 3:30 a.m., that when they arrived in front of the premises, he knocked on its front door and shouted 'Hey Bill' and, in response thereto, Mr. SantAmbrogio opened the front door; that he immediately displayed his credentials and announced that he was from the State ABC; that Mr. SantAmbrogio attempted to close the door; that he, followed by Agent P, pushed his way into the foyer; that, except for some dim lights over the bar, the premises were in darkness; that about seven or eight minutes later, after repeated requests (eight or nine) by him and Agent P, Mr. SantAmbrogio turned on the lights; that he observed two female patrons seated at the front end of the bar in the area where Agent P was standing) consume some beer from their glasses which were in front of them on the bar; that these two females were in the company of two male patrons, Mr. George Downey and Mr. Farrell; that seated at the rear end of the bar (in the rear) were two male patrons, Mr. Joseph Antott and Mr. Louis DeAngelis, in front of whom were two apparent highball glasses and that he called Mr. SantAmbrogio's attention to the fact that he was open after 'hours' and that there were six patrons on the premises. Agent M continued to testify that, in attempting to make a search and inspection of the premises, he opened a drawer in the back bar; that Mr. SantAmbrogio closed this drawer, stated to him that he would not permit a search of the premises and that he would take the consequences of his actions. Agent M thereupon discontinued his search.

"Agent P testified that Agent M rejoined him after leaving the licensed premises; that they remained together until about 3:25 a.m., at which time he alone approached the licensed premises; that he knocked on its front door; that there was no response to the same; that he heard voices coming from the premises and then returned to Agent M. Agent P also stated that when Mr. SantAmbrogio turned on the lights he (Agent P) was standing at the entrance of the premises where the aforesaid two female patrons were seated at the bar and that he observed each of them sip a part of her drink, following which he seized their drinks and poured the contents into two separate bottles.

"Joseph D. Lintott, George Downey and William SantAmbrogio were called as witnesses on behalf of the defendant. It was agreed by the parties that if Mr. Louis DeAngelis were called as a witness his testimony would be essentially similar to that of Mr. Lintott's.

"Mr. Lintott testified that he has known Mr. SantAmbrogio for many years; that he has often visited the licensed premises for lunch and on many occasions had dinner there with his family; that on December 6, 1958, at about 2:15 a.m., he entered the defendant's licensed premises at which time there were eight or nine patrons seated at the bar; that at about 2:20 a.m. he was joined by Mr. Louis DeAngelis; that exclusive of the two ABC agents, no one entered the licensed premises after 3:00 a.m.; that when the agents arrived in the premises he and Mr. DeAngelis were seated at one end of the bar and that there were four patrons (two males and two females at the other end of the bar (a distance of about thirty feet).

"Mr. Lintott continued to testify that shortly before 3:00 a.m. Mr. SantAmbrogio started to put out some lights and pushed away some glasses on the bar in front of the aforementioned four patrons; that at about this time he heard a knock on the front door which went unanswered by Mr. SantAmbrogio; that shortly thereafter, at about 3:05 a.m., he heard another knock on the front door and a voice 'Open up, Bill', in response to which Mr. SantAmbrogio opened the door and admitted the agents; that when the agents were admitted he heard no conversation or scuffle at the front door; that about two minutes later the agents 'in rapid fire sequence' requested Mr. SantAmbrogio to turn on the lights and that about one minute later Mr. SantAmbrogio complied with their requests.

"Mr. Lintott further testified that he observed one of the agents take a glass from midway on the bar and pour its contents into a bottle; that about five minutes later, following a request by the agents, Mr. SantAmbrogio began a search for his license application; that Agent M went behind the bar, closed the drawer of the cash register and opened a drawer on the back bar, during which time he did not hear any conversation between Agent M and Mr. SantAmbrogio; that on neither occasion when the agents asked Mr. SantAmbrogio to turn on the lights or produce his license application did Mr. SantAmbrogio make any statement to them which indicated any refusal on his part to comply with their request.

"George Downey testified that he has patronized the licensed premises for twenty years; that about 2:25 a.m. he and three friends (two females and one male) were sitting at the extreme end of the bar (nearest the entrance); that at about 2:45 a.m. his party was served their last round of drinks, two of which were short beers for the women; that Mr. Lintott and Mr. DeAngelis were sitting at the far end of the bar and that at about 2:50 a.m., after he had consumed his last drink, Mr. SantAmbrogio removed his empty glass.

"Mr. Downey continued to testify that Mr. SantAmbrogio thereafter came from behind the bar, snapped some lights, made a trip to the basement, walked over to him and the two females, and moved their two half-filled glasses of beer away from them to a point on the bar beyond their reach; that at about 2:55 a.m. Mr. SantAmbrogio informed some patrons at the center of the bar it was closing time; that these patrons then left the premises and that he and his group remained.

"Mr. Downey further testified that between 3:15 and 3:20 a.m. he was about ten feet from the front door when he heard a knock on th

same and a voice 'Hey Bill', in response to which Mr. SantAmbrogio opened the door and admitted the agents to the premises; that he heard no commotion, scuffle or any announcement 'ABC, open up'; that in less than a minute after Mr. SantAmbrogio opened the door, the agents were admitted into the premises; that neither of his aforementioned female companions consumed any beer after the arrival of the agents; that he did not see Mr. SantAmbrogio do anything which would indicate a lack of cooperation with the agents.

"Mr. Downey also testified that he fixed aforesaid hours by the licensee's wall clock which the licensee had stated was ten minutes fast.

"Mr. SantAmbrogio testified that at about 2:53 a.m. he began to perform his usual chores in preparation for the closing of the licensed premises; that in the midst of the same, at about 2:55 a.m., he served a night cap to Mr. Lintott and Mr. DeAngelis; that prior thereto he had served the patrons at the other end of the bar; that he announced to his patrons it was time to close; that after returning from the cellar where he had deposited some empty bottles, he walked over to the front end of the bar where the two female patrons were seated and pushed their glasses to the center of the bar 'where I would dump the beer', and informed them and their two male companions the closing hour was arriving.

"Mr. SantAmbrogio further testified that at about 3:15 a.m. he heard a knock on the front door and ignored it; that immediately thereafter he heard a second knock on the door and a voice 'Open up, Bill'; that he opened the door and freely admitted the agents who announced they were from the 'ABC' and that within a minute after Agent M had made three rapid, successive requests to turn on the lights, he complied with the same.

"Mr. SantAmbrogio continued to testify that he then searched four drawers of the back bar for his license application; that he was unable to find the same; that Agent M followed him behind the bar to make his own search, to which he interposed no interference or objection, and that he observed Agent P pick up two glasses from the center of the bar, about five feet from the nearest patron.

"Mr. SantAmbrogio also testified that his dining area is three times the size of the barroom; that his kitchen is 15 feet by 35 feet; that he employs a chef and a waitress; that his menu (Exhibit D-1 in evidence) contains about 35 to 40 food selections; that at the closing hour the barroom was the only part of the licensed premises in which business was being conducted; that the restaurant had been closed for a number of hours prior thereto and that he fixed aforesaid hours with his wall clock which he had set ahead by ten minutes and which he daily checks with the radio.

"I have carefully considered all the testimony adduced herein, together with the brief filed by counsel on behalf of the licensee, and find that, notwithstanding the exhaustive cross-examination of the agents, their testimony remained unshaken and that they gave an accurate and truthful account of what transpired on their visits to the licensed premises. Under the circumstances, I conclude that the Division has sustained the burden of proof of defendant's guilt on Charges 1 and 3 by a fair preponderance of the believable evidence, and it is recommended that defendant be found guilty of said charges. Since the penalty on Charges 1 or 2 or both of them is the same, I find it unnecessary to make any recommendation with respect to the second charge herein.

"Defendant has no prior adjudicated record. It is further recommended that an order be entered providing that the defendant's license be suspended for a period of twenty-five days. Re Montague, Bulletin 964, Item 2."

Written exceptions to the Hearer's Report and written arguments with respect thereto were filed with me by the attorney for the defendant, pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record, including the transcript of the testimony, the Hearer's Report and the exceptions and argument filed herein, I concur in the Hearer's findings and conclusions and adopt his recommendations.

Accordingly, it is, on this 18th day of May, 1959,

ORDERED that Plenary Retail Consumption License C-166, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Gambatese Cocktail Lounge & Restaurant, Inc., t/a Gamp's, for premises 20 Smith Street, Paterson, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m., Monday, May 25, 1959, and terminating at 3:00 a.m., Friday, June 19, 1959.

WILLIAM HOWE DAVIS  
Director

6. DISCIPLINARY PROCEEDINGS - SALE TO INTOXICATED PERSONS - OBSCENE LANGUAGE - PRIOR RECORD OF STOCKHOLDERS OF LICENSED CORPORATION NOT CONSIDERED - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA

In the Matter of Disciplinary Proceedings against

Lafayette Bar, Inc.  
137 Mulberry Street (rear of  
139-141 Mulberry Street),  
Newark 2, New Jersey

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License C-744, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

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Stamler and Epstein, Esqs., by Nelson F. Stamler, Esq., Attorneys for Defendant-licensee  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant entered a plea of non vult to charges alleging that (1) it sold, served and delivered alcoholic beverages to persons actually or apparently intoxicated, in violation of Rule 1 of State Regulation No. 20, and (2) it allowed and permitted on its licensed premises filthy and obscene language, in violation of Rule 5 of the aforesaid Regulation.

On the nights of January 9, 29 and 31, 1959, ABC agents visited defendant's licensed premises, and on the first two occasions remained until early the following morning. During their stay they heard male and female patrons, and at times the bartenders, use foul and filthy expressions, the repetition of which would serve no useful purpose. On the last visit, when the agents observed the bartenders serve a glass of beer to each of two intoxicated males, they identified themselves, seized for evidential purposes the unconsumed portions of the beer in front of the inebriates and ascertained that one of the bartenders, who at times acted as manager of the establishment, is Louis Hollander (a thirty per cent. shareholder of the corporate licensee).

Defendant's attorneys submitted a letter in which they contend, by way of mitigation of the penalty to be imposed herein, "that patrons served by our client are not genteel ones, and their own particular mores are a fact of life that must be recognized. The language of this kind of patron might not be appropriate in a more 'exclusive' bar, but generally it is of the type that these patrons are accustomed to, and to them it is not offensive."

Sordid and filthy language and conduct in and upon licensed premises cannot be condoned or ignored because of the aforesaid alleged mitigating circumstances, for, as Judge Jayne said "Experience has firmly established that taverns where wine, men, women and song centralize should be conducted with circumspect respectability. Such is a reasonable and justifiable demand of our social and moral welfare intelligently to be recognized by our licensed tavern proprietors in the maintenance and continuation of their individualized privilege and concession." McFadden's Lounge, Inc. v. Division of Alcoholic Beverage Control, 33 N.J. Super. 61.

Although defendant herein has no prior adjudicated record, it appears that it was recently warned of an alleged sale of alcoholic beverages to intoxicated persons on November 21, 1958. It further appears that, when Louis Hollander and Joseph Gelb held a license as partners for premises 153 Mulberry Street, said license was suspended for one hundred ten days by the local issuing authority, effective February 17, 1947, for (1) service of alcoholic beverages to intoxicated persons, (2) service of alcoholic beverages other than ordered, (3) lewdness and immoral activity, (4) allowing known criminals and persons of ill repute on the premises, and (5) conducting business as a nuisance. Because the prior violation by a licensee who is a thirty per cent. shareholder of the corporate licensee herein occurred more than ten years ago, it will not be considered in fixing the penalty herein. The minimum suspension for the violation set forth in Charge 1 is fifteen days, and for the violation set forth in Charge 2 ten days (Re Spillane, Bulletin 1259, Item 7). However, considering the fact that a stockholder of defendant engaged in the vulgar language and permitted two intoxicated persons to be served alcoholic beverages, despite my recent warning, I shall suspend defendant's license for a period of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 18th day of May, 1959,

ORDERED that plenary retail consumption license C-744, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Lafayette Bar, Inc., for premises 137 Mulberry Street (rear of 139-141 Mulberry Street), Newark, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, June 1, 1959, and terminating at 2 a.m. Friday, June 26, 1959.

WILLIAM HOWE DAVIS  
Director.

7. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON RESUMPTION OF BUSINESS.

In the Matter of Disciplinary Proceedings against Robert, Catherine, Edward J. Casey and Mary Jennings t/a "Casey's" 93-97 Beachway Keansburg, New Jersey

On Petition ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Keansburg

James F. McGovern, Jr., Esq., Attorney for Defendant-licensees.

BY THE DIRECTOR:

By order dated November 5, 1958, I suspended defendants' license for twenty-five days. Because defendants' premises were then closed, the order provided that the effective dates for said suspension would be fixed by subsequent order after the premises reopened for the 1959 season. See Bulletin 1255, Item 5.

It now appearing to my satisfaction that defendants' premises have been reopened for the 1959 season,

It is, on this 18th day of May, 1959,

ORDERED that the twenty-five day suspension heretofore imposed shall commence at 2 a.m. Monday, May 25, 1959, and terminate at 2 a.m. Friday, June 19, 1959.

William Howe Davis Director