

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

BULLETIN 1327

March 1, 1960.

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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.

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March 1, 1960

1. APPELATE DECISIONS - GENTES v. MIDDLETOWN.

William C. Gentes and Loretta Mary Gentes, t/a Leonardo Bar & Grill,)	
)	
Appellants,)	ON APPEAL
)	
v.)	CONCLUSIONS
)	
Township Committee of the Township of Middletown (Monmouth County),)	AND
)	
Respondent.)	ORDER

James F. McGovern, Jr., Esq., Attorney for Appellants.
Roberts, Pillsbury & Carton, Esqs., by Lawrence A. Carton, Jr.,
Esq., Attorneys for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Township Committee whereby it denied an application for a place-to-place transfer of a plenary retail consumption license (without broad package privilege) from 36 Center Avenue, Leonardo, to the northeast corner of Middletown-New Monmouth Road and State Highway Route 35, both in the Township of Middletown. The proposed site to which the license is sought to be transferred is known as Store No. 21 located in a large shopping center.

"The four members of respondent Committee present at the hearing below voted unanimously to deny the application for transfer.

"The present location of appellants' licensed premises is in a different locality and is a distance from the premises to which transfer is sought.

"Mayor Frank F. Blaisdell and Committeeman J. Crawford Compton testified that there are already eight licensed premises in the township located on Route #35, the nearest of which is 500 feet from the proposed location. They were of the opinion that despite a considerable increase in the population during the past several years, there are at present in the area sufficient liquor outlets to meet the needs and convenience of the public.

"William C. Gentes, one of the appellant-licensees, testified that the landlord of his present premises has consistently increased the rent and the insurance carrier has notified the appellants that the ceiling in the building and the parking lot are in need of repairs.

"A transfer of a liquor license to other premises is not an inherent or automatic right. The issuing authority may grant or deny the transfer in the exercise of reasonable discretion. If denied on a reasonable ground, such action will be affirmed. Fafalak v. Bayonne, Bulletin 95, Item 5; Van Schoick v. Howell, Bulletin 120, Item 6;

Craig v. Orange, Bulletin 251, Item 4; Biscamp & Hess v. Teaneck, Bulletin 821, Item 8. See also Biscamp v. Teaneck, 5 N.J. Super. 172 (App. Div. 1949) where, as in the instant case, the issuing authority denies a transfer of a liquor license because it is of the opinion that there is no need or necessity for a liquor outlet in a particular location of a community, the Director's function on appeal is merely to determine whether reasonable cause exists for the issuing authority's opinion and, if so, to affirm its action irrespective of his personal views on the subject. Kafalowski v. Trenton, Bulletin 155, Item 8; Krough's Restaurant, Inc., et als. v. Sparta et al., Bulletin 1258, Item 1; Larion, Inc. v. Atlantic City, Bulletin 1306, Item 1.

"Appellants contend that they would suffer undue hardship because of needed repairs and because of the increased rental for the premises which they now occupy. In a conflict, however, between private interests and the interests of the community at large, the latter must prevail. Pasquale v. Tenafly, Bulletin 1012, Item 1.

"After reviewing the testimony and the exhibits herein, I find that there is sufficient evidence to support respondent's findings that the area to which appellants seek to transfer their license has sufficient liquor establishments to meet the needs and serve the conveniences of the persons residing in that section of the municipality. I further find that respondent's action was neither arbitrary nor unreasonable or that any member of the respondent Committee was improperly motivated. I conclude that appellants have failed to establish that respondent's action was erroneous and I recommend that an order be entered affirming respondent's action and dismissing the appeal herein."

No exceptions to the Hearer's Report were filed 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 19th day of January, 1960,

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

WILLIAM HOWE DAVIS
DIRECTOR

- 2. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - CONDUCTING BUSINESS AS A NUISANCE- PRIOR RECORD - LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
Minnie Cummins
t/a "Cummins Tavern & Tropical Gardens"
328 Bay Avenue
Highlands, N. J.,
Holder of Plenary Retail Consumption License C-13, issued by the Borough Council of the Borough of Highlands.

CONCLUSIONS

AND

ORDER

Defendant-licensee, by Arthur F. Cummins, Sr., Attorney-in-fact.
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, September 5, 1959, between 3:00 A.M. and 3:27 A.M., Saturday, September 12, 1959, between 3:00 A.M. and 4:30 A.M. and Sunday, September 13, 1959, between 3:00 A.M. and 3:30 A.M., you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, and allowed the consumption of alcoholic beverages on your licensed premises; in violation of Section 15 of an Ordinance adopted by the Mayor and Council of the Borough of Highlands on June 27, 1934, as amended and supplemented by Ordinance adopted July 15, 1947.

"2. On the occasions aforesaid you failed to keep your licensed premises closed; in violation of Section 15 of an Ordinance adopted by the Mayor and Council of the Borough of Highlands on June 27, 1934, as amended and supplemented by Ordinance adopted July 15, 1947.

"3. On the occasions aforesaid, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance, viz., in that you, while acting as bartender on your licensed premises, accepted and consumed numerous drinks of alcoholic beverages at the expense of or as a gift from customers and patrons; made overtures to and solicitation of male customers and patrons to purchase numerous drinks of alcoholic beverages for consumption by yourself and others; allowed, permitted and suffered other females employed on your licensed premises to accept and consume numerous drinks of alcoholic beverages at the expense of or as a gift from customers and patrons; allowed, permitted and suffered unescorted females frequenting your licensed premises to make overtures to and solicitation of male customers and patrons to purchase numerous drinks of alcoholic beverages for consumption by them and others; 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."

The local ordinance referred to in the charges provides that from May 15 to October 15 no licenses shall sell or allow the consumption of alcoholic beverages on the licensed premises between 3 a.m. and 6 a.m. and further provides that, during the hours sales are prohibited, all licensed establishments, with certain exceptions not here material, must be closed.

As to Charges 1 and 2: On the three dates mentioned in Charge 1 and between the times set forth after each date, ABC agents observed defendant and her employees selling drinks to customers who were permitted to consume said drinks. The only change which occurred in the conduct of the licensed business at 3 a.m. each morning was that, at that time, defendant turned out all exterior lights, leaving only dim interior lights and no additional patrons were admitted to the premises. The agents did not identify themselves until 3:30 a.m. on September 13.

As to Charge 3: During their visit on the morning of September 5, 1959, the ABC agents observed patrons buying drinks for defendant and a barmaid identified as Jerry. During their visit on the morning of September 12, 1959, the agents purchased drinks for defendant and for two female patrons, identified as Lois and Evelyn, the latter of whom they had seen cleaning up behind the bar and in the kitchen. During their last visit the agents purchased drinks for defendant and they and other male patrons purchased drinks for Lois. The agents

report that they were not solicited for immoral purposes on any of their visits, but that defendant "did all she could to lead investigators on with the hope of their getting her barmaids" for purposes of prostitution.

Defendant has a prior record. Effective June 8, 1942, her license was suspended by the local issuing authority for seven days for sales to minors and effective September 4, 1946, her license was suspended by the same authority for two days for a mislabeled beer tap. Thereafter her license was transferred to Arthur F. Cummins, Sr. (her son) and his license was suspended for the balance of its term effective June 19, 1951, on a charge that defendant herein was the real owner of the license. The license was then transferred to defendant and the suspension lifted. See Bulletin 911, Item 7, and Bulletin 913, Item 11. Since all of the aforesaid dissimilar violations occurred more than five years ago, they will not be considered in fixing the penalty herein. Re Mecker, Bulletin 1313, Item 1. Effective April 20, 1959, I reimposed a ten-day suspension, which the local issuing authority had reduced from fourteen days, after defendant herein withdrew an appeal from the action of said authority finding her guilty of sales to minors. Cummins v. Highlands, Bulletin 1060, Item 1, and Bulletin 1061, Item 3. Under the circumstances of this case, I shall suspend defendant's license for forty-five days on Charges 1, 2 and 3 (cf. Re Dlugolencki, Bulletin 1068, Item 7; Re Blanker, Bulletin 1107, Item 10, and Re 279-10 Inc., Bulletin 1267, Item 4), to which five days will be added because of the dissimilar violation within the past five years (Re Guarino, Bulletin 1259, Item 9); making a total suspension of fifty days. Five days will be remitted for the plea entered herein, giving a net suspension of forty-five days.

Accordingly, it is, on this 19th day of January 1960,

ORDERED that plenary retail consumption license C-13, issued by the Borough Council of the Borough of Highlands to Minnie Cummins, t/a "Cummins Tavern & Tropical Gardens", for premises 328 Bay Avenue, Highlands, be and the same is hereby suspended for forty-five (45) days, commencing at 2 a.m. Tuesday, January 26, 1960, and terminating at 2 a.m. Friday, March 11, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against
Spinning Wheel, Inc.
Georges Rd. & Sanford Street
New Brunswick, New Jersey
Holder of Plenary Retail Consumption License C-56, issued by the Board of Commissioners of the City of New Brunswick.

CONCLUSIONS
AND
ORDER

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

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold,

served and delivered and permitted the sale, service and delivery of alcoholic beverages, directly or indirectly, to three minors and allowed and permitted the consumption of such beverages by said minors in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20.

At 12:30 a.m., Saturday, November 14, 1959, ABC agents who were in defendant's licensed premises observed three apparent minors enter the tavern and seat themselves at a table a few feet away from where the agents were seated. They also observed a waitress approach the trio, take an order for two bottles of ale and a bottle of beer, proceed to the bar where she obtained the beverages from the son of one of the licensees, return to the trio and place a bottle in front of each of them without requiring any written proof of their ages. When each of the youths had consumed a portion of the drink served him the agents made their identity known to them and the waitress and ascertained that the youths were Ivan---, age 17, Frank ---, age 18, and Stephan ---, age 18. The waitress and each minor then gave the agents signed sworn statements admitting the aforesaid violation.

Defendant has a prior adjudicated record. Effective May 12, 1952 and June 30, 1955 its license was suspended by the local issuing authority for two and fifteen days, respectively, for sales to minors. The minimum penalty imposed for a violation involving a 17-year-old minor is twenty days. Re Jackson, Bulletin 1109, Item 5. Because of the two prior similar violations, one occurring within a five-year period, the other within a ten-year period, and considering the number of minors involved herein, I shall suspend defendant's license for forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days. Cf. Re Siegel, Bulletin 1159, Item 5.

Accordingly, it is, on this 19th day of January, 1960,

ORDERED that Plenary Retail Consumption License C-56, issued by the Board of Commissioners of the City of New Brunswick to Spinning Wheel, Inc., for premises Georges Rd. & Sanford Street, New Brunswick, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m., Wednesday, January 27, 1960, and terminating at 2:00 a.m., Wednesday, March 2, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING - FALSE ANSWER IN APPLICATION (AS TO CRIMINAL RECORD) - LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

DISQUALIFICATION REMOVAL PROCEEDINGS - FIVE YEARS GOOD CONDUCT - APPLICATION GRANTED.

In the Matter of Disciplinary Proceedings against)

Fred H. Fritsche)
t/a Bay View Inn)
400 So. Pine Avenue)
South Amboy, New Jersey)

Holder of Plenary Retail Consumption License C-16, for the 1958-59 and 1959-60 licensing years, issued by the Common Council of the City of South Amboy.)
-----)

In the Matter of a Petition to Remove Disqualification because of a Conviction, Pursuant to R. S. 33:1-31.2.)

Case No. 1488)
-----)

George G. Kress, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On or about March 20, 1959 and on divers days prior thereto, you allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.

"2. In your application filed with the Common Council of the City of South Amboy and upon which you obtained your current plenary retail consumption license, you falsely stated: 'No' in answer to Question 33 which asks: 'Have you or has any person mentioned in this application ever been convicted of any crime?' whereas in truth and fact you had been convicted on June 7, 1935 in the Middlesex County Court of Quarter Sessions of the crime of aiding abortion; such false statement being in violation of R. S. 33:1-25."

A notice was also served upon the defendant to show cause why his license should not be suspended, revoked or cancelled and declared null and void for the following reasons:

"Said license was improvidently issued in violation of R.S. 33:1-25 in that you were disqualified from obtaining such license by reason of your conviction of a crime involving moral turpitude, viz., the aforesaid crime of aiding abortion."

CONCLUSIONS

AND

ORDER

As to Charge 1, the following facts appear: On March 17, 1959, after receipt of a complaint that bookmaking operations were being conducted in the establishment, an ABC agent was assigned to make an undercover investigation of defendant's licensed premises. The agent entered the premises at 12:20 p.m. and remained until 1:30 p.m. During this time he stated that he observed two men, Jim (James Fignone) and Bert (Herbert Hugh Mullen) with racing forms in their possession. On seven occasions Jim answered the telephone in a side room although either the defendant or the bartender was present. At 1:05 p.m. a man called Diamond (John Diamond Bruno) entered and conversed with Jim in inaudible tones. Defendant then said to Diamond, "What's the matter, aren't you guys paying off down there any more?" and when Diamond laughed, the defendant said, "I ain't kidding." At about 1:20 p.m. a man entered the premises and handed Jim a sum of money.

On March 18, 1959, at about 12:30 p.m., the same agent returned to defendant's licensed premises and saw Jim, Bert and another man seated at the bar discussing horse races. Russ (who had been in the premises on the previous day) came into the premises at 12:45 p.m. and handed Jim a sum of money. Thereafter, a young man entered the premises and, after speaking to Jim and Bert, Jim pointed to the side room remarking, "the scratch sheet and pencil are on the table." The young man entered the side room followed by Bert and, within a few minutes, both returned to the barroom and the young man showed a piece of paper to Jim who asked him what initials he uses. At 1:15 p.m. Diamond came into the establishment and handed Jim a sum of money and both left the premises. The agent asked defendant where the telephone was located and the defendant indicated the side room. When the agent entered the room, he observed Bert seated in the telephone booth and another man seated at a table. At 1:50 p.m. Jim and Diamond returned to the premises. The telephone rang eight times while the agent was in the premises and, although defendant or the bartender was on duty, either Jim or Bert answered the telephone.

On March 20, 1959 at 12:10 p.m., the agent who had previously visited the defendant's premises again entered the establishment and observed Diamond, Jim and Bert seated at the bar. Jim and Diamond were discussing the fact that they could not reconcile the totals each obtained after adding various figures. At 12:25 p.m. Diamond left the premises and Jim said to Bert that Diamond could not "add straight". At 12:35 p.m. Diamond returned to the premises, spoke to Jim and again left. Between 12:10 p.m. and 12:50 p.m. the telephone rang four times and each time was answered by Bert. At 12:55, by prearrangement, three prosecutor's detectives and two ABC agents entered the premises. Bert was searched and on his person were found \$3 in cash (three one-dollar bills), one 3 x 5 inch white pad, an Armstrong Daily News Review dated March 20, 1959 and a pencil. Jim, when searched, had \$321 in cash, post-dated checks totaling \$4300 and an Armstrong Daily News Review dated March 20, 1959. Diamond had \$323 in cash and \$100 in checks were found, together with a black billfold containing a telephone index, a brown address book, a green address book, a stenographer's pad, two 5 x 8 inch white pads, one 3 x 5 inch white pad and nine white slips of paper containing various names and figures. A search of the premises uncovered a piece of white paper 10 x 27 inches containing names, numbers and figures pertaining to horse race bets and a pink Daily Sports Bulletin dated March 20th. The defendant admitted that he knew that gambling took place on the licensed premises.

A prosecutor's detective answered the telephone on fourteen occasions during an hour in the premises. Each time the caller asked

to speak to Jim, Diamond or Bert, respectively.

After pleading non vult to Charge 2, defendant (Fred H. Fritsche) filed an application to remove his disqualification pursuant to R. S. 33:1-31.2.

At the hearing at this Division, defendant testified that in May 1934 he was asked to call at the prosecutor's office where he gave a statement to a member of the prosecutor's staff concerning an abortion performed by a woman on a girl to whom he was engaged. The certified records of the Middlesex County Court of Quarter Sessions dated April 30, 1935 disclosed that defendant retracted a plea of not guilty and entered a plea of guilty to an indictment charging him with abortion and, as a result thereof, on June 7, 1935 he was sentenced to five years' probation for aiding abortion. Aiding abortion is a crime involving the element of moral turpitude. Bulletin 319, Item 13. Defendant testified that he was not represented by an attorney and, because no trial was held, he did not believe he was convicted of a crime. Three character witnesses (a treasurer of a bank, a postmaster and a production supervisor of an industrial company) testified that they have known defendant twenty or more years and that he bears a good reputation in the community in which he lives.

Defendant has been indicted by the Grand Jury for maintaining a place wherein persons may resort to engage in bookmaking (R.S. 2A:112-3) and has entered a not guilty plea and is presently awaiting trial in the matter.

Before I may remove defendant's statutory disqualification, I must be satisfied that defendant has conducted himself in a law-abiding manner during the past five years and that his association with the alcoholic beverage industry will not be contrary to public interest. R. S. 33:1-31.2. Defendant has not been convicted of any crime since 1935. Moreover, although defendant has operated the licensed establishment for fifteen years (with the exception of the violations now under consideration) he has no adjudicated record of violation of the Alcoholic Beverage Law. Hence, I shall remove defendant's existing disqualification. However, I might point out that if defendant is convicted of the bookmaking charge now pending against him, it may well be necessary for me to vacate the disqualification removal order entered herein. Under the circumstances, I shall discharge the order to show cause in this proceeding.

The minimum suspension for an unaggravated violation of permitting commercialized gambling upon licensed premises when neither the licensee nor his employees are involved is twenty days. Re Stanziale, Bulletin 1259, Item 6. It is apparent from the facts contained in the instant case that defendant permitted gambling activities on a large scale. Thus, on Charge 1, I shall suspend his license for thirty days. Cf. Re Clark, Bulletin 1094, Item 3. Because of the false statement made in the application for the 1958-59 license, I shall suspend defendant's license for an additional twenty days (Re Nykun, Bulletin 1023, Item 6), making a total suspension of fifty days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty-five days.

Accordingly, it is, on this 18th day of January 1960,

ORDERED that defendant's statutory disqualification because of the conviction described herein be and the same is hereby removed in accordance with the provisions of R. S. 33:1-31.2; and it is further

ORDERED that the order to show cause in the cancellation pro-

ceedings be and the same is hereby discharged; and it is further

ORDERED that Plenary Retail Consumption License C-16 for the 1959-60 licensing year, issued by the Common Council of the City of South Amboy to Fred H. Fritsche, t/a Bay View Inn, for premises 400 So. Pine Avenue, South Amboy, be and the same is hereby suspended for a period of forty-five (45) days, commencing at 2:00 a.m., Monday, January 25, 1960 and terminating at 2:00 a.m., Thursday, March 10, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - LEWD AND IMMORAL ACTIVITY (OBSCENE LANGUAGE AND CONDUCT) - HINDERING INVESTIGATION - EMPLOYING POLICE OFFICER - LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
Club Harlem, Inc.)
t/a Club Harlem, Inc.)
32 N. Kentucky Ave. & 37 Surf Pl.)
Atlantic City, New Jersey,)
Holder of Plenary Retail Consumption)
License C-150, issued by the Board)
of Commissioners of the City of)
Atlantic City.)
-----)

CONCLUSIONS
AND
ORDER

Clarence Blitz, Esq., Attorney for Defendant-licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

The defendant entered confessional pleas to the following charges:

- "1. On Friday night November 6 and early Saturday morning November 7, 1959, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene conduct in and upon your licensed premises in that females performed for the entertainment of your customers and patrons in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulation No. 20.
- "2. On November 7, 1959 from about 2:20 A.M. to about 3:05 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 then and there conducting an investigation, inspection and examination at your licensed premises, you, through persons employed on your licensed premises and through persons in your behalf, failed to facilitate and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R. S. 33:1-35.
- "3. Between June 18, 1959 and September 12, 1959, you employed and had connected with you in a business capacity a person viz., Robert M. Shepperson, who at the time, was also a regular police officer of the Police Department of the City of Atlantic City; in violation of Rule 30 of State Regulation No. 20."

On Friday, November 6, 1959, at about 11 p.m., two ABC agents entered the defendant's licensed premises and observed twenty persons (male and female) seated at the bar which was being tended by three barmaids and a bartender. In the rear of the premises was a large elevated stage where a five-piece band was supplying music for entertainers. The agents took seats about six feet from the stage and witnessed the performances of several female dancers executing the familiar "bumps and grinds" and the "strip tease." One of the principal performers of these indecent dances was a female (Flash---) who made her appearance in a full length raincoat following which, in time with the music, she discarded her garments one by one until she stood before the audience in her bra and briefs. In this scanty attire Flash gave an exhibition of the "bumps and grinds" and assumed positions and performed other movements of her body in such manner as to simulate sexual intercourse.

A similar but more vulgar exhibition was given by another female who was introduced by a master of ceremonies as "The Girl with the Gimmick." This female performed in a "G" string and with two small discs concealing a very small area of her breasts.

Roxanne, another female entertainer, also did a "strip tease" accompanied by "bumps and grinds" and, at the end of her performance, stood before her viewers practically in the nude.

Following the second show the agents identified themselves to Leroy Williams who appeared to be in charge of the licensed premises. Williams stated he was a stockholder of the defendant corporate licensee. The agents thereupon invited him to accompany them to the dressing-room where they intended to question the entertainers. Williams followed the agents to the dressing-room, instructed the entertainers not to answer any questions, and repeatedly ordered the agents off the premises. Williams continued his hostile attitude toward the agents despite the arrival of local police (summoned by the agents) and further attempts by the agents to reason with him. Thereafter the agents attempted to question Gloria (one of the barmaids) and were again defeated in their efforts by Williams' instructions to her not to answer any questions. At about 3:10 a.m. the agents, without completing their investigation, left the licensed premises.

The investigation further discloses that between June 18, 1959, and September 12, 1959, the licensee employed in its licensed premises Robert M. Shepperson who at the time was also a member of the local police department.

By way of mitigation the attorney for the defendant has submitted a statement setting forth therein, among other things, that it was not apparent to the agents of the licensee that the aforesaid performances were lewd, indecent or immoral and that they feel fortified in their position because the performances were seen by many patrons without objections. Regardless thereof, it is the duty of a licensee to present only wholesome entertainment and, if it chooses to do otherwise, it does so at its peril. This type of entertainment has no place on licensed premises. I have also considered all the other matters offered in mitigation, together with the reports of the agents, and do not find any extenuating circumstances which would impel me to impose less than the established penalty in cases of this kind.

Defendant has no prior adjudicated record. I shall suspend defendant's license for thirty days on Charge 1 (Re Little Cotton Club Inc., Bulletin 1005, Item 11; Re Vagabond Bar, Inc., Bulletin 1156, Item 3), for ten days on Charge 2 (Re Paul's Tavern, Inc.,

Bulletin 1277, Item 12) and for an additional ten days on Charge 3, making a total suspension of fifty days. Five days will be remitted for the pleas entered herein, leaving a net suspension of forty-five days.

Accordingly, it is, on this 18th day of January 1960,

ORDERED that plenary retail consumption license C-150, issued by the Board of Commissioners of the City of Atlantic City to Club Harlem, Inc., t/a Club Harlem, Inc., for premises 32 N. Kentucky Avenue & 37 Surf Place, Atlantic City, be and the same is hereby suspended for forty-five (45) days, commencing at 7 a.m. Tuesday, January 26, 1960, and terminating at 7 a.m. Friday, March 11, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Edward E. Dill & Mary A. Dill t/a Quinn's Bar 701-703 Cass Street Trenton 10, New Jersey
Holders of Plenary Retail Consumption License C-77, issued by the Board of Commissioners of the City of Trenton.

CONCLUSIONS
AND
ORDER

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

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

"1. On divers days between October 28, 1959 and November 18, 1959, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of horse race and football game bets; and the making and accepting of bets in two lotteries, one commonly known as the 'numbers game' and the other as a 'football pool'; in violation of Rule 7 of State Regulation No. 20.

"2. On November 18, 1959, and prior thereto, you possessed, had custody of and allowed, permitted and suffered tickets and participation rights in two lotteries, viz., one commonly known as the 'numbers game' and the other as a 'football pool', in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

On October 28, 1959, while an ABC agent was on defendants' premises, David W. Pyle (a bartender) accepted a slip of paper and some paper money from a patron and went to the rear room.

On November 4, 1959, while two ABC agents were in the premises,

the same bartender accepted slips of paper and money from three patrons and handed two "football pool" tickets to another patron. Edward E. Dill (one of the licensees) was present on this date and told the agents "I don't fool around with the horses in here". He further stated that he plays the horses at the track and sometimes places bets elsewhere.

On November 6, 1959, one of two ABC agents then in the premises purchased for the sum of one dollar from the aforesaid bartender a football pool ticket, on which the agent selected certain teams to win games to be played on the following Saturday. The agents did not identify themselves on any of the dates set forth above.

On November 18, 1959, three ABC agents and two municipal police officers entered defendants' premises and identified themselves to Edward E. Dill and David W. Pyle. In Dill's possession they found a "ball quiz" ticket which had been played, a paper containing certain numbers and one cash register tape on the back of which certain horse-race bets were recorded. In Pyle's possession they found a yellow pad containing notations of horse-race bets, a number of football pool tickets and five dollars. A search of the premises disclosed an "Armstrong Daily" behind the bar. In a statement then given to the ABC agents, Dill admitted that he knew his bartender had been accepting bets and selling football pool tickets. However, Dill then denied he had ever received any money from this gambling activity.

Defendants have conducted their licensed business for many years and have no prior adjudicated record. In alleged mitigation Edward E. Dill has advised me in writing that a large percentage of his customers work in steel mills and that "this whole practice" started during the prolonged steel strike when the men with "nothing to do" frequented his premises and bought pool tickets from and gave small bets to his bartender who placed the bets elsewhere. He again denied that he ever made any profit from this gambling activity. Under all the circumstances, I shall suspend defendants' license for twenty-five days, the minimum suspension in a case of this kind when a licensee or employee is involved. Re McDonnell, Bulletin 1310, Item 7; Re Ganser's Tavern, Bulletin 1313, Item 3. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 18th day of January, 1960,

ORDERED that plenary retail consumption license C-77, issued by the Board of Commissioners of the City of Trenton to Edward E. Dill & Mary A. Dill, t/a Quinn's Bar, for premises 701-703 Cass Street, Trenton, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m., Tuesday, January 26, 1960, and terminating at 2:00 a.m., Monday, February 15, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Emil Tomczyk & Stella Stolarz 83 Passaic Street Passaic, New Jersey

Holder of Plenary Retail Consumption License C-123, issued by the Board of Commissioners of the City of Passaic.

CONCLUSIONS

AND

ORDER

Nicholas Martini, Esq., Attorney for Defendant-licensees. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

"1. On July 7, August 13, 18, and 26, 1959, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery commonly known as the 'numbers game' on all of said dates and the making and accepting of horse race bets on the last two of said dates; in violation of Rule 7 of State Regulation No. 20.

"2. On July 7, August 13, 18 and 26, 1959, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No.20."

On July 7, 1959, two ABC agents who were in defendants' premises observed a patron and Emil Tomczyk giving a dollar each as bets on a certain number to another patron, identified only as "Ed".

On August 13, 1959, one of the two ABC agents who were in the premises gave a dollar as a play on a certain number to Emil Tomczyk who handed the bet to a patron, George Vagell.

On August 18, 1959, when the same agents returned to the premises, Emil Tomczyk was tending bar and George Vagell and another patron, Benjamin Saczawa, were at the bar. One of the agents placed a fifty-cent bet on a certain number with Vagell. The other agent gave four dollars to Saczawa to play "two and two" on a horse running at Saratoga. The agents observed four other patrons handing money and slips of paper to Saczawa. The agents did not identify themselves on any of the aforesaid dates.

On August 26, 1959, two ABC agents entered the premises with dollar bills, the numbers of which had been previously recorded. One agent gave four of the dollar bills to Saczawa as a "reverse" bet on certain horses. This agent told Emil Tomczyk, who was tending bar, that he had placed this bet. The other agent gave two of the dollar bills to Vagell as bets on certain numbers. By pre-arrangement another ABC agent then entered with a member of the New Jersey State Police and an Investigator employed in Passaic County Prosecutor's Office. The money and bet slips were found in the possession of the

patrons who had accepted the bets and, subsequently, they and Emil Tomczyk were placed under arrest by members of the Passaic Police Department.

Defendants have no prior record. In alleged mitigation defendants' attorney advised me in writing that Emil Tomczyk and his sister (Stella Stolarz) have operated the licensed premises since their father, who formerly held the license, died a few years ago, and that, except for the present violation, the premises have always been operated properly. This case is somewhat aggravated by the fact that bets were placed on a number of occasions but, under all the circumstances, I shall suspend the license for twenty-five days, the minimum suspension in a case of this kind when a licensee or employee is involved. Re Llewellyn Recreation Center, Bulletin 1146, Item 1; Re McDonnell, Bulletin 1310, Item 7. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 18th day of January 1960,

ORDERED that Plenary Retail Consumption License C-123, issued by the Board of Commissioners of the City of Passaic to Emil Tomczyk & Stella Stolarz, for premises 83 Passaic Street, Passaic, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m., Tuesday, January 26, 1960 and terminating at 3:00 a.m., Monday, February 15, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ACCEPTING ORDERS AT OTHER THAN LICENSED PREMISES - VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - CONDUCTING BUSINESS DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Mary Moscatello
654 Grand Street
Jersey City, N. J.

Holder of Plenary Retail Consumption License C-513, issued by the Municipal Board of Alcoholic Beverage Control of the city of Jersey City.

CONCLUSIONS

AND

ORDER

Salvatore J. Vuocolo, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On Sunday, November 22, 1959, between 9:55 A.M. and 11:15 A.M., you sold alcoholic beverages not pursuant to and within the terms of your plenary retail consumption license as defined by R.S. 33:1-12(1), contrary to R. S. 33:1-26 and R. S. 33:1-1(w), in that you accepted orders for and sold numerous bottles of various kinds of alcoholic beverages at a place other than your licensed premises, viz., on the public street in and about the vicinity of your licensed premises; in violation of R. S. 33:1-2.

"2. On the occasion aforesaid, you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages at retail in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of such alcoholic beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

"3. On the occasion aforesaid, 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."

On Sunday, November 22, 1959 at 9:55 a.m., ABC agents arrived in the vicinity of the defendant's licensed premises where one agent remained while two other agents went to police headquarters. The agent who remained near the licensed premises observed a man (subsequently identified as William Bedenbaugh, employed as bartender by defendant) talk to two men at the side of the premises, then go into the tavern and emerge therefrom with what appeared to be containers of alcoholic beverages and hand them to the men in question. At 11:10 a.m. the agent approached Bedenbaugh, who stood outside the premises, and asked him for a pint of whiskey. He advised the agent to go to an entrance in the rear of the building which led into a hallway where the rear door of the licensed premises was located. While inside the hallway, a man came into the hall and requested the agent to come out into the street where he was met by Bedenbaugh, who handed him a pint bottle of whiskey. The agent rejoined his fellow-agents and members of the Jersey City Police Department who had arrived at the premises and the agents identified themselves to Bedenbaugh, who had just come out of the tavern. Bedenbaugh admitted the sale but refused to give a statement in writing when requested by the agents.

Defendant has a prior adjudicated record. Effective May 19, 1952 her license was suspended for five days by the local issuing authority for sale of alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38. The minimum suspension for the sale of alcoholic beverages during prohibited hours such as that described herein warrants a suspension of the license for a period of thirty days. Re Julewicz, Bulletin 1034, Item 8. In view of the prior similar record occurring more than five years but less than ten years ago, I shall suspend defendant's license for thirty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 21st day of January 1960,

ORDERED that Plenary Retail Consumption License C-513, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Mary Moscatello, for premises 654 Grand Street, Jersey City, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m., Monday, February 1, 1960 and terminating at 2:00 a.m., Wednesday, March 2, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

9. APPELLATE DECISIONS - 59 SOCIAL CLUB v. WEST NEW YORK.

59 SOCIAL CLUB,	:	
	:	
Appellant,	:	
	:	ON APPEAL
-VS-	:	
	:	<u>ORDER OF DISMISSAL</u>
MAYOR AND BOARD OF COMMISSIONERS	:	
OF THE TOWN OF WEST NEW YORK,	:	
	:	
Respondent.	:	

This matter being opened to William Howe Davis, Director of the Division of Alcoholic Beverage Control, and it appearing that the parties hereto have stipulated and agreed that License No. CB-3 for premises located at 426A - 63rd Street, West New York, New Jersey, issued by the Mayor and Board of Commissioners of the Town of West New York to 59 Social Club is being surrendered by the licensee contemporaneously herewith and that the petition of appeal filed herein is being withdrawn, and good cause appearing,

IT IS on this 25th day of JANUARY, 1960,

ORDERED that the petition of appeal filed herein be and the same is hereby dismissed and that the Order to Show Cause entered herein on June 29, 1959, be, and the same hereby is vacated and set aside.

WILLIAM HOWE DAVIS
DIRECTOR

We hereby consent to the entry of the within Order.

Samuel L. Hirschberg
Attorney for the Mayor and Board of
Commissioners of the Town of West
New York

By: John R. Armore, Assistant Town Attorney

Bozzuffi and Stern
Attorneys for Appellant

By: Marvin A. Stern, Partner

10. STATE LICENSES - NEW APPLICATION FILED.

Sanford Kalb
t/a Kalb Beverages Company
1015 Sylvan Avenue
Hamilton Township, New Jersey

Application filed February 29, 1960 for person-to-person, place-to-place transfer of State Beverage Distributor's License SBD-97 from Michael Yunger and Adam Yunger, t/a Tasty Bottling Co., 1434 Parkside Avenue, Ewing Township, New Jersey.


William Howe Davis
Director