

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

Mr. Michelson

BULLETIN 1190

OCTOBER 9, 1957.

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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.

BULLETIN 1190

OCTOBER 9, 1957.

1. COURT DECISIONS - PADDOCK BAR, INC. v. DIVISION OF
ALCOHOLIC BEVERAGE CONTROL - DIRECTOR SUSTAINED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
No. A-403-56, September Term, 1957

PADDOCK BAR, INC.,)
Defendant-Appellant,)
-vs-)
DIVISION OF ALCOHOLIC BEVERAGE)
CONTROL,)
Plaintiff-Respondent.)

Argued September 16, 1957. Decided September 25, 1957.

Before Judges Clapp, Jayne, and Hughes.

Mr. Donald J. Cunningham argued the cause for
appellant.

Mr. Samuel B. Helfand, Deputy Attorney General,
argued the cause for respondent (Mr. Grover C.
Richman, Jr., Attorney General of New Jersey).

The opinion of the court was delivered by

JAYNE, J.A.D.

A disciplinary proceeding was instituted on May 4, 1956 by the Director of the Division of Alcoholic Beverage Control against the Paddock Bar, Inc., a corporate holder of a plenary retail consumption license to vend beverages at its premises designated as Nos. 810-812 Cookman Avenue, in the City of Asbury Park.

The alleged infraction to which the licensee was summoned to respond reads as follows:

"On April 6, 7, 8, 21 and 22, 1956, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered female impersonators and persons who appeared to be homosexuals in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in large numbers in and upon your licensed premises; and otherwise conducted your place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulations No. 20."

A hearing involving the accusation was conducted, at which witnesses were sworn and interrogated. Upon consideration of the evidence, the Director concluded that the violation of the stated regulatory rule had been established, and he ordered that the appellant's license be suspended for a period of 60 days, commencing at 7:00 a.m. on March 4, 1957. Although the Director's order was fully obeyed, the licensee doubted its

validity, hence the prosecution of this appeal.

The essence of the inquiry addressed to us by the appellant is whether the promulgated regulatory rule specified in the charge encompassed the factual circumstances disclosed by the evidence adduced at the hearing in the present proceedings.

We have heretofore expressed the observation that the liquor business must in the interest of the public welfare be carefully supervised and tightly restrained, and to that end, the governmental power extensively to regulate licensees should be accorded broad judicial support. Such was also the manifest design of the Alcoholic Beverage Control statute. Vide, In re Schneider, 12 N. J. Super. 449 (App. Div. 1951).

In our above-cited decision we stated:

"The object manifestly inherent in the rule with which we are here concerned [likewise Rule 5] is primarily to discourage and prevent not only lewdness, fornication, prostitution, but all forms of licentious practices and immoral indecency on the licensed premises. The primary intent of the regulation is to suppress the inception of any immoral activity, not to withhold disciplinary action until the actual consummation of the apprehended evil."

True, in the present proceeding the evidence was not of the probative quality to establish beyond uncertainty that the specified patrons of the tavern were in actuality homosexuals. Neither was there any proof that any of such individuals indulged in any licentious solicitations on the premises. Moreover, it is not to be supposed that a licensee is to be disciplined by a temporary or permanent forfeiture of his business privilege merely upon proof of a sale or occasional sales to one who happened to be an adult vagabond, ex-convict, sexual deviate, or prostitute.

Here, a distinguishable understanding of the accusation is imperative. The appellant was charged with the misconduct of permitting persons who conspicuously displayed by speech, tone of voice, bodily movements, gestures, and other mannerisms the common characteristics of homosexuals habitually and in inordinate numbers (on one occasion, as many as 45) to congregate at the tavern, which, incidentally, was advertised to be "The Gayest Spot in Town."

Assuredly, it is inimical to the preservation of our social and moral welfare to permit public taverns to be converted into recreational fraternity houses for homosexuals or prostitutes. It is the policy and practice of the Division of Alcoholic Beverage Control to nip reasonably apprehended evils while they are in the bud.

If the evidence here failed adequately to prove that the described patrons were in fact homosexuals, it certainly proved that they had the conspicuous guise, demeanor, carriage, and appearance of such personalities. It is often in the plumage that we identify the bird. The psychiatrist constructs his deductive conclusions largely upon the ostensible personality behavior and unnatural mannerisms of the patient.

It cannot be logically determined that in the present proceeding there was no circumstantial or inferential evidence

productive of the impression, perhaps general, that the patrons under observation were not so-called female impersonators. Logical inferences are more than mere suspicions.

A detailed recitation of the informational testimony submitted to the Director need not be undertaken. Illustrative in part is the evidence that these congregated males in a noticeably effeminate pitch of voice addressed each other affectionately as "dearie, honey, doll, and darling." One was overheard to remark, "Well, I think I will wait for my husband." One of the inquisitive investigating agents inquired of the bartender as he ordered a drink, "What are all these guys in here, queers?" The bartender surveyed the customers and replied, "Most of them are." They are said to have manipulated their cigarettes, giggled, and rocked and swayed their posteriors in a maidenly fashion.

The Director resolved that the acquiescence of the licensee in the customary assemblage in relatively large numbers of such individuals at the tavern offended the intent and purpose of Rule 5 of the State Regulations No. 20. See, Re Roselle, Bulletin 279, Item 8.

We do not think that his disciplinary action was arbitrary or without factual basis or legal authority. The order is affirmed.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
EARL & MARIE LONGO)
S/s Delilah Rd. near)
Pleasantville City Line) CONCLUSIONS
Egg Harbor Township) AND ORDER
P. O. Box 227, Pleasantville, N. J.,)
Holders of Plenary Retail Consumption License C-15, issued by the Township Committee of Egg Harbor Township.)

Earl & Marie Longo, Defendant-licensees, by Earl Longo.
David S. Piltzer, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded guilty to charges alleging that (1) they sold, served and delivered an alcoholic beverage to a minor in violation of Rule 1 of State Regulation No. 20 and (2) they sold during prohibited hours an alcoholic beverage in its original container for off-premises consumption in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that on Sunday, August 4, 1957 an ABC agent who was in defendants' licensed premises observed Marie Longo, one of the licensees therein, sell a pint of whiskey to a patron for off-premises consumption. The patron put the pint in his pocket and left the premises. The agent followed and together with agents who had remained

outside, apprehended him. After identifying themselves, the agents seized the pint of whiskey and learned that the purchaser was 20 years of age. The patron and the agents re-entered the premises and before identification could be made, Marie Longo said, "I didn't sell him any bottle of whiskey". However, in her presence, the patron confirmed the sale and volunteered a signed statement attesting to the above facts.

Defendants have a prior adjudicated record. Effective September 14, 1953 their license was suspended for fifteen days by the Director for a violation similar to that set forth in Charge 2 herein. Re Longo, Bulletin 984, Item 8. The minimum penalty for a sale of an alcoholic beverage to a 20-year-old minor is ten days. Re Zhelesnik, Bulletin 1167, Item 11. Since the prior violation is similar to that set forth in Charge 2 and occurred within a five-year period, the minimum penalty of fifteen days (Re Boshart, Bulletin 1128, Item 8) will be doubled. Re Starvaggi, Bulletin 1174, Item 2. I shall suspend defendants' license for a period of forty days and remit five days for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 5th day of September, 1957,

ORDERED that Plenary Retail Consumption License C-15, issued by the Township Committee of Egg Harbor Township to Earl & Marie Longo, for premises S/s Delilah Rd. near Pleasantville City Line, Egg Harbor Township, be and the same is hereby suspended for thirty-five (35) days, commencing at 7:00 a.m. September 16, 1957 and terminating at 7:00 a.m. October 21, 1957.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - PERMITTING CONSUMPTION OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - HINDERING - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against
MICHAEL J. & MARGARET SUSNJARA
T/a BIG MIKE'S TAVERN
301 - 61st Street
West New York, N. J.,
Holders of Plenary Retail Consumption License C-15 (for the 1956-57 and 1957-58 licensing years), issued by the Board of Commissioners of the Town of West New York.

CONCLUSIONS
AND ORDER

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Meehan Brothers, Esqs., by John J. Meehan, Esq., Attorneys for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendants pleaded not guilty to the following charges:

'1. On Saturday, March 30, 1957, between 3:00 a.m. and 3:45 a.m. and on Saturday, April 6, 1957, between 3:00 a.m. and 3:35 a.m., you failed to keep your licensed premises closed and allowed thereon persons other than yourself and your bona fide employees; in violation of Section 6 of a Resolution adopted by the Board of Commissioners of the Town of West New York on December 15, 1933, as amended by Ordinance adopted by said Board of Commissioners on January 12, 1943.

'2. On Saturday, April 6, 1957, between 3:00 a.m. and 3:35 a.m., you allowed the consumption of alcoholic beverages on your licensed premises; in violation of Section 6 of a Resolution adopted by the Board of Commissioners of the Town of West New York on December 15, 1933, as amended by Ordinance adopted by said Board of Commissioners on January 12, 1943.

'3. On Saturday, April 6, 1957, between 3:35 a.m. and 4:15 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 two ABC agents (hereinafter identified as Agent C and Agent M) testified that at about 3:30 a.m. Saturday, March 30, 1957, they looked through a small window in the front door of the licensed premises and saw Michael J. Susnjara and three other men playing cards at a table in the rear room. The agents did not attempt to enter and left the vicinity about 3:45 a.m. without identifying themselves.

"The two agents testified that they returned to the vicinity about 2:00 a.m. Saturday, April 6, 1957. Agent C testified that he entered the premises and remained there until shortly before 3:00 a.m. when Michael J. Susnjara (who was tending bar) ushered him to the door and told him that the others in the place would follow him shortly. At about 3:00 a.m. the outside lights were extinguished and the inside lights dimmed. Agent C said that, when he left the premises, two men were at the bar and four men and a woman were playing cards at a table in the rear room. Agent C rejoined Agent M who had remained outside. Both agents testified that at about 3:35 a.m. they went to the front door, looked through the window of the door and saw Michael J. Susnjara behind the bar, two men in front of the bar, and three glasses and a whiskey bottle on the bar. Agent M testified that he knocked on the door; that, when the bartender walked over to the door, he placed his credentials against the window, said 'This is the State ABC' and asked the bartender to open the door; that the bartender walked towards the rear room and said in a loud voice, 'The ABC is outside. Get out in the hallway' and 'Never mind the coats. Go upstairs. You will get them later;' that several persons walked out of the premises through a rear door leading to a hallway; that, about four minutes later, the bartender opened the front door and admitted the agents. When the agents entered, the bartender was the only person in the barroom or rear room, but the agents seized three glasses containing alcoholic beverages from the bar and observed a woman's fur coat and two or three men's topcoats hanging on hooks in the barroom, and two men's hats in the rear room. The agents testified that

the bartender admitted that he had seen the credentials but said that he was afraid of hold-up men and 'wouldn't let us in unless we had a cop with us.' It appears from the evidence that the bartender became angry when Agent M asked him if his wife (the co-licensee) played the horses but this incident should not be considered as evidence that the bartender hindered or failed to facilitate the agent's investigation.

"On behalf of defendants, Michael J. Susnjara testified that on March 30, 1957, he closed the premises at 3:00 a.m. and that no persons were in the premises after that time. As to April 6, 1957, he testified that Agent C left the premises about five minutes before 3:00 a.m.; that two men (Neill and Perry) and three other men and a woman (who had been playing cards in the rear room) left at about the same time. He further testified that both agents knocked on the door about 3:10 a.m. and called out that they were ABC men but that he told them to go get a cop because more than a year ago a man impersonating an ABC agent had tried to gain admittance to a licensed place in an adjoining municipality. He denied that any other persons were in the premises when the agents knocked, and said that he was there alone and engaged in washing glasses. He denied that he had told anyone to get out in the hallway. He testified that the coats and hats belonged to persons who had left the premises before 3:00 a.m. He stated that he admitted the agents about three minutes after they knocked. Charles Neill and Frank H. Perry testified that they left the premises shortly before 3:00 a.m. when Agent C left. A man who resides in the apartment above the licensed premises testified that he heard a disturbance downstairs after 3:00 a.m. and that, when he came down to the premises, only the bartender, his son and the ABC agents were in the premises. Two other men testified that they passed the licensed premises after 3:00 a.m.; that the place was apparently closed; that they saw the ABC agents trying to gain admittance and that they saw no patrons in the premises. The testimony of Neill, Perry and the other three men does not in any way indicate that the testimony of ABC agents is untruthful. I believe the agents' testimony that patrons were on the licensed premises at about 3:35 a.m., and that some of them were consuming drinks of alcoholic beverages at that time.

"The evidence clearly indicates that the principal business conducted by defendants is the sale of alcoholic beverages and that they do not conduct a restaurant, as defined in R. S. 33:1-1(t). Hence they do not come within the exception in the local regulations permitting bona fide restaurants to remain open between 3:00 a.m. and 7:00 a.m. on weekdays.

"Defendants have a prior record. When the license was held by Michael J. Susnjara it was suspended by the local issuing authority for three days effective July 7, 1952, on a gambling charge. Effective November 7, 1955, defendants' license was suspended by the local issuing authority for five days on charges of permitting a lottery and selling in violation of Rule 1 of State Regulation No. 38. It is noted that no charge of selling during prohibited hours is involved in the present case. The hindering charge herein involved no violence or threat of violence towards the ABC agents.

"I recommend that an order be entered finding defendants guilty as charged and, under all the circumstances, suspending their license for a period of thirty days."

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

No. 16. After carefully considering the facts and circumstances herein, I concur in and adopt the findings and recommended conclusions of the Hearer. Hence, I shall suspend defendants' license for a period of thirty days.

Accordingly, it is, on this 12th day of August, 1957,

ORDERED that Plenary Retail Consumption License C-15, for the 1957-58 licensing year, issued by the Board of Commissioners of the Town of West New York to Michael J. & Margaret Susnjara, t/a Big Mike's Tavern, 301 - 61st Street, West New York, be and the same is hereby suspended for a period of thirty (30) days, commencing at 3:00 a.m. August 19, 1957, and terminating at 3:00 a.m. September 18, 1957.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - ALLOWING PREMISES TO BE CONDUCTED AS A NUISANCE - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against
OLYMPIC, INC.
125 Essex Street
Maywood, N. J.,
Holder of Plenary Retail Consumption License C-4 (for the 1956-57 and 1957-58 licensing years), issued by the Borough Council of the Borough of Maywood.

CONCLUSIONS
AND ORDER

Samuel Moskowitz, Esq. and Nathan J. Littauer, Esq.,
Attorneys 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 charge:

'On January 11, 12, 13, 18, 19, February 6, 16 and 17, 1957, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance, in that you made offers to procure females for patrons for the purpose of prostitution and for acts of perverted sexual relations, introduced females to patrons for such purposes 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.'

"On each of the occasions mentioned in the aforesaid charge, three ABC agents visited the licensed premises. The said agents will hereinafter be referred to as Agent F, Agent N and Agent M. The latter agent had left the employment of the Division prior to the instant hearing and was not called to testify as a witness herein on behalf of the Division.

"Agent F testified that he and his fellow agents visited defendant's licensed premises at 'about ten p.m.' on

January 11, and remained in the premises until 'about 1:30 a.m.' January 12, 1957; that one of the bartenders subsequently identified as James Morris (hereinafter referred to as 'Morris') served them; that three females were seated at the bar to the left of the agents, one of whom was called Honey, one Diane and the name of the third female was not ascertained; that he observed 'a male approach these three females and conversed with them and a few minutes I observed Phil, the bartender, serve these three females each Seagram's Seven'; that he spoke to Morris about the three females above mentioned and two other females who were seated at the bar to the right of Honey; that Morris stated he didn't know the two other females but that Honey and Diane engaged in sexual intercourse and at the same time 'he made a gesture with his arm; he crooked his arm, his right arm and closed his fist and he made rapid jerky movements with his right fist'; that Morris further stated that Phil, the other bartender, was requested by Diane to engage in illicit sexual intercourse with her and also stated that Honey engaged in acts of perversion; that he asked whether Agent F wished to meet the girls and the agent said, 'Sure, should we buy them a drink?'; that Morris went over to Phil's station at the bar, spoke to Phil and then pointed his finger in the agents' direction; that Phil then served the three females drinks of alcoholic beverages and added the cost of the drinks to the agents' tab; that Morris suggested that the agents dance with the three females but as Agent N went to the juke box to insert a coin, a band seated on a small stage commenced to play and Honey was called up on the stage where she sang three numbers; that he asked Morris if Honey was employed on the licensed premises and was told that she had been employed 'five or six months ago as a singer'; that after completing the last song Honey went to a telephone booth, made a call and rejoined her friends and the three females then left the premises; that Agent N questioned Morris about Diane and Honey, particularly as to what they charged to engage in illicit sexual intercourse and Morris said that they made no charge but to buy them a few drinks; that Agent N asked whether Diane, Honey and her girl friend would be in on the following night and Morris said that they might because 'whenever they feel like they come in' and as the agents prepared to leave, Agent N said to Morris that if the three girls came in the following night that he should 'hold them here for us'; that Morris replied, 'Don't worry about it. If they don't come I know of two others who are sure', and with that 'he again crooked his arm and made a fist moving rapidly up and down'.

"Agent F testified that he and the two agents who had accompanied him on the previous occasion entered the defendant's premises at 10:30 p.m. on January 12th; that they sat at the section of the bar serviced by Phil; that two females referred to as Ann and Renee were seated to their right; that Morris came over to them and pointing to Ann stated that her sister called and said she 'couldn't get down here'; that he (Agent F) asked about Honey, Dinne and their girl companion and Morris said, 'They haven't come in'; that in answer to a question of Agent M as to whether Ann and Renee engage in sexual intercourse, Morris answered, 'Yea, sure'; that after Phil had served them their first drinks, he (Agent F) asked him whether it was all right to buy drinks for Ann and Renee and after saying 'Sure' Phil served each of the girls 'a screwdriver, orange juice and vodka', the price of which was added to the agents' tab; that from time to time he and Agent N danced with Renee and Ann, respectively; that the girls had several drinks with and at the expense of the agents; that at about 2:00 a.m. the girls left the premises at which time Agent N said to Phil, 'It looks like we go home with the newspaper' and in response Phil asked, 'What happened?';

that Morris joined in the conversation remarking, 'I can't understand it. That Ann I know is a sure ---' and again crooked his arm as aforementioned continuing, 'but the other girl I don't know too much about her'.

"Agent F testified that he and the same fellow agents again visited defendant's premises on January 18th, arriving there at 10:30 p.m.; that Morris and a man subsequently identified as Raymond DeFino were tending bar; that he asked Morris if there was 'Anything doing tonight?' and he replied that it was too early; that Agent N inquired of Morris about two females seated at the bar and Morris said, 'They're stiffs. They're just drinkers'; that about 11:15 p.m. Anthony J. Barresi (President of defendant corporate-licensee) entered the premises and took a seat next to the two females aforementioned; that Morris stated that just before Barresi came into the premises he (Morris) had talked to him on the telephone about Renee and Ann whom the agents had met on the prior occasion and stated that 'Barresi was mad when he found out that we didn't get any place with them, and that Mr. Barresi had told him that to just steer us to broads that are sure, not to let us waste our time'; that Morris added that 'he would steer us to girls that he thinks are sure bang'; and again made the motion with his right arm as has been already described; that just before the agents left Morris agreed that it would be a good idea if the agents phoned him before coming to the premises.

"Agent F further testified that he and his fellow agents again visited the defendant's premises on February 6th, entering about 10:15 p.m.; that Morris asked whether they saw two females who had just left the premises and added that he attempted to hold them by treating them to a drink, respectively, but they saw the 'place was dead and they took off'; that they left at about midnight; that they again visited the premises on February 16th, arriving there at 10:10 p.m.; that Morris told them that Honey and Diane were there the previous night; that Agent N asked Morris, 'Are we going to get laid tonight or not?' and Morris said, 'It's too early yet'; that he related a story to the agents about a girl being at the premises on a day of the preceding week and she was looking around for someone to take her home; that the piano player took this girl home and she engaged in perverted sexual relations with him; that when Agent N stated that he could have called them on the phone, Morris obtained a piece of paper and a pencil and requested him (Agent F) to write his name and telephone number so that in the event 'any sure bang comes in' he might contact him; that he (Agent F) wrote down a name and telephone number, handed the paper to Morris who placed it in a box on the back bar; that the telephone rang and after Morris returned from answering it he remarked to the agents, 'I just got a call from a broad who is asking if a certain guy was in here. I knew that this broad was living with this guy but she's separated now and she said she will be down in a few minutes'; that from time to time they questioned Morris about the female and Agent N said to him, 'Well, it looks like we don't get laid tonight' at which time Morris 'didn't answer, he just put his hands by his rear and backed away'. Shortly thereafter he and his fellow agents identified themselves and seized from the back bar the slip of paper upon which he (Agent F) had written the name and telephone number and the pencil which Morris had given him and which was used to write the aforementioned data.

"The testimony of Agent N who had accompanied Agent F on all the occasions in question corroborated, in substance, the testimony given by Agent F.

"Morris testified that he recollected that the agents were in the licensed premises on the evening of January 11th, but that he did not recall engaging in conversation with them with respect to any girls who were in the premises; that he never crooked his arm as described by the agents at any time while employed as a bartender in the licensed premises; that he did not know girl patrons named Ann and Renee, respectively; that he did not know any patron named Diane, but knew Honey because she had entertained at defendant's premises five or six months prior to the month of January; that although he remembered seeing the agents on January 18th, he never mentioned to the agents anything concerning an alleged telephone call from Barresi. In fact, with the exception that he remembered the agents being in the defendant's premises on a few occasions, he denied he had any conversation with them with the exception that he asked them for their names, addresses and 'phone numbers for the mailing list which 'includes any change of entertainment and various parties and so forth'.

"Anthony J. Barresi testified that he is president and the majority stockholder of the defendant corporate-licensee; that he never telephoned Morris concerning any females in the licensed premises and that the only time he spoke to the agents was on the early morning of February 17th, when he was called to the premises.

"As will have been observed from Morris' testimony hereinabove recounted, these are proceedings in which the defendant contends that the Division's entire case, in the activities and sworn testimony of its agents, was fabricated from beginning to end in frame-up of an innocent licensee upon whose premises none of the conduct took place. Morris either could not recall or emphatically denied that he had any conversation whatsoever with the agents, especially with reference to the tendencies of various female patrons to engage in illicit sexual intercourse. He did recall that on February 16th he asked the agents for their names, addresses and 'phone numbers for the mailing list. Such recollection appears to be the only time, according to Morris, that he engaged in conversation with the agents other than to say 'hello', 'what will you have' and 'goodbye'.

"I am thoroughly convinced that a careful reading of the testimony and evidence herein could lead any dispassionate, discerning person to but one conclusion, namely, that the testimony of the Division's agents truthfully represents the facts while the testimony of the witnesses for defendant-licensee is largely compounded of studied and deliberate falsification.

"It was stated by Judge Jayne in In re Schneider (12 N. J. Super. 449) that:

'The Legislature empowered the commissioner (director, R. S. 52:17B-51) to "make such general rules and regulations and such special rulings and findings as may be necessary for the proper regulation and control of the manufacture, sale and distribution of alcoholic beverages," embracing such subjects, inter alia, as disorderly houses, prostitution, orderliness, and decency. R. S. 33:1-39.'

"Decency is defined as 'Quality or state of being decent, suitable, or becoming, in words or behavior; propriety of form in social intercourse or in actions; proper formality;

seemliness; hence, freedom from obscenity or indecorum; modesty.' (See Webster's New International Dict. (2nd ed.))

"The liquor business is one that must be carefully supervised and it should be conducted by reputable people in a reputable manner.' Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946).

"There is little room for doubt that Morris had a purpose in encouraging the agents to return to defendant's licensed premises from time to time by holding out the lure of illicit arrangements to be consummated with females at a future date. A purpose is that which one sets before oneself as an object to be attained; the end or aim to be kept in view in any plan, measure, exertion or operation; design; intention. Webster's New International Dict. (2nd ed.) vide In re Schneider, supra. At the suggestion of Morris and by use of a piece of paper and pencil which was supplied by him, Agent F wrote a name and telephone number where he could be reached by Morris if any females who were known by him to be of questionable morals visited the premises. As was also said by Judge Jayne in In re Schneider, supra, 'It would seem that the commission of an overt act on the licensed premises in furtherance or promotion or encouragement of an illicit purpose is in itself an immoral activity comprehended by the scope of the regulatory rule.'

"The conduct committed on defendant's licensed premises indicates conclusively that the manner of operation of the business is highly improper, and that the licensee permitted the licensed place of business to be conducted in such a manner as to become a nuisance. 'The meaning of the word "nuisance" as used in Rule 5 of State Regulation No. 20, is the dictionary meaning'. Santore v. West New York, Bulletin 958, Item 2.

"The object manifestly inherent in the rule with which we are here concerned is primarily to discourage and prevent not only lewdness, fornication, prostitution, but all forms of licentious practices and immoral indecency on the licensed premises. The primary intent of the regulation is to suppress the inception of any immoral activity, not to withhold disciplinary action until the actual consummation of the apprehended evil.' In re Schneider, supra.

"I have considered the argument of the defendant's attorneys as contained in the memorandum submitted herewith but do not find anything sufficiently persuasive therein to accept their recommendations.

"Under the circumstances appearing in the instant case, I recommend that defendant be found guilty of conducting its liquor establishment in a manner as to constitute a nuisance. I further recommend that its license be suspended for a period of thirty days."

Written exceptions to the Hearer's Report pursuant to Rule 6 of State Regulation No. 16, together with written argument in substantiation thereof, were filed with me by the attorneys for defendant.

After careful consideration of the entire record herein, including the transcript of testimony, the memorandum filed with the Hearer by the defendant's attorneys prior to the Hearer's recommendation in the matter, the Hearer's Report and the exceptions and written argument thereon submitted by the

defendant's attorney herein, I concur in and adopt the conclusions set forth in the Hearer's Report as my conclusions. I find the defendant guilty of the charge preferred in this case and shall suspend its license for a period of thirty days.

Accordingly, it is, on this 10th day of September, 1957,

ORDERED that Plenary Retail Consumption License C-4, issued by the Borough Council of the Borough of Maywood to Olympic, Inc., for premises at 125 Essex Street, Maywood, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2:00 a.m. September 17, 1957 and terminating at 2:00 a.m. October 17, 1957.

WILLIAM HOWE DAVIS
Director.

- 5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PERMITTING CONSUMPTION OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

DORIS REGAL and BARBARA FANNING)
156 Steuben Street)
Jersey City, N. J.,)

CONCLUSIONS AND ORDER

-----)
Holders of Plenary Retail Consumption License C-50, issued by the)
Municipal Board of Alcoholic Beverage Control of the City of)
Jersey City.)

Doris Regal and Barbara Fanning, Defendant-licensees, Pro se.
Dora P. Rothschild, appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendants have pleaded non vult to the following charges:

"1. On Saturday morning, July 20, 1957, at about 2:20 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., six 12-oz. cans of Rheingold beer at retail in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of such alcoholic beverages from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

"2. On Saturday morning, July 20, 1957, between the hour of 2:00 a.m. and 2:25 a.m., you conducted your licensed business; in violation of Section 4 of Ordinance No. K-1299, regulating the sale and distribution of alcoholic

beverages by all those holding plenary retail consumption licenses in the City of Jersey City adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950, which prohibits any such activity between the hours of 2:00 a.m. and 6:00 a.m. on Saturdays.

"3. On the occasion aforesaid, you suffered and permitted persons except yourself and your actual employees and agents in and upon the licensed premises; in violation of the above mentioned ordinance."

The file herein discloses that on July 20, 1957, at about 2:00 a.m., ABC agents and two other men were served drinks of beer in the licensed premises and consumed their beer after that hour. The bartender served the agents with another round of drinks of beer at about 2:10 a.m., without charge. The other two men left the premises at about 2:15 a.m. Some time after 2:20 a.m., one of the agents purchased six cans of beer from the bartender who placed the cans in a paper bag. The agents left the premises with the beer but returned immediately, identified themselves, and the bartender acknowledged the unlawful sale of the six cans of beer.

Defendants have no prior adjudicated record. Ordinarily, I could suspend defendants' license for thirty days for the violations set forth above. Re Chiarella, Bulletin 989, Item 4. However, it appears that there were no sales to any patrons, except the agents, after 2:00 a.m. and, under the circumstances, I shall suspend defendants' license for twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 22nd day of August, 1957,

ORDERED that Plenary Retail Consumption License C-50, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Doris Regal and Barbara Fanning, for premises 156 Steuben Street, Jersey City, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. September 3, 1957 and terminating at 2:00 a.m. September 23, 1957.

WILLIAM HOWE DAVIS
Director.

- 6. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - FALSE ANSWERS IN APPLICATION FOR LICENSE (RE PRIOR SUSPENSION) - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 JOSEPH MAZZA, JR. &
 MARY A. MAZZA
 T/a OLD COIN INN
 730 S. White Horse Pike
 Hammonton, N. J.,

CONCLUSIONS
 AND ORDER

 Holders of Plenary Retail Consumption License C-16, issued by the Mayor and Town Council of the Town of Hammonton.

Lipman & Casella, Esqs., Attorneys for Defendant-licensees.
 David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charges:

"1. On Sunday, June 9, 1957 at about 9:55 a.m. you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., one pint bottle of Seagram's Seven Crown Whiskey, at retail in its original container for consumption off your licensed premises, and allowed, permitted and suffered the removal of such alcoholic beverage from your retail licensed premises; in violation of Rule 1 of State Regulation No. 38.

"2. On Sunday, June 9, 1957, at about 9:55 a.m., you sold and delivered an alcoholic beverage at your licensed premises; in violation of Section 9 of an ordinance adopted by the Mayor and Town Council of the Town of Hammonton on June 8, 1936, as amended by ordinance of April 10, 1944.

"3. In your license application dated June 8, 1956, filed with the Mayor and Town Council of the Town of Hammonton on June 11, 1956, upon which you obtained your plenary retail consumption license for the licensing year 1956-57, you falsely stated 'No' in answer to Question No. 41, which asks: 'Have you or has any person mentioned in this application ever had any interest, directly or indirectly, in any alcoholic beverage license or permit in New Jersey or any other state which was surrendered, suspended, revoked or cancelled?', whereas in truth and fact the plenary retail consumption license issued to the partnership of Joseph Mazza, Jr., one of you, and Carl Rambo by the Mayor and Town Council of the Town of Hammonton for the licensing year 1945-46 for premises 680 White Horse Pike, Hammonton, was suspended by the Mayor and Town Council of the Town of Hammonton for ten days, effective April 2, 1946, for the sale of alcoholic beverages during hours prohibited by municipal regulation; in violation of R. S. 33:1-25."

The file herein discloses that on Sunday, June 9, 1957, at about 9:55 a.m., an ABC agent at the defendants' licensed

premises purchased a pint of Seagram's Seven Crown Whiskey from Joseph Mazza, Jr., one of the licensees. Mazza told the agent to put the bottle in his pocket right away. The agent left the premises, was joined by another agent who was stationed outside, and both immediately returned to the licensed premises and disclosed their identity. Mazza thereupon acknowledged that he had unlawfully sold the whiskey. The agents checked the license application which disclosed the answer "No" to Question 41 which is fully set forth in Charge 3.

The local ordinance prohibits the sale, service and delivery of alcoholic beverages between the hours of 2:00 a.m. and 1:00 p.m. on Sundays and State Regulation No. 38 prohibits the sale on Sundays of said beverages in original containers for off-premises consumption.

The prior record of Joseph Mazza, Jr., as set forth in Charge 3, will not be considered in imposing penalty because such violation occurred more than ten years ago. Re Eckstein, Bulletin 1160, Item 5. Defendants have no other prior adjudicated record. I shall suspend their license for a period of twenty days on Charges 1 and 2 (Re Gallo, et al., Bulletin 1156, Item 8) and for an additional period of ten days on Charge 3 (Re Parlake, Inc., Bulletin 1121, Item 5), making a total suspension 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 27th day of August, 1957,

ORDERED that Plenary Retail Consumption License C-16, issued by the Mayor and Town Council of the Town of Hammonton to Joseph Mazza, Jr. & Mary A. Mazza, t/a Old Coin Inn, 730 S. White Horse Pike, Hammonton, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. September 9, 1957, and terminating at 2:00 a.m. October 4, 1957.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ANTHONY PRAWDZIK & EDMUND PRAWDZIK)

T/a ANTHONY'S TAVERN 313 Henderson Street Jersey City 2, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-134, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Anthony Prawdzik and Edmund Prawdzik, Defendant-licensees, Pro se.

Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that on Sunday, July 14, 1957, they sold during prohibited hours alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that three ABC agents entered defendants' licensed premises on the afternoon of Sunday, July 14, 1957. At about 4:35 p.m. one of the agents purchased from Anthony Prawdzik six 12-ounce cans of beer and left the premises with the beer in his possession. This agent immediately returned to the premises, at which time the agents identified themselves to Anthony Prawdzik who verbally admitted the aforesaid violation.

Defendants have no prior adjudicated record. I shall suspend their license for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days (Re Solazzo, Bulletin 1176, Item 10).

Accordingly, it is, on this 22nd day of August, 1957,

ORDERED that Plenary Retail Consumption License C-134, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Anthony Prawdzik and Edmund Prawdzik, t/a Anthony's Tavern, for premises 313 Henderson Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. September 3, 1957, and terminating at 2:00 a.m. September 13, 1957.

William Howe Davis
Director.