

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

BULLETIN 1508

May 1, 1963

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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.

May 1, 1963

BULLETIN 1508

1. DISCIPLINARY PROCEEDINGS - HOSTESSES - NUISANCE (SOLICITATION FOR DRINKS) - UNQUALIFIED EMPLOYEES - PRIOR SIMILAR RECORD - LICENSE REVOKED.

In the Matter of Disciplinary
Proceedings against

PIERRE'S FRENCH QUARTERS, INC.
517 Paterson Plank Road
Union City, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-168, issued by the Board of
Commissioners of the City of Union
City and extended during the pendency
of these proceedings to

JEANNE P. GALLAGHER, RECEIVER

Licensee, Pro se.

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

BY THE ACTING DIRECTOR:

On December 6, 1962, charges were preferred against the
licensee corporation as follows:

- "1. On November 2 and 9, 1962, you allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of or as a gift from customers and patrons; in violation of Rule 22 of State Regulation No. 20.
- "2. On November 2 and 9, 1962, you allowed, permitted and suffered your place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered unescorted females frequenting your licensed premises to solicit male 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.
- "3. On November 9, 1962, and prior thereto, you employed and allowed, permitted and suffered the employment in and upon your licensed premises of persons who were not bona fide residents of the State of New Jersey, contrary to and in violation of Rule 4 of State Regulation No. 13."

On December 7, Jeanne P. Gallagher was appointed receiver of the licensee corporation and the license was extended to her by the municipal issuing authority on December 20, pursuant to R.S.

33:1-26. The receiver pleaded non vult to the charges.

Reports of investigation upon which the charges were based disclose that on the dates indicated, non-resident females claiming to be entertainers (but who never performed as entertainers) employed by the licensee without requisite employment permits, together with another female who disclaimed being employed, spent all of their time "hustling" drinks from male patrons, at such a pace and to such an extent that one of them was served seven shots of vodka at \$1.00 each and another eleven drinks of cherry wine at 75¢ each within about one hour.

In attempted mitigation, the receiver states:

"The Plenary Retail Consumption License owned by this corporation is one of its few assets; the assessment of a severe penalty in this case would result in a hardship--not to the corporate licensee, which is now defunct--but to all secured creditors who will rely upon a sale of the assets for satisfaction of their claims. In view of these circumstances, it is my hope that the minimum penalty allowable will be given in this case."

As to this, it is pointed out that the very section of the Alcoholic Beverage Law (R.S. 33:1-26) which authorizes extension of a license in the event of receivership of a licensee in the first sentence of the second paragraph of that section, in the next sentence states:

"...Under no circumstances, however, shall a license, or rights thereunder, be deemed property, subject to inheritance, sale, pledge, lien, levy, attachment, execution, seizure for debts, or any other transfer or disposition whatsoever, except to the extent expressly provided by this chapter."

Since by plain legislative mandate a license is not property, creditors must learn that they may not look to the license as an asset of the licensee to be realized upon by its sale in receivership or bankruptcy.

The previous record of the licensee corporation and its linked predecessors in interest is an unlovely one. That record discloses suspension of its license by the Director for forty days, effective February 3, 1960, for hostess activity, similar to that herein. Re Pierre's French Quarters, Inc., Bulletin 1328, Item 4, wherein the Director said:

"Defendant corporation has no prior adjudicated record. However, in fixing the penalty to be imposed in this case I have found it necessary to review and to refer to the unsavory record of its predecessors, The New French Quarter, Inc., which sustained four license suspensions within a two-year period, the last as recent as June 1, 1959, for a period of forty days (Bulletin 1286, Item 5), and The French Quarter, Inc., which sustained two suspensions within a ten-month period in 1956 (Bulletin 1096, Item 4, and Bulletin 1141, Item 1).

"It is significant that one Donald LaSalle was a bartender when New French Quarter, Inc. held the license for the same premises but is now the holder of 98% of the capital stock of defendant corporate licensee; that Peter Nitti (commonly known as 'Pete the Crutch') during the course of prior investigations involving New French Quarter, Inc. and The French Quarter, Inc. was usually on the licensed premises, and his brother James Nitti now holds a 1% interest in the capital stock of defendant corporate licensee. 'Pete the Crutch' was observed on the licensed premises by agents of this Division on each of their visits during this investigation and during investigations conducted while the license was held by the two predecessor corporations aforementioned, not in the role of a patron, as claimed by the licensee, but ostensibly acting as one with authority referred to by employees of the licensee as the 'boss'. This is further borne out by the agents' reports that on one occasion 'Pete the Crutch' ordered the orchestra to continue with the music when it had stopped playing, saying 'What do you think I'm paying you for?'

"It is to be wondered whether the principals of The New French Quarter, Inc. are actually the operators of the licensed business of defendant corporate licensee. Question also arises as to the real interest of 'Pete the Crutch' in this license, particularly in view of his continued presence and activities on the licensed premises as aforementioned and more particularly in view of his violent conduct in hindering an investigation which resulted in a fifty-five-day suspension of the license of The French Quarter, Inc., effective October 30, 1956 (Bulletin 1141, Item 1). Certainly the entire background facts indicate something more than mere customer interest on the part of 'Pete the Crutch' which cannot be ignored in fixing the penalty in this case."

(It may be noted in passing that the stockholdings at the time of the instant violations were still as above indicated.)

Of the four suspensions of license of The New French Quarter, Inc., two involved hostess activity (Bulletin 1281, Item 14). Of the two against The French Quarter, Inc., one involved similar activity (Bulletin 1141, Item 1). Thus, in effect, this is the fifth similar violation chargeable to the licensee corporation.

All of the facts and circumstances considered, it is self-evident that the only proper and adequate penalty to be imposed is revocation of the license.

Accordingly, it is, on this 18th day of March, 1963,

ORDERED that Plenary Retail Consumption License C-168,

issued by the Board of Commissioners of the City of Union City to Pierre's French Quarters, Inc. and extended to Jeanne P. Gallagher, Receiver, for premises 517 Paterson Plank Road, Union City, be and the same is hereby revoked, effective immediately.

EMERSON A. TSCHUPP
ACTING DIRECTOR

2. APPELLATE DECISIONS - KURSCHNER v. NEWARK.

KATIE KURSCHNER
t/a HARRY'S LONG BAR,

Appellant,

v.

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

Respondent.

ON APPEAL
CONCLUSIONS
AND ORDER

Ernest N. Giannone, Esq., Attorney for Appellant.
Norman N. Schiff, Esq., by Paul E. Parker, Esq., Attorney
for Respondent.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent which, by resolution dated November 14, 1962, suspended appellant's plenary retail consumption license for a period of fifteen days, effective November 26, 1962, after finding her guilty on a charge alleging that on December 8, 1961, she allowed, permitted and suffered a brawl, act of violence, disturbance and unnecessary noise upon her licensed premises, in violation of Rule 5 of State Regulation No. 20. The premises are located at 189 South Orange Avenue, Newark.

"When the appeal was filed, the Director entered an order on November 21, 1962, staying respondent's order of suspension until further order herein, pursuant to R.S. 33:1-31.

"Appellant, in her petition of appeal, alleges that the action of respondent was erroneous in that it failed to establish a prima facie case; that its finding was against the weight of the evidence; that its decision was arbitrary, capricious and unreasonable and that it was based on incompetent and inadmissible evidence.

"Respondent, in its answer, denies appellant's allegations and contends that it predicated its decision on the factual testimony elicited before it.

"When the matter came on for hearing, the parties hereto agreed to present the appeal solely on the transcript of the proceedings before respondent Board, as provided by Rule 8 of State Regulation No. 15. The transcript was received in evidence

and marked Exhibit R-1.

"Thereafter, appellant's attorney orally argued that respondent Board should have dismissed the charge because the evidence adduced to substantiate it was incompetent and inadmissible, citing several cases in support of his contention.

"It appears from the transcript of the proceedings below that the only witnesses produced by respondent were Mr. and Mrs. Wise Jones, who allegedly engaged in the acts of violence charged.

"Succinctly stated, the testimony of Mr. Jones was that on December 8, 1961, when he arrived home from work, his wife sallied forth leaving him to care for their infant child. Fifteen minutes later, he requested a neighbor to mind the infant during his absence and went to the licensee's premises where he found his wife at the bar consuming beer. When he approached and asked that she return home, she finished her beer and, getting off the stool, she slipped onto the floor. Taking her arm, he lifted her to her seat and saw that she was holding a broken bottle and that her hand was bleeding. Bernard Kurschner (son of the licensee) came from behind the bar with a mop and told them to 'get the hell out'. He and his wife left the premises immediately and she continued on to the hospital (Martland Medical Center) and he returned home.

"Wise Jones further testified that at the request of Bernard Kurschner, he and his wife visited the licensed premises on December 12, 1961 and were escorted by Bernard to a lawyer's office where they gave and signed a statement exculpating the licensee. When he returned home, he was given a card which a Newark police detective had left, asking him and his wife to get in touch with him. They complied and in the latter part of December, 1961, each on a different night went to police headquarters and voluntarily signed a statement respecting the incident.

"On cross examination, Jones denied that he and his wife had a fight or engaged in a brawl or disturbance on the licensed premises and, notwithstanding a lengthy cross examination by members of respondent Board, his testimony remained unshaken.

"The testimony of Evelyn Jones corroborated that of her husband respecting the incident which occurred in the licensed premises on the date alleged and after being examined at length by members of respondent Board, the attorney representing respondent pleaded surprise and examined her respecting a contradictory statement she had given to the police, some of which she admitted and some of which she denied. The statement was received in evidence without objection and the Board rested its case. A motion for dismissal of the charge was denied and the Board called upon the licensee's attorney (not her attorney on the appeal) to proceed with his defense.

"Appearing for the licensee were Ernest N. Giannone, Esq., (attorney for the licensee on the appeal), Katie Kurschner (the licensee), Bernard Kurschner and Eugene Geoffrey (the bartenders).

"Mr. Giannone testified in substance that on December 12, 1961, Mr. and Mrs. Jones, accompanied by Bernard Kurschner, came to his office where, after questioning the Joneses with reference to the incident on December 8, 1961, he wrote out a statement in

longhand which Mr. and Mrs. Jones read and signed. The Board received the statement in evidence as Exhibit D-1.

"Katie Kurschner testified in substance that she was not present in the premises on the night of December 8, 1961 and when questioned about \$5 she had given Mr. Jones, she replied that she gave him the money because he came into the tavern and said, 'I took time off from work [visiting the lawyer] and I want to get paid.'

"Bernard Kurschner testified in substance that he tends bar and manages his mother's tavern; that his tour of duty on December 8, 1961 was from 5:00 p.m. to 2:00 a.m. the following morning; that he could not say what time it was when Mrs. Jones cut her hand or finger; that when he asked what had happened, she said she slipped off the stool and cut her finger; that he told Mr. Jones to 'take her home and put some iodine on it and she said that she was O.K. and that is all'; and that he gave the police a statement in which he stated substantially those same facts. His answer to a question asked by a Board member as to why he brought Mr. and Mrs. Jones to a lawyer to have them give a statement was that 'Mr. Jones came into the place and told me that this detective was up to his house and they wanted his wife to sign a complaint. He said there was a brawl in the place. So then and there, I got legal advice. I called up Mr. Giannone on the telephone and explained everything to him what happened. He said to have them come over to give a statement...That was the finish of it.' Bernard Kurschner further testified that he did not see any broken bottle and that he did not order Mr. and Mrs. Jones out of the place.

"Eugene Geoffrey testified in substance that on the date alleged, he worked as a bartender in the licensed premises from 6:00 p.m. until 2:00 a.m. the following morning; that he saw Mrs. Jones come in the premises but did not see Mr. Jones there; that he didn't hear any disturbance or loud noise or see any broken bottle and didn't know that Mrs. Jones had been injured.

"Upon completion of Mr. Geoffrey's examination, both sides rested. Thereafter the Board reserved decision and on November 14, 1962, by a vote of two to one, adjudged the licensee guilty as charged.

"Having carefully examined the transcript of the proceedings below, I find no substantial evidence to support a finding of the licensee's guilt. It is apparent from the Board's determination that the majority, in arriving at its decision, was greatly influenced by the prior contradictory statement of Mrs. Jones about which the Board's attorney, after pleading surprise, examined her for the sole purpose of neutralizing her testimony and not, as the majority evidently assumed, to prove the truth of the facts contained therein.

"It has been universally held by the courts that prior self-contradictions of witnesses cannot be treated as having any substantive value. See Kulinka v. Flockhart Foundry Co., 9 N.J. Super. 495; State v. D'Adame, 84 N.J.L. 386; State v. Guida, 118 N.J.L. 289; Mazza v. Cavicchia, 15 N.J. 498; Cooley's, etc. v. Legalized Games, etc. Com., 78 N.J. Super. 128.

"In view of the fact that the factual findings in this case were not supported by substantial evidence, I conclude that the respondent failed to sustain the burden of establishing the

truth of the charge by a preponderance of the believable evidence and I recommend that an order be entered reversing respondent's action and dismissing the charge."

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

Having carefully considered the transcript of the testimony elicited before respondent Board, the exhibits, the arguments advanced by the attorneys for the parties hereto at the hearing on appeal and the Hearer's Report, I concur in the findings and conclusion of the Hearer and adopt his recommendations.

Accordingly, it is, on this 19th day of March, 1963,

ORDERED that the action of respondent Board be and the same is hereby reversed and that the charge preferred against the licensee be and the same is hereby dismissed.

EMERSON A. TSCHUPP
ACTING DIRECTOR

3. DISCIPLINARY PROCEEDINGS - UNLAWFUL TRANSPORTATION - STORAGE OFF LICENSED PREMISES - HINDERING INVESTIGATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary
Proceedings against

CALDWELL'S LIQUOR STORES, A CORP.
t/a CALDWELL'S LIQUOR STORES
3301-3303 Atlantic Avenue
Atlantic City, N. J.

)
)
) CONCLUSIONS
AND ORDER
)

Holder of Plenary Retail Distribution
License D-3, issued by the Board of Com-
missioners of the City of Atlantic City.

Patrick T. McGahn, Jr., Esq., Attorney for Licensee.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to charges as follows:

- "1. On November 20, 1962 and on divers occasions prior thereto, you transported alcoholic beverages in vehicles not having a transit insignia affixed thereto; in violation of Rule 2 of State Regulation No. 17.
- "2. On November 20, 1962, you transported alcoholic beverages in vehicles without the drivers thereof having in their possession bona fide, authentic and accurate manifests, waybills or similar documents stating the bona fide name and address of the purchasers or consignees and the brand, size of container and quantity of each item of the alcoholic beverages being transported; in violation of Rule 3 of State Regulation No. 17.
- "3. On November 20, 1962 and on divers occasions prior thereto, you aided and abetted others in the unlawful transportation of alcoholic beverages,

contrary to R.S. 33:1-2; in violation of R.S. 33:1-52.

- "4. On November 20, 1962 and on divers occasions prior thereto, you stored alcoholic beverages at premises of 14 Haddon Avenue, Northfield, New Jersey, which was neither your licensed premises nor a licensed public warehouse nor premises for which you had received a special permit from the Director of the Division of Alcoholic Beverage Control; in violation of Rule 25 of State Regulation No. 20.
- "5. On November 20, 1962 and on divers occasions prior thereto, you stored alcoholic beverages at premises of 14 Haddon Avenue, Northfield, New Jersey, with intent to transport such alcoholic beverages contrary to R.S. 33:1-2; in violation of R.S. 33:1-50(b).
- "6. On November 20, 1962, you failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, examination and inspection being conducted by Inspectors and Investigators of this Division; in violation of R.S. 33:1-35."

It appears from reports of investigation that basically the foregoing charges involve various violations of the Alcoholic Beverage Law and regulations resulting from the licensee's unlawful transportation of alcoholic beverages from its licensed premises to one of its officer's private garage utilized as a "drop" or transfer point, thence continuing such unlawful transportation in the direction of the State of Pennsylvania and, in the course of the investigation, refusing to furnish requested information to the investigating agents.

Licensee has a previous record of suspension of license by the Director for similar unlawful transportation for five days, effective March 7, 1955, (Bulletin 1053, Item 12) and for fifty days, effective October 10, 1961 (Bulletin 1364, Item 6; affd. N.J. Supreme Court, Bulletin 1420, Item 7).

All of the circumstances including the plea considered, the license will be suspended for ninety days, with admonition to the licensee that future similar violation may well result in outright revocation of the license.

Accordingly, it is, on this 20th day of March, 1963,

ORDERED that Plenary Retail Distribution License D-3, issued by the Board of Commissioners of the City of Atlantic City to Caldwell's Liquor Stores, A Corporation, t/a Caldwell's Liquor Stores, for premises 3301-3303 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for ninety (90) days, commencing at 9:00 a.m. Friday, March 22, 1963, and terminating at 9:00 a.m. Thursday, June 20, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

4. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1962 THROUGH MARCH 31, 1963

	1st Quarter July, Aug., Sept.	2nd Quarter Oct., Nov., Dec.	3rd Quarter Jan., Feb., Mar.	Total
ARRESTS:				
Total number of persons arrested	72	68	43	183
Licenses and employees	32	45	31	108
Bootleggers	38	22	12	72
ABC Agent impersonator	2	-	-	2
SEIZURES:				
Motor vehicles - cars	4	2	1	7
Still - over 50 gallons	2	2	-	4
- 50 gallons or under	4	4	-	8
Mash - gallons	2,525	1,280	-	3,805
Distilled alcoholic beverages - gallons	339.512	147.843	13.041	500.396
Wine - gallons	18.945	39.323	22.350	80.620
Brewed malt alcoholic beverages - gallons	55.878	24.472	3.843	84.193
RETAIL LICENSEES:				
Premises inspected	2,119	2,570	2,942	7,631
Premises where alcoholic beverages were gauged	1,910	2,029	1,802	5,741
Bottles gauged	29,839	31,226	26,899	87,964
Premises where violations were found	244	290	420	954
Violations found	394	358	500	1,252
Unqualified employees	210	85	91	386
Reg. #38 sign not posted	62	84	132	278
Application copy not available	47	48	99	194
Other mercantile business	6	20	39	65
Prohibited signs	8	23	26	57
Disposal permit necessary	8	7	6	21
Improper beer taps	2	8	6	16
Questionable liquor	7	-	5	12
Other violations	44	83	96	223
STATE LICENSEES:				
Premises inspected	32	49	107	188
License applications investigated	27	23	18	68
COMPLAINTS:				
Complaints assigned for investigation	1,176	1,083	1,271	3,530
Investigations completed	1,248	1,077	1,235	3,560
Investigations pending	(169)	(185)	196	196
LABORATORY:				
Analyses made	699	241	309	1,249
Refills from licensed premises - bottles	102	62	190	354
Bottles from unlicensed premises	143	50	16	209
IDENTIFICATION:				
Criminal fingerprint identifications made	30	33	14	77
Persons fingerprinted for non-criminal purposes	1,019	665	629	2,313
Ident. contacts made w/other enforcement agencies	689	505	480	1,674
MV identifications via N.J.State Police teletype	14	12	8	34
DISCIPLINARY PROCEEDINGS:				
Cases transmitted to municipalities	49	37	35	121
Violations involved	52	40	36	128
Sale during prohibited hours	26	19	21	66
Sale to minors	21	14	8	43
Possessing chilled beer (DL licensee)	2	2	2	6
Failure to close prem. during prohibited hours	2	3	-	5
Sale to non-members by club	-	1	2	3
Sale outside scope of license	1	-	1	2
Failure to afford view into prem. dur. proh. hours	-	-	1	1
Employing female bartender (local reg.)	-	1	-	1
Permitting brawl, etc. on premises	-	-	1	1
Cases instituted at Division	65	58	66	189
Violations involved	92	101	90	283
Possessing liquor not truly labeled	17	16	18	51
Sale to minors	12	14	14	40
Sale during prohibited hours	13	13	10	36
Permitting lottery activity on premises	5	3	7	15
Hindering investigation	7	6	2	15
Sale below filed price	7	2	4	13
Permitting immoral activity on premises	2	8	1	11
Conducting business as a nuisance	4	4	3	11
Permitting hostess activity on premises	2	5	1	8
Permitting bookmaking on premises	4	-	3	7
Unqualified employees	-	3	3	6
Sale to non-members by club	3	1	1	5
Unauthorized transportation	2	2	1	5
Fraud in application	3	2	-	5
Permitting foul language on premises	1	2	1	4
Sale outside scope of license	3	-	1	4
Beverage Tax Law non-compliance	-	1	3	4
Possessing indecent matter	-	2	1	3
Sale to intoxicated persons	1	2	-	3
Fraud and front	-	2	1	3

DISCIPLINARY PROCEEDINGS (Continued)

Cases Instituted at Division (Continued)

	1st Quarter July, Aug., Sept.	2nd Quarter Oct., Nov., Dec.	3rd Quarter Jan., Feb., Mar.	Total
Failure to close premises dur. proh. hours	2	-	-	2
Purchase from improper source	-	1	1	2
Permitting gambling on premises	-	-	2	2
Possessing contraceptives on premises	-	1	1	2
Retailer-to-retailer sales	2	-	-	2
Application copy not on premises	1	1	-	2
Failure to afford view into prem. dur. proh. hours	1	-	1	2
Permitting female impersonators on premises	-	2	-	2
Service to women at bar (local reg.)	1	-	-	1
Solr-permittee engaging in conduct proh. to employer	1	-	-	1
Unlicensed sale by solicitor	-	-	1	1
Aiding & abetting unauthorized transportation	1	-	-	1
Delivery without bona fide invoice	-	1	-	1
Act of violence	1	-	-	1
Storage off licensed premises	-	1	-	1
Permitting prostitutes on premises	-	1	-	1
Failure to file notice of change in lic. application	-	1	-	1
Possessing illicit liquor	-	1	-	1
Filing false tax reports	-	1	-	1
Violation of special condition	-	1	-	1
Combination sale	-	-	1	1
Sale at discount	-	-	1	1
Unlicensed purchase by solicitor	-	-	1	1
Solr. aiding & abetting unlicensed sale	-	-	1	1
Permitting pinball machine on premises	-	-	1	1
Permitting slot machine on premises	-	-	1	1
Sale by minor permittee in vio. of special condition	-	-	1	1
Cases brought by municipalities on own initiative and reported to Division	54	73	46	173
Violations involved	59	91	64	214
Sale to minors	46	43	31	120
Sale during prohibited hours	7	12	2	21
Permitting brawl, etc. on premises	5	7	5	17
Failure to close prem. during prohibited hours	4	5	4	13
Permitting minors unaccomp. by parents or guardians on premises (local reg.)	-	4	4	8
Hindering investigation	1	3	1	5
Conducting business as a nuisance	2	1	2	5
Permitting bookmaking on premises	2	1	-	3
Permitting gambling on premises	1	2	-	3
Permitting persons of ill repute on premises	-	1	2	3
Permitting foul language on premises	-	1	2	3
Permitting lottery activity on premises	1	1	-	2
Unqualified employees	-	2	-	2
Sale to intoxicated persons	-	-	2	2
Failure to file notice of change in application	-	-	2	2
Act of violence	-	1	1	2
Sale outside scope of license	-	1	1	2
Permitting immoral activity on premises	-	1	-	1
Sale to non-members by club	-	-	1	1
Fraud and front	-	-	1	1
Fraud in application	-	1	-	1
Permitting persons in improper dress on prem.	-	1	-	1
Employee working while intoxicated	-	1	-	1
Employing bartender w/o permit (local reg.)	-	1	-	1
Permitting female impersonators on premises	-	-	1	1
Licensee working while intoxicated	-	-	1	1
HEARINGS HELD AT DIVISION:				
Total number of hearings held	117	99	110	326
Appeals	22	14	13	49
Disciplinary proceedings	74	61	68	203
Eligibility	16	14	19	49
Seizures	3	6	7	16
Tax revocations	-	1	2	3
Applications for license	1	1	-	2
Orders to show cause	-	2	-	2
Hearing on petition	1	-	-	1
STATE LICENSES AND PERMITS ISSUED:				
Total number issued	4,720	4,680	2,777	12,177
Licenses	615	9	8	632
Solicitors' permits	162	122	119	403
Employment permits	1,007	663	538	2,208
Disposal permits	233	177	204	614
Social affair permits	1,341	1,315	1,005	3,661
Wine permits	2	941	10	953
Miscellaneous permits	535	626	332	1,493
Transit insignia	781	729	587	2,097
Transit certificates	44	98	74	216
OFFICE OF AMUSEMENT GAMES CONTROL:				
Licenses issued	177	90	249	516
Premises inspected	1,023	3	1	1,027
Premises where violations were found	23	-	1	24
Number of violations found	25	-	-	25
Enforcement files established	72	97	8	177
Disciplinary proceedings instituted	3	-	-	3
Violations involved	5	-	-	5
Operating controlled game	1	-	-	1
Redemption of prize for money	1	-	-	1
Hindering investigation	1	-	-	1
Operating unlicensed game	1	-	-	1
Awarding free game	1	-	-	1

Dated: April 17, 1963

Acting Director of Alcoholic Beverage Control
Acting Commissioner of Amusement Games Control

5. DISCIPLINARY PROCEEDINGS - VIOLATION OF SPECIAL CONDITION -
 LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary)
 Proceedings against)

CARMINE C. DI PERI)
 t/a BEL AIR)
 888 Main Avenue)
 Passaic, N. J.)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption)
 License C-51, issued by the Board of)
 Commissioners of the City of Passaic.)

 Joseph M. Keegan, Esq., Attorney for Licensee.
 David S. Piltzer, Esq., Appearing for Division of Alcoholic
 Beverage Control.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"Licensee pleaded not guilty to the following charge:

'From June 1, 1962 to date (October 29, 1962), you did not use your current and prior plenary retail consumption licenses only in the operation by you of a restaurant as defined in R.S. 33:1-1(t), as required by the special condition imposed upon the issuance of your said licenses by resolutions adopted by the Board of Commissioners of the City of Passaic on June 27, 1961 and June 19, 1962 and approved by the Director of the Division of Alcoholic Beverage Control; in violation of R.S. 33:1-32.'

"The licensee represents that he is an operator of a restaurant and was issued a plenary retail consumption license by virtue of a resolution which contains a special condition. Said resolution, originally adopted for the 1961-62 period, reads as follows:

'WHEREAS, Carmine C. DiPeri and Giacomo Russo have made application to the Board of Commissioners for 1961-1962 renewal of Plenary Retail Consumption License No. C-51 for premises located at 888 Main Avenue,

'BE IT RESOLVED that the application for 1961-1962 renewal of License C-51 is granted subject to the special condition that the licensee shall use said license only in the operation by the licensee of a restaurant as defined in R.S. 33:1-1(t) and subject further to the outcome of an appeal now pending before the State Director of the Division of Alcoholic Beverage Control.'

"(The mentioned appeal has since been decided. See DeVries v. Passaic and DiPeri and Russo, Bulletin 1457, Item 4.)

"Said license was renewed on June 19, 1962, and imposed the same special condition contained in the resolution hereinabove cited.

"R.S. 33:1-1(t) defines a restaurant as:

'An establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking and serving of foods for its customers and in which no other business, except such as is incidental to such establishment, is conducted.' (Emphasis supplied)

Thus the sole issue in these proceedings is whether the licensee was, during the period specified in the charge, conducting and operating a bona fide restaurant in accordance with the statute.

"ABC Agent K, testifying on behalf of the Division, stated that he participated in an investigation of this establishment on September 19, 1962, and found the premises closed at that time. He returned later in the day and ascertained that these premises opened shortly after 3 p.m. The premises consisted of a long bar, and in the rear was a dining room. Behind the bar was another small room used as a kitchen. There were about ten tables, with chairs, in the rear dining room. The agent also testified that there was a new addition recently built which was reflected on a diagram produced at this hearing, but that it was not completed or in use at that time.

"He inspected the kitchen and particularly the refrigerator located therein, and made an inventory of the food contents thereof. They consisted of several pounds of Italian sausage, a chuck steak, one pound of Italian cheese, four eggs, one-half pound of butter, and approximately one pound of mixed cold cuts, etc.

"The licensee was unable to produce any bills reflecting the purchase of substantial quantities of food from wholesalers which would normally be used in the operation of a restaurant. He also described the quantity of alcoholic beverages which were contained on the premises. Testimony reflected the fact that in June 1962 the total amount of food purchases amounted to \$218.30 and total alcoholic beverages amounted to \$563.77. In July food purchases amounted to \$135.48 and alcoholic beverages amounted to \$362.77. No breakdown was provided for the sale of food and beverages (the total amount of sales could not accurately reflect such breakdown). The bills produced by the licensee indicated that all the food was purchased from retail establishments.

"The licensee told this agent that a new kitchen was to be added, and that rough plumbing and electrical work had been commenced but not completed.

"Carmine Di Peri (the licensee), testifying in his own behalf, stated that he had made plans for the installation of an addition to his premises as licensed in June 1962, and was proceeding with the construction of a cement cinderblock addition to the kitchen of his premises. He stated that he had borrowed \$3,500 from the National Community Bank in Garfield, and an additional \$1,850 from the Lakeview Savings Bank in Paterson. Thereafter he also borrowed an additional \$3,800 for the purchase of equipment, and estimated that the total cost of improvement to this property would be approximately \$9,500.

"This money was to be spent for the construction of the extension for kitchen purposes of a 20 ft. x 30 ft. kitchen fully equipped. He further stated that all the equipment is now presently installed and on the premises. He also produced a menu in evidence which reflects a limited restaurant operation. He explained a new sign installed on the outside of the premises with the legend 'Bel Air Drivein Pizza', 'Restaurant and Cocktail Lounge', to mean that customers can drive into the rear of the premises for parking purposes only, not for the purpose of being served at their vehicles.

"The licensee further explained that the reason for the small amount of food on the premises at the time of this investigation was that he had been closed for a few days and, therefore, had no need for a large quantity of food at that time. Under cross examination the licensee admitted that the new addition was just completed about one week prior to the date of this hearing, and operations commenced with the new addition at that time.

"At the conclusion of this hearing it was quite evident to me that these premises were not being conducted as a restaurant at the time of the formulation of this charge. It was crystal clear that the licensee was not operating a bona fide restaurant within the framework and contemplation of the pertinent statute.

"This was impliedly admitted by counsel for the licensee who stated in the following colloquy:

'Mr. Keegan: *** At this time, if it is appropriate at this time to ask that in view of the fact testimony was permitted in mitigation, if in fact there is a finding adverse to the licensee, could the licensee request that a further investigation be made by either the agent concerned or another investigator of the department, going to the mitigation?

'The Hearer: Well, I suppose that this might happen but, you see, within the terms of reference of this particular charge my responsibility is to make a recommendation based on the charge here. Now, what the Director will do with respect to the penalty is, of course, within his province.

It would seem to me as a practical matter that since the licensee had not really put up a defense to this charge, that his real plea should be a plea of guilty or of non vult, in any event, because you will admit, Mr. Keegan, that there has been no serious effort to refute the charge that was made. It would, I think, clear the air and we would know where we are going.

'Mr. Keegan: And with respect to that, might I say, I am in receipt of a communication from the department which informs me that the plea of the licensee could not be changed after December 11. I would assume that this proceeds pursuant to a rule or regulation of the board.

However, I would ask that the Hearer in this report consider the fact that now, even though perhaps late in time so far as this communication is concerned, that the licensee would wish to change his plea to guilty under the charge as made out today--

'The Hearer: With a plea for mitigation.

'Mr. Keegan: With a plea for mitigation as developed by the testimony this morning, even on the part--as the fair testimony--of the investigator.

'The Hearer: What is your expression?

'Mr. Piltzer: We have no objection to a change of plea at this point.'

I then accepted a change of plea from not guilty to guilty, with the specific recommendation that a new investigation be made of the present operation of these premises for the purpose of determining whether there has now been compliance with the special condition.

"Such investigation was made by an investigator of this Division on January 16 and 17, 1963. This investigation was made to determine whether the licensee was then conducting a restaurant in compliance with the special condition imposed on his license.

"On January 16th a visit to the premises disclosed that the same were closed up until 3 p.m. when it was opened by a female identified as Miss Dolores Campana. The inspection of the premises further disclosed that the licensee had built a 20 ft x 30 ft. addition to the right side of the premises, which addition consists of a one-story cement block building used as a kitchen, with a service counter for sidewalk service. Located on the roof of the building is an electric sign which states 'Bel-Air-Drive-In - Pizza - Restaurant - Cocktail Lounge.'

"Arrangements were then made to revisit these premises on January 17, and same were revisited in the presence of the licensee. A check of the new kitchen at that time disclosed that it contained a large pizza oven, a large four-door refrigerator, a home-type refrigerator, a deep-freezer, twelve-burner gas range, two-burner grill, deep fryer, steam table, sink, pizza boards, slicing machine, coffee maker, and toaster. The kitchen, therefore, appeared to be fully equipped for normal restaurant operation.

"An inventory of the food on hand, which was set forth in detail in the agent's report (but need not be enumerated in detail herein) reflects a substantial quantity of meats, bread, vegetables and condiments adequate for a normal restaurant operation. This was equally true of both the equipment and inventory of the bar.

"The agent also examined the composition book of the licensee which contained the records of his sales and expenses. This book reflects purchases from food wholesalers in substantial quantities. The subject informed the agent that his premises now open at about 3 p.m. and close about 1 to 3 a.m.; that in the Springtime he expects to open at about 11 a.m. in order to serve a lunch trade. A total of the licensee's expenses, calculated from the said record book, discloses the following: From December 15, 1962, to January 16, 1963, food purchases \$736.74; alcoholic beverage purchases \$636.61; kitchen sales \$950.75; food and liquor \$1,883.70.

"Another visit was made to these premises by this agent on January 24, 1963, and at that time he observed that no patrons approached the sidewalk service counter for any 'take-home' food. Upon entering the premises, he noticed that there were two other patrons who ordered food and drink. A check of the kitchen indicated that there were quantities of prepared food ready to be served to patrons. This agent made two additional visits to these premises on February 2, 1963, and February 4, 1963. On these occasions there were no patrons on the premises and the explanation given was that the heating system was not operating properly and consequently they were unable to open the premises for the regular business.

"I am satisfied from the subsequent reports, hereinabove set forth, that the licensee is now operating a bona fide restaurant within the contemplation of the statute and the pertinent resolution. Hence I recommend that the plea of guilty be accepted, and that the license be suspended for ten days for the licensee's prior non-compliance with the special condition, as charged."

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

In view of the change of plea to guilty by the licensee, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 19th day of March 1963,

ORDERED that Plenary Retail Consumption License C-51, issued by the Board of Commissioners of the City of Passaic to Carmine C. Di Peri, t/a Bel Air, for premises 888 Main Avenue, Passaic, be and the same is hereby suspended for ten (10) days, commencing at 3 a.m. Tuesday, March 26, 1963, and terminating at 3 a.m. Friday, April 5, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

STANLEY LAURENCE ASSOCIATES, INC.)
t/a RAY'S TAVERN)
202 South Fifth Street)
Camden 3, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-130, issued by the)
Municipal Board of Alcoholic Beverage)
Control of the City of Camden.)

Licensee, by Stanley A. Laurence, President, Pro se.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE ACTING DIRECTOR:


Licensee pleads non vult to a charge alleging that on
January 23, 1963, it possessed alcoholic beverages in six bottles
bearing labels which did not truly describe their contents, in
violation of Rule 27 of State Regulation No. 20.

Although the licensee has no previous record, the license
of Bond Wine and Liquor Store, 6 South Broadway, Camden (of which
corporation Iris Laurence, an officer and stockholder of the
licensee herein, was then an officer) was suspended by the
Director for fifteen days, effective October 29, 1956, for sale
below filed price. Re Bond Wine and Liquor Store, Bulletin 1142,
Item 4.

The prior record of dissimilar violation disregarded
because occurring more than five years ago, the license will be
suspended for twenty-five days, with remission of five days for
the plea entered, leaving a net suspension of twenty days.
Re Rustic Tavern, Inc., Bulletin 1465, Item 3.

Accordingly, it is, on this 20th day of March, 1963,

ORDERED that Plenary Retail Consumption License C-130,
issued by the Municipal Board of Alcoholic Beverage Control of
the City of Camden to Stanley Laurence Associates, Inc., t/a
Ray's Tavern, for premises 202 South Fifth Street, Camden, be
and the same is hereby suspended for twenty (20) days, commencing
at 2:00 a.m. Wednesday, March 27, 1963, and terminating at 2:00
a.m. Tuesday, April 16, 1963.


Emerson A. Tschupp,
Acting Director.