

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

BULLETIN 1423

DECEMBER 4, 1961

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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 1423

DECEMBER 4, 1961

■. APPELLATE DECISIONS - INGINO v. PATERSON.

AUGUSTINE INGINO, trading as)	
AUGIE'S TAVERN,)	
)	
Appellant,)	ON APPEAL
)	CONCLUSIONS
v.)	AND ORDER
)	
BOARD OF ALCOHOLIC BEVERAGE)	
CONTROL FOR THE CITY OF PATERSON,)	
)	
Respondent.)	

Goodman Singer, Esq., Attorney for Appellant.
Theodore D. Rosenberg, Esq., by Louis Infald, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the unanimous action of the respondent whereby it ordered a suspension of appellant's plenary retail consumption license for premises 42 W. Broadway, Paterson, for a period of twenty-five days, effective June 5, 1961.

"Upon the filing of the appeal, an order dated June 1, 1961 was entered staying the effect of respondent's order of suspension pending determination of the appeal. R.S. 33:1-31.

"It appears from the record herein that the following charges dated May 3, 1961 were served upon appellant:

- '1. That on April 9, 1961, you were actually or apparently intoxicated while tending bar in your licensed premises, in violation of Rule 24, State Regulation 20 of the Department of Law and Public Safety, Division of Alcoholic Beverage Control.
- '2. That on April 9, 1961, you did hinder, delay or cause the hindrance or delay of an investigation in your licensed premises by members of the Paterson Police Department, in violation of R.S. 33:1-35.'

"The petition of appeal alleges that 'the action of the respondent was contrary to the weight of the evidence adduced at the hearing', and that its action should be reversed. Respondent, in its answer, denies such is the fact and alleges that its decision was based upon the evidence presented in the matter.

"James Coyle, a member of the Paterson Police Department, testified that at 2:19 a.m. on April 9, 1961, he was dispatched to appellant's licensed premises and that, upon his arrival, he observed appellant, who appeared intoxicated, and a woman whose dress appeared torn, standing in the alley at a side door leading to the licensed premises; that appellant had a cut over his right eye, which cut was bleeding; that the woman entered the premises and, when he asked her if there was anything wrong, she replied in the negative and 'ran into

the bathroom and refused to come out'; that he asked appellant, who had gone behind the bar, if there was any trouble and, when told there was not, he (Coyle) left; that prior to leaving, he noticed that the licensed premises were 'disarrayed, with glass on the floor, there was some broken ash trays, and looked like a broken bottle'; that at 2:35 a.m., he again was dispatched to appellant's premises and, about the time he reached the place, three other police officers also arrived; that when he and the other officers entered, appellant was behind the bar and, when questioned, said, 'Get the hell out of here! We don't need the cops'; that when told 'to tone down', appellant became very abusive and used very filthy language in ordering them to leave; that the woman was in the ladies' room and that when appellant was taken into custody as a disorderly person, the woman came out of the ladies' room and was directed to leave the premises; that when appellant was told to lock the premises, he threw the keys at him (Coyle) and said, 'Lock it'; that on this visit he observed that the floor was still littered with glass and that a woman's torn black coat was lying on the floor.

"Carmino Guarino, a police officer of Paterson, testified that at 2:29 a.m. on April 9, 1961, he entered appellant's licensed premises and he observed 'the licensee was behind the bar, appeared to be in drunken condition, lot of broken glass on the floor, and also the licensee had a cut over his eye; that is all I know'; that when Officer Coyle asked the appellant what was the trouble, he answered, 'I don't need the cops here. Take your five dollar shield and get the hell out of here. We don't need the cops here.'

"Sergeant John Klieker of the Paterson Police Department testified that at approximately 2:39 or 2:40 a.m. on April 9, 1961, he went into appellant's premises and that, 'The licensee was behind the bar, far from being sober, I would say drunk. At the time he was abusing the officers that were present. The language was terrible'; that a woman was in the ladies' room; that Officer Coyle took the appellant in custody, at which time he (Sergeant Klieker) stood outside the ladies' room and the woman acceded to his request that she come out because the place was being closed.

"Appellant testified that he left his licensed premises 'around 8:30, a quarter to 9' on April 8, 1961, and returned to the premises at 1:00 a.m. the following morning; that during the evening, he was in the company of a woman companion and he 'hit golf balls, we went bowling, I had 2, 3, 4 bottles of beer, late in the evening, I wandered around, and I came back'; that he did not tend bar as there were no customers; that as Hank Hobbel, the night bartender, was leaving 'after two o'clock', he (Hobbel) said, 'You lock the door before you do anything'; that his (appellant's) woman companion left, 'maybe a minute after he did'; that at '2:19' he heard 'a rumpus' outside and, when he opened the door, his woman friend walked in and inquired about her keys; that as she went to the ladies' room, he observed that her coat was dirty; that he heard 'a big rumpus', at which time he became excited because he did not know what happened until he opened the door and let police officers enter the premises; that he then walked to the end of the bar and sat on a stool while 'nipping' on a 'little bottle of beer'; that, 'I was talking to the officers, but I didn't say a word to them. I didn't swear at them. After I got hot maybe I said something'; that he was struck by one of the officers; that when asked if there was any disturbance, he answered, 'There were no fights or nothing. In fact, it was a slow night that night believe me.' During cross-examination, when appellant was confronted with the testimony given by him before the respondent Board that he had had 'six scotches' before he went bowling on the evening in question, he said, 'I didn't have six scotches. I had six drinks'; that when pressed if he had not testified at the previous hearing about having six drinks of scotch, he said,

'That could be. I don't know. I can't recall.'

"Appellant's attorney contends that the action of the respondent Board in finding appellant guilty of the charges in question should be reversed for the reason that, 'In view of the fact that Mr. Ingino was not serving any drinks and there is a doubt, as far as we are concerned, that he was even behind the bar, but that has not been brought out in the case. Mr. Ingino was not serving drinks to any one. There were no patrons there, and there was no disturbance there.'

"I cannot agree with the argument advanced by appellant's attorney. The testimony of the police officers that the doors to the licensed premises were unlocked and, in view of the time, the place was open during legal hours. The mere fact that at the times the officers entered there were no patrons present (excepting appellant's woman companion whom, at one time, he termed 'a patron' and at another as 'a very close friend') is not the test as to whether anyone was in attendance at the bar. According to testimony of the police officers, appellant was observed behind the bar and he (appellant) testified that he was drinking beer at the time the officers arrived on the second occasion. Appellant was available in the premises in the event a patron came in to purchase drinks. The testimony of the officers that appellant appeared to be intoxicated is supported by the fact that appellant's memory is very vague as to what transpired on the evening in question. The appellant's attitude toward the police was inexcusable and very uncooperative and, when asked to lock the premises, he threw the keys at one of the officers. I believe the testimony of the police officers concerning the events which transpired on the evening in question.

"I am satisfied that the evidence adduced herein is of sufficient weight to establish the truth of the charges preferred by respondent. Thus, I recommend that an order be entered affirming the action of respondent, vacating the order dated June 1, 1961, and fixing the effective dates for the twenty-five day suspension imposed by respondent."

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

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

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

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

ORDERED that the twenty-five-day suspension heretofore imposed by respondent and stayed during the pendency of this appeal, be restored against Plenary Retail Consumption License C-148 issued by the Board of Alcoholic Beverage Control for the City of Paterson to Augustine Ingino, t/a Augie's Tavern, for premises 42 W. Broadway, Paterson, to commence at 3:00 a.m., Monday, October 23, 1961 and to terminate at 3:00 a.m., Friday, November 17, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - OWL FIELD CLUB, INC. v. NEWARK.

OWL FIELD CLUB, INC.,)

Appellant,)

v.)

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

Respondent.)

ON APPEAL
CONCLUSIONS
AND ORDER

Joseph A. D'Alessio, Esq., Attorney for Appellant.

Vincent P. Torppey, Esq., by James E. Abrams, Esq., Attorney for
Respondent.David M. Litwin, Esq., Attorney for Objector Clinton Manor, Inc.
Mildred Kaiser, an Objector.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from respondent's action on June 21, 196 whereby it, by a vote of one-to-one, denied appellant's application for a transfer of its Club License CB-18 from 19 Quitman Street to 97-99 Clinton Avenue, Newark.

"Appellant's petition of appeal alleges the action of respondent was unlawful, arbitrary, capricious and an unreasonable exercise of its discretionary powers for the following reasons:

- '(a) The Appellant was forced to vacate the property at #19 Quitman Street by the Newark Housing Authority which acquired the property for the purpose of erecting a new low costs housing project, as a result of which this application automatically became what is known as a "hardship application".
- '(b) The Board was informed and knew of this situation and the circumstances surrounding the application.
- '(c) The objections to the transfer were in the main interposed by a property owner of an adjoining street and by a licensee located across the street from the proposed premises.
- '(d) The decision of the Board was a split decision, the negative vote being cast on the ground that the objectors had maintained that the transfer would be a hardship on the neighborhood because of traffic congestion.
- '(e) The opinion of the dissenting commissioner is not based on any present existing facts or circumstances, but is completely conjectural.
- '(f) The further opinion of the dissenting commissioner as to the operation of the Appellant club is completely one of opinion without any apparent basis for the opinion.

- '(g) The failure on the part of the Board to approve this transfer was erroneous in that it was not based on the evidence adduced, nor consistent with the known facts and conditions present and governing the application. The denial was not one by a majority of the Board, but was mainly a failure to approve by reason of the fact that only two board members heard it, and one voted against approval.'

"Respondent, in its answer, admits paragraphs 1, 2, 3 and 4, and with respect to paragraph 5 admits the allegations set forth in (a) and (b), denies (d), (e), (f) and (g), fails to answer (c) and alleges the grounds upon which the respondent made its decision were based upon factual testimony before the Board from which, in its sound discretion, it concluded that the transfer should be denied.

"The appeal was heard de novo, pursuant to Rule 6 of State Regulation No. 15. The transcripts of the proceedings before the respondent were received in evidence and additional testimony was presented by appellant and one of the objectors, in accordance with Rule 8 of said Regulation.

"The record before the local Board discloses that on May 15, 1961, appellant filed its application with the clerk of the Board, objections thereto were filed with the clerk, and that on June 7, 1961, a public hearing was held before two of the three members of the local Board. At the hearing before the Board, appellant produced three witnesses (a physician, a frequent visitor at the club for the past 17 years; the president of the club and a real estate operator with offices at 101 Clinton Avenue). The application was opposed by the Clinton Manor, Inc., a licensee, which conducts a large catering business at 100 Clinton Avenue; the owners of premises at 103 Clinton Avenue; the owners of premises at 105 Clinton Avenue, and four women who reside in the area of the proposed site. Six letters (the signers of two of them appeared in person) and petitions signed by 80 objectors were filed with the Board. By a resolution dated June 21, 1961, the local Board denied the application to transfer by a vote of one-to-one; on June 29, 1961, a motion to re-open the hearing for the purpose of presenting new evidence was made before the full Board; on July 19th the aforesaid motion (considered by the Board as a motion to reconsider the matter) was denied by a vote of two-to-one, one of the members of the Board who had not attended the public hearing on June 7, 1961 voting to deny the motion.

"The record further discloses that one of the principal reasons for denying the transfer dealt with the traffic and parking conditions in the area and the possible effect upon the same if the application were granted. It further appears that no member of the Traffic Division of the Public Safety Department, the city's engineer's office or any other employee of the city familiar with the traffic conditions in the area, testified in the proceedings or submitted an opinion on the question to the Board.

"At the hearing held herein, the appellant called 12 witnesses.

"James H. Fultz, Sr., president of the club-licensee, testified that the proposed site will have off-street parking for 10 or 12 cars; that the members of the club never experienced any parking problems at their former location at 19 Quitman Street and that Clinton Avenue, at the proposed site, is three times the width of Quitman Street aforesaid.

"Irving Turner, a member of the club and of the local governing body, testified that he is familiar with the area in question and that the proposed transfer will not adversely affect the parking facilities in the area nor create any traffic problem.

"James E. Churchman, a mortician with funeral parlors at 132 Clinton Avenue, testified that he is familiar with the area in question; that the transfer of the licensed premises to the proposed site would not, in any manner, aggravate or create a problem and that it would not deteriorate the neighborhood.

"Edward A. Reilly, secretary of Newark Lodge No. 21, B.P.O. Elks for the past 45 years, testified that the lodge is presently located at 176-178 Clinton Avenue; that prior thereto it occupied premises at 105 Clinton Avenue; that he has observed the traffic and parking conditions in the area for many years and that the transfer of the club license to the proposed site would not aggravate the present parking problem in the area.

"Dr. Mason Poindexter, an optician with offices at 177 Clinton Avenue, and formerly located at 118 Clinton Avenue, testified that he has been in the area for 20 years; that the transfer of the club premises to the proposed site would not create a traffic problem; that there is ample parking space in the area, particularly in the even-

"Dr. J. C. Mayberry, a dentist, testified that he maintains a temporary residence at the Riviera Hotel (169 Clinton Avenue); that he is unable to see how a transfer of the club's premises to the proposed site would create a parking problem in the area.

"William M. Ashby, a member of the club, testified that he was the first secretary of the Urban League; that his duties brought him into the surrounding territory of 97-99 Clinton Avenue for many years; that he is familiar with the area in question and that the transfer to the proposed site would not create or affect the traffic problem in the area.

"Charles Jenkins, a member of the club and of the Newark Housing Authority, testified that he is a building inspector; that he is familiar with the area in question; that the transfer of the club premises to 97-99 Clinton Avenue would not aggravate or cause any parking problem in the area and that the presence of the club at the proposed site would not impair the neighborhood.

"George G. Woody, a member of the club, testified that he is a mortician and a councilman of Roselle; that he has recently made two visits (morning and night) to the premises at 97-99 Clinton Avenue, and that he did not experience any difficulty in parking his car.

"Steve Duncan testified that he is a member of the club and the editor of the New Jersey Afro-American Newspaper, located at 190 Clinton Avenue; that he is familiar with the traffic conditions in the area of the proposed site; that he has had many opportunities, both at day and at night, to observe the traffic between his office and the proposed site; that on weekdays between 9:00 a.m. and 5:00 p.m. there is 'quite a bit of traffic coming up and down the street, and you have quite a bit of parking', and that after 5:00 p.m. there appears to be ample space for parking.

"Paul Erdman testified that he is the owner of a tavern in Newark; that he is a member of Newark Lodge No. 21 aforesaid; that he is familiar with the area at the proposed site; that he has often attended meetings, dinners and dances of the lodge and that he has not had any trouble in parking his car.

"Oscar Stafford, a member of the club for ten years, testified that he is the union representative of the United Packinghouse Workers of America which maintains its office at 129 Clinton Avenue; that for the past year he has visited the area in question 'very often' during the day and at night; that union meetings are held at the office almost

every night and on occasions during the day; that none of the members have complained to him about any difficulty in parking their cars, and that he has not had any unusual difficulty in parking his car in the area in question.

"Mildred Kaiser, an objector who appeared before the local Board, testified that for the past seven years she has resided at 53 $\frac{1}{2}$ Spruce Street; that she is employed by the Newark Board of Education as head of the advertising department of the Newark School of Fine and Industrial Arts; that 'I find the condition of parking has created such a bottleneck from my easy entrance and exit from my property, that I have been calling the Police Department traffic, constantly to have cars removed from in front of my only exit, which is an eleven-foot driveway'; and that the transfer of the club license to the proposed site will aggravate the present bad parking and traffic conditions in the immediate area surrounding the proposed site. Miss Kaiser further testified her home is located on a hazardous block (Spruce Street, between High and Washington Streets, contiguous with Clinton Avenue and in the vicinity of the proposed site); that there have been many acts of violence in this section and that another licensee in the area would increase the same. On cross-examination, Miss Kaiser testified that on many occasions the commercial vehicles which had blocked her driveway were servicing the residents in the area; that she has frequently complained about this condition to the police; that she was not aware that the appellant was a club licensee; that she nevertheless objects to the proposed transfer on the grounds stated before the Board and at the within hearing, and in answer to the following question: 'Do you object to this particular group coming into the neighborhood because of the group it happens to be?', stated, 'No, why should I? These are all fine gentlemen.'

"On further examination by the attorney for the Clinton Manor, Inc., Miss Kaiser testified that the rear of the proposed site has a one-car garage and a total parking area for five cars.

"After reviewing all the evidence, exhibits and briefs filed on behalf of the appellant and the G & L Realty Co. and Clinton Manor, Inc., objectors, I conclude that this case has aroused considerable public interest, as evidenced by the number of witnesses presented by each side and the large attendance at the hearing and should, in my opinion, be decided on its merits by the entire local Board in the first instance. The decision of the local Board (one for and one opposed) was a 'stalemate' and from a strictly technical standpoint constituted a denial of the transfer but not a denial on the merits. I, therefore, recommend that the matter be remanded to the local Board for a full hearing by its three members and that all parties in interest be advised of the date of the hearing. I also suggest that the transcript of these proceedings be made available to the local Board so as to avoid the necessity of recalling those witnesses who have heretofore given their testimony under oath at the hearing held herein."

Pursuant to Rule 14 of State Regulation No. 15, exceptions to the Hearer's Report and argument thereto were filed with me by the attorney for appellant, the attorney for objectors Clinton Manor Inc. and L. & G. Realty Co., and Mildred Kaiser, who appeared personally.

Having carefully considered the record herein, including the briefs of counsel, the exhibits, the Hearer's Report and exceptions and written arguments thereto, I concur in the conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 18th day of October, 1961

ORDERED that the matter be and the same is hereby remanded to

the Municipal Board of Alcoholic Beverage Control of the City of New-
for a full hearing by its three members and that all parties in inter-
be advised of the date of hearing.

WILLIAM HOWE DAVIS
DIRECTOR

3. APPELLATE DECISIONS - FIGONE v. KEYPORT AND PATTERSON.

JOSEPH FIGONE,

Appellant,

v.

MAYOR AND COUNCIL OF THE BOROUGH
OF KEYPORT, CHARLES PATTERSON
AND MILDRED C. PATTERSON, AND
MICHAEL J. ARNONE,

Respondents.

ON APPEAL
CONCLUSIONS
AND ORDER

A. Henry Giordano, Esq., Attorney for Appellant.
Roberts, Pillsbury & Carton, Esqs., by John M. Pillsbury, Esq.,
Attorneys for Respondent Mayor and Council.
Applegate & Lamura, Esqs., by John W. Applegate, Esq., Attorneys
for Respondents Charles Patterson and Mildred C. Patterson.
Arnone and Zager, Esqs., by John P. Arnone, Esq., Attorneys for
Respondent Michael J. Arnone.

BY THE DIRECTOR:

This is an appeal from the action of respondent Mayor and
Council whereby, on August 28, 1961, it granted the transfer of plenary
retail consumption license C-12 from respondent Michael J. Arnone to
respondents Charles Patterson and Mildred C. Patterson and from premises
at 5 Corners to premises at northwest corner of Route 36 and Florence
Avenue, Keyport.

Prior to the hearing herein, the attorney for appellant advised
me in writing that his client desires to withdraw said appeal and it
appears that copies of his letter have been sent to the attorneys for
the respective respondents. It might be well to point out that the
transferor of the license (Michael J. Arnone) is neither a necessary
nor a proper party to this appeal. Bartges v. Atlantic City et al.,
Bulletin 1372, Item 1. No reason appearing to the contrary,

It is, on this 24th day of October 1961,

ORDERED that the appeal herein be and the same is hereby
dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

• ADVERTISING - DISPLAYS ON RETAIL PREMISES INVOLVING MOTION - PREVIOUS PROHIBITION MODIFIED.

NOTICE TO ALL LICENSEES:

Numerous requests have been received from industry members for reconsideration of the past divisional policy with respect to the installation upon retail licensed premises of signs or other displays involving motion.

Historically, it was the position of my predecessors in office, and adopted by me, that signs or other displays involving motion should not be permitted in the show window of any retail licensed premises or elsewhere upon such premises when visible from the exterior upon the theory that animated window displays would serve to attract the attention of teenagers and other minors.

Upon giving the matter my careful study and review, and considering the results of a special survey of other states, most of which have no such restriction, I am of the present opinion that animated displays would not create any substantial problem of liquor control if such displays are prepared in good taste and propriety.

Accordingly, I am ruling that, if kept within reasonable bounds, inside signs and other display material involving motion may be distributed to retailers for display upon any portion of their licensed premises, including their show windows. I do not anticipate and will not countenance any displays which, either in subject matter or elaborateness, are unduly attractive to children or which are so sensational in nature as to result in any substantial adverse public criticism.

It is to be understood, of course, that this ruling permits no departure from any of the pertinent provisions of State Regulation No. 21, including the provision in Rule 1(a) that the cost of any window display to the brand owner or his designated wholesaler shall not exceed \$25.00, exclusive of cost of installation.

WILLIAM HOWE DAVIS
DIRECTOR

Dated: November 3, 1961.

5. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (PERMITTING HOMOSEXUALS ON PREMISES) - CONDUCTING BUSINESS AS NUISANCE - SALE TO INTOXICATED PERSONS - EMPLOYING UNQUALIFIED PERSONS (CONVICTED OF CRIME INVOLVING MORAL TURPITUDE) - LICENSE SUSPENDED FOR 100 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

HUB BAR, (A N. J. CORP.)
146 Mulberry Street
Newark 2, New Jersey

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-628 (for the 1960-61 and
1961-62 licensing years), issued by the
Municipal Board of Alcoholic Beverage
Control of the City of Newark.

Vreeland and Brown, Esq., by Leonard G. Brown, Esq., Attorneys for
Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On January 28, 29, February 10, 11, 18, 19, 24, 25, March 3 and 4, 1961, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises and allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance, viz., in that you allowed, permitted and suffered persons who appeared to be homosexuals, e.g., males impersonating females, in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; allowed, permitted and suffered such persons to make overtures for and arrangements with other male patrons and customers for acts of perverted sexual relations; allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene language and conduct by such persons and by others in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.
- "2. On Friday night, March 3, 1961, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons actually or apparently intoxicated and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.
- "3. On February 10, 11, 18, 19, 24, 25, March 3 and 4, 1961 and on divers other dates between October 20, 1960 and

March 11, 1961, you employed and had connected with you in a business capacity, Jules Kleinwaks, a person who had been convicted on or about October 20, 1960 of a crime involving moral turpitude, viz., the moving and transporting of women between the States of New York and New Jersey for the purpose of prostitution, contrary to Title 18, Section 2422, U.S. Code; such employment by you being in violation of Rule 1 of State Regulation No. 13."

ABC agents visited defendant's licensed premises on the dates set forth in the charges herein. The agents report on their first visit (Saturday, January 28, 1961, from 11:20 p.m. to 12:30 the next morning) there were twenty-five males and one female present; that on their second visit (Friday, February 10, 1961, from 11:45 p.m. to 2:00 the next morning) there were thirty-three males and two females present; that on their third visit (Saturday, February 18, 1961, from 11:45 p.m. to 2:00 the next morning) there were eighteen males and four females present; that on their fourth visit (Saturday, February 24, 1961, from midnight to 2:10 the next morning) there were twenty-nine males and one female present; that on their fifth visit (Friday, March 3, 1961, from 10:30 p.m. to 2:45 the next morning) there were twenty-nine males and one female present; that on their last two visits a large percentage (65 to 80 per cent.) of the males appeared to be homosexuals, as evidenced by their high-pitched voices, their effeminate walk, attire and mannerisms, which sexual deviation they further displayed by addressing each other as "honey", "sweetie" and "baby". On their second, four and fifth visits to the premises "male" patrons solicited them to engage in perverted sexual intercourse.

The agents further report that on March 3 aforesaid, at about 11:50 p.m., one of two bartenders on duty informed them in obscene language that "Francie" (a "male" known as the Belle of Mulberry Street and who had previously been observed on the premises by the agents) had submitted himself to an act of sodomy; that at 1:15 the next morning "Francie" joined the two agents at the bar and, with the repeated use of vile language, solicited them to engage in two different acts of sexual perversion; that they informed the bartender of "Francie's" illicit solicitation and that he replied, "Take what you can get." Following arrangements to effectuate his immoral activities with the agents, "Francie" stood up, announced in filthy language his wish to engage in aforesaid perverted acts, and simultaneously therewith escorted the agents from the premises. When they reached the street they were stopped by a third ABC agent who identified himself to "Francie" and asked them where they were going. One of the agents replied that "Francie" was taking them out to engage in an act of sexual perversion, to which "Francie" added, "They are taking me out, what is wrong with that." Thereafter the three agents and "Francie" re-entered the licensed premises; the agents identified themselves to the bartenders and to Jules Kleinwaks (manager of the licensed premises) who admitted that he knew "Francie" and denied that the licensed premises was used as a haven for homosexuals.

The agents further reported that on March 3 aforesaid, at about 11:45 p.m., they observed a male patron stagger to the bar where he was served two mixed drinks of alcoholic beverages, the first of which he dropped to the floor and the second (served by Jules Kleinwaks) he consumed. Shortly thereafter they observed another male patron as he consumed part of a drink, fell from his stool at the bar, was assisted to his seat by a patron and thereafter consumed the remainder of his drink.

The investigation also discloses that aforementioned Jules Kleinwaks is the husband of Frances Kleinwaks (the president of the corporate licensee); that on or about October 20, 1960, he was convicted under the Mann Act (Title 18, Section 2422, U.S. Code), a crime involving moral turpitude, and that he was observed by the agents at the premises on their four last visits to be acting in the capacities of a manager and a waiter.

By way of mitigation the attorneys for the defendant have sent me a letter urging leniency on behalf of the licensee. I have carefully considered the contents of this letter, the reports of the agents and the file in the case, and find no extenuating circumstances that would impel me to impose a lesser penalty than that fixed in cases of this kind.

The defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of sixty days on Charge 1 (Re Murphy, Bulletin 1374, Item 2); for the minimum period of twenty days on Charge 2 (Re Hafner, Bulletin 1378, Item 3), and for the minimum period of twenty days on Charge 3 (cf. Re Tabatneck, Bulletin 1103, Item 5, and cf. Re Guarino, Bulletin 1260, Item 4), making a total suspension of one hundred days. Five days will be remitted for the plea entered herein, leaving a net suspension of ninety-five days.

Accordingly, it is, on this 25th day of October 1961,

ORDERED that Plenary Retail Consumption License C-628, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Hub Bar, (A N. J. Corp.), for premises 146 Mulberry Street, Newark, be and the same is hereby suspended for ninety-five (95) days, commencing at 2 a.m. Monday, November 6, 1961, and terminating at 2 a.m. Friday, February 9, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED -
PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

MARGARET SIMMONS
t/a MARGE'S KEYHOLE COCKTAIL LOUNGE
Route #46
Montville Township
PO Pine Brook, New Jersey

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-7, issued by the Township
Committee of Montville Township.

Defendant-licensee, Pro se.

David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage
Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that she possessed in and upon her licensed premises, alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On September 7, 1961, an ABC agent tested defendant's open stock of liquors and seized one-quart bottle labeled "Old Grand Dad Kentucky Straight Bourbon Whiskey, 100 Proof"; one quart bottle labeled "Old Forester Kentucky Straight Bourbon Whisky, 100 Proof"; one 4/5-quart bottle labeled "Haig & Haig Pinch Finest Blended Scots Whisky, 86.8 Proof"; one 4/5-quart bottle labeled "John Exshaw XXX Cognac, 84 Proof"; one 4/5-quart bottle labeled "Chivas Regal Blended Scotch Whisky, 86 Proof" and one 4/5-quart bottle labeled "Courvoisier XXX Cognac, 84 Proof", for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of the seized bottles varied substantially in proofs, acids and solids from the contents of genuine products of the same items and appear to have been diluted.

Defendant has a prior record. Effective July 27, 1961, her license was suspended by the Director for thirty days for conducting her business as a nuisance. Bulletin 1406, Items 2 and 3, I shall suspend defendant's license for the minimum period of twenty-five days imposed in cases involving six bottles, to which will be added five days because of the dissimilar violation within the past five years. Re Johnson & Hannon, Inc., Bulletin 1378, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 23rd day of October 1961,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of Montville Township to Margaret Simmons, t/a Marge's Keyhole Cocktail Lounge, for premises on Route #46, Montville Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m., Friday, October 27, 1961 and terminating at 2:00 a.m., Tuesday, November 21, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary
Proceedings against

FRANK GIORDANO
t/a FRENCHTOWN INN
Route 12 between Frenchtown
& Baptistown
Kingwood Rownship
PO Frenchtown, New Jersey

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-2, issued by the Township
Committee of the Township of Kingwood.

Herrigel and Herrigel, Esqs., by A. Warren Herrigel, Esq., Attorneys
for Defendant-licensee.

David S. Piltzer, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On June 21, 1961, an ABC agent tested defendant's open bottles of alcoholic beverages and seized a number of bottles for further analysis by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of three of the seized bottles, when compared with the contents of genuine bottles of the same brands, varied substantially in solids and color.

Defendant has a prior record. Effective February 4, 1957, the local issuing authority in Hamilton Township, Mercer County, suspended a license which defendant then held in said Township for fifteen days for sales of alcoholic beverages to minors. I shall suspend defendant's license for twenty days, the minimum penalty imposed in "refill" cases involving three bottles (Re Kenny and Butler, Bulletin 1409, Item 9), to which five days will be added because of the prior dissimilar violation within the past five years (Re Fanok, Bulletin 1307, Item 11), making a total suspension of twenty-five days. Five days will be remitted for the plea, leaving a net suspension of twenty days.

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

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Kingwood to Frank Giordano, t/a Frenchtown Inn, for premises on Route 12 between Frenchtown & Baptistown, Kingwood Township, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, October 24, 1961, and terminating at 2 a.m. Monday, November 13, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - CHARGES ALLEGING SALES TO MINORS
NOLLE PROSSED.

In the Matter of Disciplinary)
Proceedings against)

KATHRYN MARGARET LONGO)
t/a LONGO'S MYRTLE INN)
#5 Broadway & Mays Landing Road)
Somers Point, New Jersey)

ORDER

Holder of Plenary Retail Consumption)
License C-3, issued by the Common)
Council of the City of Somers Point.)

Blatt & Blatt, Esqs., by Martin Blatt, Esq., Attorneys for
Defendant-licensee.

David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage
Control.

BY THE DIRECTOR:

A charge was served upon defendant alleging that on July 1, 1961, she sold and permitted the sale of alcoholic beverages to Julie G. --- (age 18) and John D. --- (age 18) and permitted the consumption of alcoholic beverages by said persons in and upon her licensed premises, in violation of Rule 1 of State Regulation No. 20.

Both alleged minors reside in the State of Pennsylvania, but the file shows that Julie G. --- was temporarily residing in Ocean City, N. J., on the date the alleged violation occurred.

A hearing was held herein on August 28, 1961, at which the attorney appearing for defendant entered a plea of not guilty to the charge and the attorney appearing for the Division stated that ABC agents had attempted to serve subpoenas on both alleged minors but had been unable to serve either. Upon request of the attorney appearing for the Division, the Hearer adjourned the hearing until September 19, 1961, to permit the Division to make further attempts to produce these necessary witnesses. Prior to the adjourned date the attorney for the Division moved to nolle pros the charge herein because the Division had been unable to make any further progress in connection with securing the attendance of these witnesses, and the hearing scheduled for September 19, 1961, was cancelled.

Under the circumstances, I shall grant the motion. Re Pine Hill Lodge, Inc., Bulletin 1315, Item 6.

Accordingly, it is, on this 17th day of October 1961,

ORDERED that the charge herein be and the same is nolle prossed.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED -
 LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

ANNA M. PADGETT)
 t/a PADGETT'S)
 501 Market Street)
 Gloucester City, N. J.)

CONCLUSIONS)
 AND ORDER)

Holder of Plenary Retail Consumption)
 License C-13, issued by the Common)
 Council of the City of Gloucester City.)

Defendant-licensee, Pro se.

David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On July 31, 1961, you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, an alcoholic beverage in a bottle which bore a label which did not truly describe its contents, viz.,

One 4/5-quart bottle labeled 'Seagram's V.O.
 Canadian Whisky a Blend, 86.8 Proof';

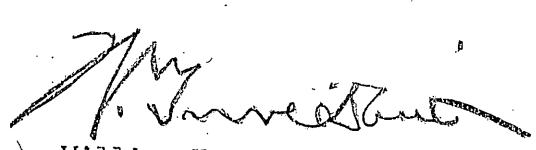
in violation of Rule 27 of State Regulation No. 20."

On July 31, 1961, an ABC agent tested defendant's open stock of liquor and seized several bottles for further analysis by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of the bottle mentioned in the charge varied substantially in acids, solids and color from the contents of genuine samples of the same product.

Defendant has no prior adjudicated record. Defendant has advised me in writing that the violation apparently was caused by a temporary employee who tended bar for a few hours while she and her husband were absent. Nevertheless, a licensee is responsible for any "refills" found upon the licensed premises. Cedar Restaurant & Cafe Co. v. Hock, 135 N.J.L. 156. I shall suspend defendant's license for ten days, the minimum penalty imposed in cases involving one bottle. Re Al's Tavern, Inc., Bulletin 1397, Item 11. Five days will be remitted for the plea, leaving a net suspension of five days.

Accordingly, it is, on this 24th day of October, 1961,

ORDERED that Plenary Retail Consumption License C-13, issued by the Common Council of the City of Gloucester City to Anna M. Padgett, t/a Padgett's, for premises 501 Market Street, Gloucester City, be and the same is hereby suspended for five (5) days, commencing at 2 a.m. Monday October 30, 1961, and terminating at 2 a.m. Saturday, November 4, 1961.


 William Howe Davis
 Director

New Jersey State Library