

Director Davis

Sent to Regular Mailing List STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

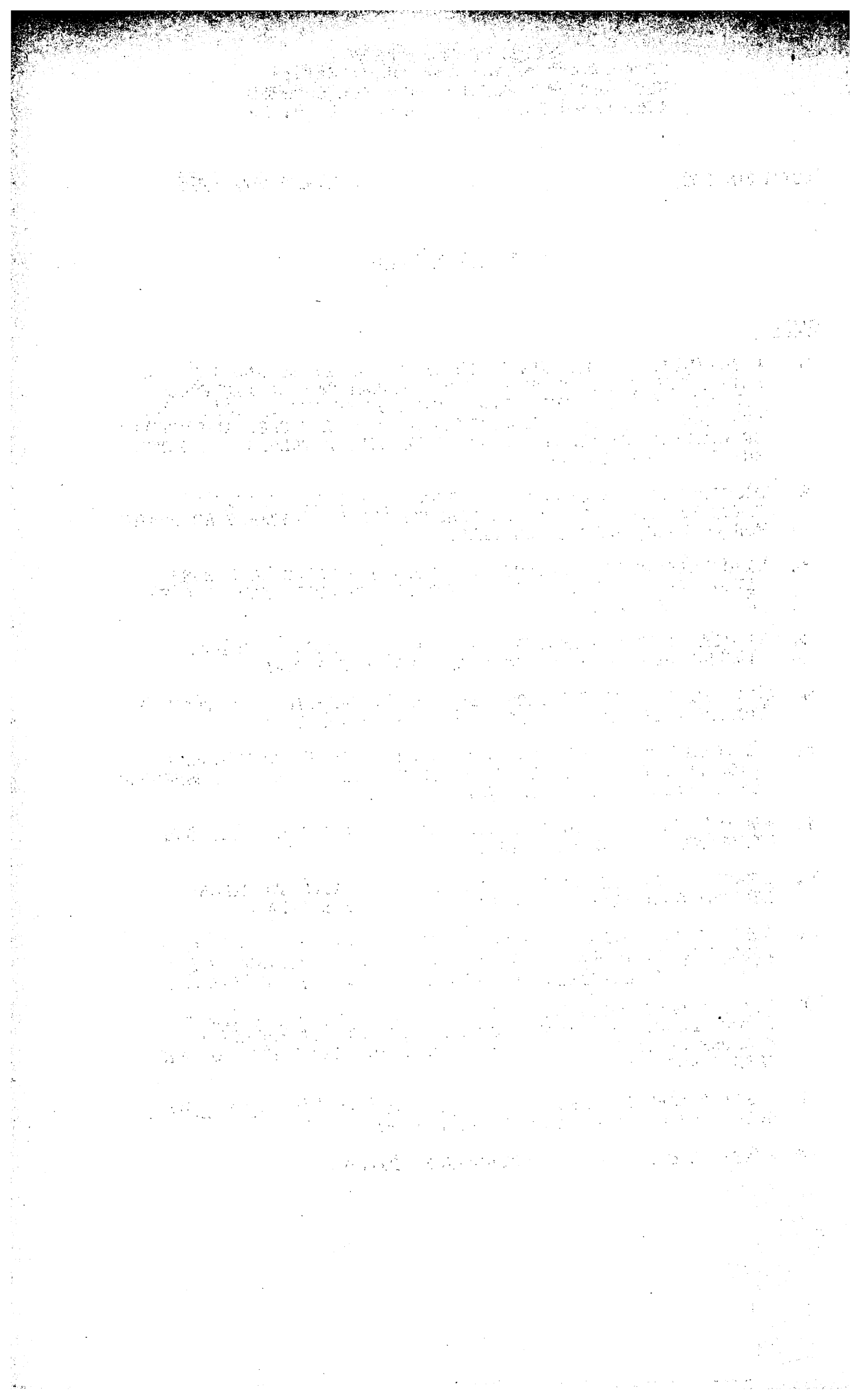
BULLETIN 1085

OCTOBER 26, 1955

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STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 1085

OCTOBER 26, 1955.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES  
(PERMITTING MAKING ARRANGEMENTS ON LICENSED PREMISES FOR ILLICIT  
SEXUAL INTERCOURSE AND SOLICITATION FOR PROSTITUTION)- PERMITTING  
OBSCENE LANGUAGE AND CONDUCT ON LICENSED PREMISES - MITIGATING  
CIRCUMSTANCES - LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary )  
Proceedings against )

NATHAN KURTZ )  
T/a KELLY'S LONG BAR )  
181 Mulberry Street )  
Newark 2, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-365 for the 1954-55 )  
licensing period, issued by the )  
Municipal Board of Alcoholic Bever- )  
age Control of the City of Newark, )  
and extended by the Director of the )  
Division of Alcoholic Beverage )  
Control. )

-----)  
Anthony C. Blasi, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to the following charges:

"1. On May 17 and 19, 1955, you allowed, permitted  
and suffered lewdness and immoral activity in and upon  
your licensed premises, viz., solicitation for prostitu-  
tion and the making of arrangements for illicit sexual  
intercourse; in violation of Rule 5 of State Regulations  
No. 20.

"2. On the occasions aforesaid you allowed, permitted  
and suffered your licensed place of business to be conduc-  
ted in such manner as to become a nuisance in that you made  
offers to procure, permitted the making of offers to pro-  
cure, and procured females for male patrons for the purpose  
of illicit sexual intercourse, permitted unescorted females  
frequenting your premises to make overtures to male patrons  
for illicit sexual intercourse and to solicit male patrons  
to purchase numerous drinks of alcoholic beverages for con-  
sumption by them, permitted lewdness, immoral activity and  
foul, filthy and obscene language and conduct 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."

An examination of the testimony in the instant case dis-  
closes that ABC agents visited defendant's licensed premises on  
the afternoons of May 17th and 19th, 1955, respectively. On  
the first visit, two agents entered defendant's premises about  
2:00 p.m., and observed the defendant and a man called "Abe"  
tending bar. A girl referred to as "Polly" was seated at the  
bar with a male companion and on two occasions left the premises  
but returned on each occasion within a short period of time.  
Upon her final return to the licensed premises at about 4:05 p.m.

that day she took a seat next to one of the agents and engaged him in conversation. In compliance with her request, the agent purchased a drink for her, which beverage was served by the defendant. Thereafter, she handled the agent's private parts and called to the other agent to come to the part of the bar where she was seated. Upon his doing so, she performed in a similar manner toward him. After a time, the conversation of the agents and Polly was devoted to a discussion of sexual intercourse, following which she invited the agents to leave the premises and repair to a room with her to engage in illicit relations. The agents refused to accept her offer and said they would meet her on Thursday, May 19th. It further appears that when the agents were in the premises on May 17th another girl solicited them to engage in sexual intercourse. Also, they observed a person in male attire who walked in a feminine manner enter the premises and overheard the defendant make a coarse remark to him concerning an apparent abnormality. The agents testified that the juke box was being played during most of the time they were in defendant's licensed premises. The two agents who had visited the defendant's premises on the prior occasion returned to the premises at 4:00 p.m. on May 19th. The defendant and "Abe" again were tending bar and a person named Horace, who worked as a porter in the tavern, was seated on the patrons' side of the bar. The agents inquired of the defendant as to the whereabouts of Polly and were told that she would be in the premises at a later time. One of the agents said that they had a date with Polly for the purpose of indulging in sexual relations and the porter made an effort to find her. He returned in a little while and told the agent that Polly would be in shortly thereafter. About 4:20 p.m., Polly came into the premises, sat between the agents, and requested that they buy her a drink. While the drink was being served by the defendant, Polly asked the agents if they still wanted to engage in sexual intercourse and advised them that the price was "\$10 for a lay and \$2 for the room." The defendant at the time was engaged in conversation with another person and when the agents returned from the men's room they called to him and quoted the price Polly had indicated to them for illicit relationship. He said, "I don't know anything about that." The agents joined Polly and made arrangements to leave the premises. At that time defendant walked out of the premises and when one of the agents left the premises, he observed him sitting on a box in front of the premises. The agent walked over to defendant, told him his plans, and the defendant in a vulgar statement remarked that self-pollution would be preferable to paying a person such as Polly that kind of money. The testimony also disclosed that the defendant answered a question occasionally concerning both Polly and one called Sylvia but the testimony of the agents was in agreement that the defendant did not make any proposition in regard to the soliciting of Polly for immoral purposes.

At the instant hearing defendant denied that he heard any of the conversation between the agents and any of the females regarding plans to engage in illicit sexual intercourse. He asserted that the juke box was being played in a very loud manner and that it was impossible to hear conversation as it was necessary for a person to shout when he wished to make himself heard. He admitted in a statement given to the agents, which was marked in evidence, that he answered questions relating to females called to his attention by the agents but emphatically denied that he introduced any of the females to them in the licensed premises.

I am satisfied from all of the evidence adduced herein that the defendant is guilty of the charges preferred in this case with the possible exception that I am not fully convinced that he actually procured females to engage in illicit relations with the agents. I am convinced, however, that he was aware of the fact that females with "loose morals" frequented his liquor establishment. It is exceedingly difficult to fix a proper penalty in this case. Where the evidence establishes that the defendant or his agents permitted solicitation for immoral purposes and the making of arrangements for illicit sexual intercourse on the licensed premises, the license is usually revoked. Re Merjack Corporation, Bulletin 998, Item 1, and cases therein cited. However, there are some mitigating circumstances appearing in the instant case which could warrant a somewhat lesser penalty. Re Huhn & Olsh, Bulletin 1011, Item 3; Re Burch, Bulletin 1022, Item 5. Under the circumstances, and taking into consideration the fact that defendant has no previous adjudicated record, I shall suspend his license for a period of 180 days.

Accordingly, it is, on this 3rd day of October 1955,

ORDERED that Plenary Retail Consumption License C-365, issued for the 1954-55 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Nathan Kurtz, t/a Kelly's Long Bar, 181 Mulberry Street, Newark, and extended by the Director of the Division of Alcoholic Beverage Control, be and the same is hereby suspended for a period of one hundred eighty (180) days, commencing at 7:00 a.m. October 10, 1955, and terminating at 7:00 a.m. April 7, 1956.

WILLIAM HOWE DAVIS  
Director.

- 2. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

HARRY GERSON & ANNA V. GERSON )  
T/a LYNDHURST HOTEL & BAR )  
239-241 East Schellenger Avenue )  
Wildwood, N. J., )

CONCLUSIONS  
AND ORDER

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Holders of Plenary Retail Consumption License C-11, issued by the Board of Commissioners of the City of Wildwood. )

George B. Francis, Esq., Attorney for Defendant-licensees.  
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they sold, served and delivered alcoholic beverages to minors and allowed, permitted and suffered the consumption of such beverages by said minors in and upon their licensed premises, in violation of Rule 1 of State Regulations No. 20.

An examination of the file herein discloses that on Saturday, July 9, 1955, two minors, members of the armed forces, 17 and 19 years of age, respectively, were served with alcoholic

beverages by employees of defendants. The statement of one of the minors indicates that he and his companion spent approximately two hours in defendants' licensed premises. During that time he estimated that he had seven shots of whiskey and a number of glasses of beer, five of which were served to him at the bar and more he obtained from pitchers served to him and his companion at a table. The other minor stated he "had a lot to drink" which drinks consisted of whiskey, rum and beer, respectively. One related he was "drunk" and the other that "I know I got sick, I remember some things early but later I don't remember so good." It appears that one of the women who tended bar requested that the youths produce identification as to their ages prior to being served. Each youth produced an "ID card" which they claimed gave their correct date of birth. The woman contended that the birth date of each youth appearing on the cards indicated that both were over 21 years of age. Since it appears that the minors did not falsely represent in writing that they were twenty-one years of age or over, defendants have not established a valid defense, pursuant to R. S. 33:1-77. Re Villa Valley Inn, Bulletin 1002, Item 1; Re Koper, Bulletin 962, Item 8.

The minimum suspension for a violation where a minor 17 years of age has been served or permitted to consume alcoholic beverages is 15 days. Re Martin, Bulletin 966, Item 3. In this case, in addition to the youthfulness of one of the minors, further aggravating circumstances appear because of the number and kind of drinks which the minors were permitted to consume and the resultant effect upon them.

Defendants have a prior adjudicated record. On April 20, 1955, defendants were found guilty by the local issuing authority of an "hours" violation occurring on February 26, 1955. No penalty was imposed for this violation. Defendants were admonished for said infraction and warned that any future violation would be just cause for suspension or revocation of their license.

Under the circumstances, I shall suspend defendants' license for a period of twenty-five days. Five days shall be remitted for the plea entered herein, leaving a net suspension of twenty days. Re DiThomas, Bulletin 1069, Item 6.

In view of the fact that the summer season has ended, no effective penalty can be imposed at the present time. The effective dates for the suspension will be fixed by future Order which will be entered by me herein after the licensed premises have reopened for business for the 1956 season. Re De Freitas, Bulletin 1051, Item 5.

Accordingly, it is, on this 29th day of September, 1955,

ORDERED that Plenary Retail Consumption License C-11, issued by the Board of Commissioners of the City of Wildwood to Harry Gerson and Anna V. Gerson, t/a Lyndhurst Hotel & Bar, 239-241 East Schellenger Avenue, Wildwood, be and the same is hereby suspended for a period of twenty days, the time to be fixed by subsequent Order as aforesaid.

WILLIAM HOWE DAVIS  
Director.

3. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

TERESA TOBOLEWSKI )  
T/a TOBY'S TAVERN )  
749 Marin Avenue )  
Lyndhurst, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the Township of Lyndhurst. )

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Teresa Tobolewski, Defendant-licensee, Pro Se.  
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that she sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to three minors at her licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that, as a result of information obtained from the Lyndhurst Police Department, ABC agents on August 3, 1955, obtained signed sworn statements from Fred --- (age 16), Dennis --- (age 17) and Robert --- (age 17). In their statements the three minors say that they visited defendant's premises on the afternoon of July 23, 1955, and during the early evening of July 24, 1955, and that on both occasions they "chipped in" to buy a quantity of beer. In his statement Fred says that on the first visit he purchased two or three quarts of beer, and that on the second visit he purchased four or five containers of beer from a bartender whom he subsequently identified as Sigmund Tobolewski, son of defendant; that the other two minors were present when the purchases were made, and that the beer was taken from the licensed premises and consumed elsewhere. Fred further says that, when the bartender questioned him as to his age, he exhibited a false birth certificate which indicated that the person named therein was twenty-two years of age. The ABC agents report that Fred appears to be about eighteen years of age. In their statements Dennis and Robert say that they were present when both purchases were made but that they cannot remember who handed the money to the bartender. Both of these minors deny that they were questioned by anyone in the licensed premises as to their respective ages.

In attempted mitigation defendant, who is over seventy years of age, says that she and her husband, now deceased, established the business about fifty-two years ago and that she was never charged previously with a violation of the law. During the investigation by the ABC agents Sigmund Tobolewski, who apparently manages the business for his mother, denied that he sold alcoholic beverages to the minors.

Defendant has no prior record. Since three minors (one of whom was sixteen years old) were involved, I would ordinarily suspend defendant's license for twenty-five days (cf. Re Garone, Bulletin 798, Item 1). However, there are some mitigating circumstances and, hence, I shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 29th day of September, 1955,

ORDERED that Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the Township of Lyndhurst to Teresa Tobolewski, t/a Toby's Tavern, for premises 749 Marin Avenue, Lyndhurst, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. October 10, 1955, and terminating at 2:00 a.m. October 25, 1955.

WILLIAM HOWE DAVIS  
Director.

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

JOHN MROZOWICZ  
300 Lanza Avenue  
Garfield, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-13, issued by the Mayor and Council of the City of Garfield.

Joseph R. Mrozowicz, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on or about July 1, 1955, he sold, served and delivered alcoholic beverages to a minor and permitted consumption of such beverages by said minor in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that it came to the attention of the Division of Alcoholic Beverage Control that Garfield police officers had arrested the defendant on charge of sale of alcoholic beverages to a minor. On July 19, 1955, ABC agents obtained from the police authorities copies of statements dated July 13, 1955, made by Mary --- (age 16) and two adult male companions.

The substance of these statements is that the above three persons entered defendant's licensed premises at about 1:30 a.m. on July 1, 1955, and the minor was served by the licensee with three whiskey highballs, and that the adults had a like number of drinks of whiskey. The minor states that the licensee did not inquire as to her age.

Counsel urges in mitigation of the offense that the minor is of doubtful veracity and that the defendant has heretofore had a clear record. Whatever may be said of other aspects of the minor's conduct, the service of alcoholic beverages to her by the licensee, as related by her, is corroborated by the statements of her two adult companions.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days (the minimum suspension in cases involving sale to a sixteen-year-old minor). Re O'Brien & Cronin, Bulletin 1052, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 29th day of September, 1955,

ORDERED that Plenary Retail Consumption License C-13, issued by the Mayor and Council of the City of Garfield to John Mrozowicz, for premises 300 Lanza Avenue, Garfield, be and the same is hereby suspended for fifteen (15) days, commencing at 4:00 a.m. October 10, 1955, and terminating at 4:00 a.m. October 25, 1955.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE  
SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

MACWHITE CORPORATION )  
413-415 Avenue C )  
Bayonne, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-23, issued by the )  
Board of Commissioners of the City )  
of Bayonne. )

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James L. Sweeney, Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On or about August 23, 1955 and prior thereto, you allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets, in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20.

"2. On the aforesaid occasions, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game', to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulations No. 20."

The file herein discloses that on August 23, 1955, ABC agents and New Jersey State Troopers visited defendant's licensed premises to execute a warrant therefor because it was suspected to be an establishment where bookmaking and lottery activities were being carried on.

Robert Whiteford, one of the officers of the corporate licensee, was acting as bartender. He told the officers that he was aware that some bookmaking was going on in the premises "but that he had nothing to do with it." Frank Lapinski was seated at the bar. He was a part-time bartender at the premises, employed there for about eighteen months. He told the officers that he had been booking horse race and number bets at the licensed premises for the past few months. John Andrew Murphy, a patron, was seated at a table in the back room. On the table there were a "National Program" (a scratch sheet), and five slips evidencing numbers and horse race bets. A number of similar slips were on his person. Murphy told the officers that

he was about to turn over bets to Lapinski, to whom he had made a practice of turning over such bets for the past several months.

A horse race betting slip belonging to Lapinski was found on a Frigidaire in the licensed premises. The officers intercepted two telephone calls for Lapinski relating to bets. Sworn statements were obtained from Whiteford, Lapinski and Murphy, setting forth a detailed account of the practice of Lapinski and Murphy to place bets on the licensed premises, with the knowledge and direct or implied consent of two or more officers of the corporate licensee.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of twenty days (Re Disner & Gordon, Bulletin 1051, Item 4). Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 29th day of September, 1955,

ORDERED that Plenary Retail Consumption License C-23, issued by the Board of Commissioners of the City of Bayonne to Macwhite Corporation, 413-415 Avenue C, Bayonne, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. October 10, 1955, and terminating at 2:00 a.m. October 25, 1955.

WILLIAM HOWE DAVIS  
Director.

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

RAINBOW CAFE, A CORP.  
T/a RAINBOW CAFE  
N/E cor. Spicer & Pacific Avenues  
Wildwood, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-29, issued by the Board of Commissioners of the City of Wildwood.

George M. James, Esq. and Paul M. Salsburg, Esq., Co-counsel, Attorneys for Defendant-licensee.

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

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on July 30, 1955, it sold, served and delivered an alcoholic beverage to a minor and permitted the consumption of such beverage by said minor in and upon its licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that at 2:00 p.m. July 30, 1955, ABC agents visited defendant's licensed premises wherein they observed three youthful females being questioned by a doorman who permitted them to enter the cafe after they presented credentials. Proceeding to the bar, the girls were each served a glass of beer by the bartender who required no proof of their ages. When each girl had consumed a portion of her beer and one

had accepted a male patron's invitation to dance, the agents identified themselves to the two others and questioned them as to their identities. The two girls gave their names as Dolores, age 21, and Mary, age 21, the former producing a driver's license and the latter a baptismal certificate in confirmation thereof. The third girl when summoned from the dance floor stated that she was Elvira, age 22, immediately changed it to age 21, and exhibited a voter's registration card and a social security card to verify her statement. Her department aroused the agents' suspicion and they questioned the trio at great length. Harry Levy, secretary-treasurer of defendant corporation, fully cooperated with the agents and exhorted the girls to tell the truth. Finally, the aforesaid Mary said, "I'll tell the truth," and then admitted that she was in fact Kay, age 19; that Elvira was really her sister Mary, age 22, and that she used Mary's baptismal certificate to identify herself. After Dolores pointed out the bartender who had served them the beer, the agents seized the unconsumed portion of Kay's beverage for evidential purposes.

Defendant has submitted an affidavit of its secretary-treasurer, which sets forth, essentially, the above facts and sets forth, additionally, that each girl was questioned by a special policeman attending the entrance door; that each girl then produced "written evidence" of age and that each girl appeared "well over the age of 21 years". It is not contended, however, that anyone connected with defendant's business required any of the girls to represent in writing that she was 21 years of age or over, as required by R.S. 33:1-77.

Defendant has a prior adjudicated record. Effective September 11, 1950, its license was suspended for twenty days by the local issuing authority for sale to minors. Since this is a second similar violation within a five-year period, I would ordinarily double the minimum penalty imposed in a case involving the sale of alcoholic beverages to a nineteen-year-old minor and suspend defendant's license for a period of twenty days. Re Compton, Bulletin 1071, Item 3. However, because of unusual circumstances in the case, I shall suspend defendant's license for ten days, remitting five days for the plea entered herein, leaving a net suspension of five days.

In view of the fact that the summer season has ended, no effective penalty can be imposed at the present time. The effective dates for the suspension will be fixed by future Order which will be entered by me herein after the licensed premises have reopened for business for the 1956 season. Re De Freitas, Bulletin 1051, Item 5.

Accordingly, it is, on this 29th day of September, 1955,

ORDERED that Plenary Retail Consumption License C-29, issued by the Board of Commissioners of the City of Wildwood to Rainbow Cafe, A Corp., t/a Rainbow Cafe, N/E Cor. Spicer & Pacific Avenues, Wildwood, be and the same is hereby suspended for a period of five days, the time to be fixed by subsequent Order as aforesaid.

WILLIAM HOWE DAVIS  
Director.

7. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

GEORGE W. PARENTE )  
T/a PARENTE'S CHATTERBOX )  
128 Boulevard )  
Bayonne, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-140, issued by the Board of Commissioners of the City of Bayonne. )

----- )  
Sidney Simandl, Esq., Attorney for Defendant-licensee. )  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control. )

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On or about August 23, 1955 and prior thereto, you engaged in and allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets, in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20."

The file herein discloses that on August 23, 1955, ABC agents and New Jersey State Troopers entered defendant's licensed premises with a search warrant for the premises. At that time George W. Parente and William Breivogel were tending bar.

A search of the premises was made and in the kitchen one of the ABC agents found a pad next to a telephone. On the top page of the pad ten horse race bets were written, indicating that the amount of the bets totaled \$20.00. Defendant-licensee identified the writing on this pad as his writing, and stated that the bets had been taken by him on the above date over the telephone. A further search disclosed that the licensee had in his possession three slips of paper bearing horse race bets at various tracks, and nearly \$200.00 in cash. No bookmaking or number slips were found in the possession of William Breivogel. George W. Parente was placed under arrest by a State Trooper.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days (Re Disner & Gordon, Bulletin 1051, Item 4). Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 29th day of September, 1955,

ORDERED that Plenary Retail Consumption License C-140, issued by the Board of Commissioners of the City of Bayonne to George W. Parente, t/a Parente's Chatterbox, for premises 128 Boulevard, Bayonne, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. October 10, 1955, and terminating at 2:00 a.m. October 25, 1955.

WILLIAM HOWE DAVIS  
Director.

8. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

A. FRANK VALENTINO )  
 T/a VALENTINO'S )  
 10 Lafayette Place )  
 Paterson 3, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-345, issued by the Board of Alcoholic Beverage Control for the City of Paterson. )  
 -----)

A. Frank Valentino, Defendant-licensee, Pro se.  
 Dora P. Rothschild, appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to two minors, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that, acting upon information received from the Chief of Police of East Paterson, ABC agents obtained signed and sworn statements from William --- and Lawrence ---, both of whom are eighteen years of age. In his statement William says that on the evening of June 3, 1955, at about 8:00 p.m., he parked his car near defendant's licensed premises; that he and Lawrence entered the premises while four other minors remained in the car; that he and Lawrence purchased fifteen cans of beer from a bartender in the premises; that they carried the cans of beer to the car and drove away; that the beer was consumed elsewhere by them and the other minors. In his statement Lawrence corroborates the facts set forth in William's statement.

In attempted mitigation defendant alleges that he was not present when the violation occurred; that he is ill and plans to sell his business. He admits that the sale was made by his son who was tending bar.

Defendant has no prior record. Under the circumstances, I shall suspend defendant's license for ten days (the minimum penalty in a case involving two minors eighteen years of age). Re Goldsmith, Bulletin 1076, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 3rd day of October, 1955,

ORDERED that Plenary Retail Consumption License C-345, issued by the Board of Alcoholic Beverage Control for the City of Paterson to A. Frank Valentino, t/a Valentino's, for premises 10 Lafayette Place, Paterson, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. October 10, 1955, and terminating at 3:00 a.m. October 15, 1955.

WILLIAM HOWE DAVIS  
 Director.

9. SOLICITORS' PERMITS - A SOLICITOR MAY BE AN OFFICER OF A BONA FIDE CLUB HOLDING A LIQUOR LICENSE - RULING TO THE CONTRARY IN RE PRYGA, BULLETIN 946, ITEM 8, SUPERSEDED.

October 17, 1955

James F. Patten, Esq.  
Attorney for the City of Rahway  
City Hall  
Rahway, N. J.

Dear Mr. Patten:

I have before me your letter of October 6th reading:

"I would appreciate your advising as to whether there is any State A.B.C. regulation which prohibits a person engaged in the liquor business (in this case a salesman for one of the alcoholic beverage distributors) from holding an elective office in an organization holding a club license...."

In Re: Byrd, Bulletin 82, Item 14 (1935), it was ruled, in effect, that a director of a brewery could be a member of a plenary retail consumption licensed club incorporated and operating as an association not for pecuniary profit -- that the brewery director's interest as a member of the club would not be violative of the "tied house" section of our State Alcoholic Beverage Law (R.S. 33:1-43). The brewery director's only connection with the club being as a member thereof, his financial interest in its alcoholic beverage sales was deemed "so exceedingly remote as to be negligible."

In Re: Short Hills Country Club, Bulletin 84, Item 14 (1935), it was found to be otherwise with respect to a brewery director's being not a mere member but a director of a plenary retail consumption licensed club. Referring to the ruling in Re: Byrd, supra, the late Commissioner Burnett said:

"The same conclusion cannot be reached, however, where a brewery director is a director of a club holding a plenary retail consumption license. There the relation between the brewery and the alcoholic beverage activity of the retail consumption licensee is close and the danger of brewery control sought to be eliminated by Section 40 (now R. S. 33:1-43) may be said to exist. Whether a club license may be held under these circumstances need not be presently determined.

"It is the ruling of the Commissioner that a plenary retail consumption license may not be held by a club where one of its directors is a director of a brewery."

Less than a year later an application for a Solicitor's Permit was filed by the Secretary of the Ridgewood Lodge #1455, B.P.O.E., the holder of a plenary retail consumption license. In Re: Frank, Bulletin 113, Item 8, the late Commissioner Burnett wrote:

"On reflection, I deem my ruling re Short Hills Country Club, Bulletin 84, Item 14 unnecessarily severe. Assuming the club is bona fide, the danger of brewery control, because a brewery director or officer happens also to be a member or director or officer of a Club, is a far cry. Men belong to clubs, lodges and orders because they are natural joiners --

they like to run with the pack. While business reasons are sometimes incidental, the main urge is their inborn gregarious instinct. There is no reason why a person interested in the liquor industry should be barred from healthy, high class club activities. Conversely, the Club itself should not be precluded from a license because of such coincidence. If brewers shall ever stoop to organize nominal clubs to act as retail outlets, or if otherwise appears that the Club itself is not bona fide, effective action can readily be taken, once the disguise is penetrated.

"Issue the permit. A solicitor who happens to be a member or officer of a bona fide club, which holds a liquor license, whatever the kind, is not disqualified. The ruling in Bulletin 84, Item 14 is superseded."

But in Re: Pryga, Bulletin 946, Item 8 (1952), the then Director wrote:

"Reference is made to your conference of September 26, 1952 with our Mr. Wood concerning our letter of September 22, 1952 to you, advising that you may not hold an office in or be employed by Polish Falcons District #1, Inc., a retail liquor licensee, and at the same time be employed by F. & A. Distributing Co., a wholesale licensee.

"During the conference you called attention to a 1936 ruling by the then Commissioner in Re Frank, Bulletin 113, Item 8, permitting an officer of a club licensee to receive a solicitor's permit. That ruling was based solely upon Section 40 of the Alcoholic Beverage Control Act (now R.S. 33:1-43), which prohibits 'any owner, part owner, stockholder or officer or director of any corporation, or any other person whatsoever interested in any way whatsoever in any ... wholesaler of alcoholic beverages, to conduct, own either in whole or in part, or be directly or indirectly interested in the retailing of any alcoholic beverages ...' There the only question was whether the statute applied to solicitors and, if so, whether mere officeholding in a licensed club gave one an 'interest' in the club's business. However, since that ruling, by revision of our Pamphlet Rules and Regulations dated July 1, 1950, we promulgated Rule 7 of State Regulations No. 14, which provides that 'No holder of a Solicitor's Permit shall be interested, directly or indirectly, in any retail license or any business conducted thereunder, or shall be employed by or connected in any business capacity with any retail licensee'. (Underscoring added.) This Rule, since broader and more specific than the statute, necessarily supersedes the ruling in Re Frank.

"Accordingly, as indicated by our previous letter, you must terminate your officeholding in and employment by the retailer club or your employment by the wholesaler."

Certainly, Rule 7 of State Regulations No. 14 prohibits, as it should, the holding of a Solicitor's Permit by a person having an interest in a retail license or by a person employed by or connected in a business capacity with a retail licensee. I do not agree, however, that Rule 7 must be so interpreted as to prohibit a Solicitor from holding office in a bona fide club, holding a retail alcoholic beverage license, which is organized and which is operated not for pecuniary profit. It seems anomalous to say that a brewer or liquor wholesaler may be an officer of such a



The beer was served by a waiter who did not inquire as to the age of the minor, ask him for identification or request him to sign any representation as to his age. The minor further states that he had been at this tavern a number of times in the past few months and was served beer at the bar by Clifford Lane (one of the licensees) who likewise did not request any signed representation from him as to his age. The above recited facts are substantially corroborated by written statements given by the waiter in question, by the minor's brother and by Clifford Lane.

One of the defendants has a prior adjudicated record. Effective April 24, 1950, while the license for the above premises was held by Clifford R. Lane, the local issuing authority suspended his license for five days for sale of alcoholic beverages during prohibited hours in violation of State Regulations No. 38. This violation is dissimilar to the violation herein and occurred more than five years prior thereto. Hence I shall not consider the prior record in fixing the penalty in this case. Re Tabone, Bulletin 1076, Item 12. Since the minor mentioned in the charge was nineteen years of age at the time of the service to him of the alcoholic beverages, I shall suspend defendants' license for a period of ten days. Re Kazior, Bulletin 1066, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 3rd day of October, 1955,

ORDERED that Plenary Retail Consumption License C-19, issued by the Town Council of the Town of Hammonton to Clifford R. Lane and Rose M. Lane, t/a Welcome Inn, Route #206, Hammonton, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. October 10, 1955, and terminating at 2:00 a.m. October 15, 1955.

WILLIAM HOWE DAVIS  
Director.

11. DISCIPLINARY PROCEEDINGS - SUSPENSION LIFTED UPON CORRECTION OF ILLEGAL SITUATION.

In the Matter of Disciplinary Proceedings against )  
ALFRED HILFIKER, JR. )  
T/a SPORTSMAN'S BAR )  
83 Park Avenue )  
Middletown Township )  
PO Port Monmouth, N. J., )  
Holder of Plenary Retail Consumption License C-17, issued by the Township Committee of the Township of Middletown.)

O R D E R

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BY THE DIRECTOR:

On June 8, 1955, I suspended for the balance of its term Plenary Retail Consumption License C-17 for the 1954-55 licensing year then held by defendant herein, and ordered that any license issued in renewal of said license shall be under suspension until the entry of a further order herein on or after July 13, 1955. Re Hilfiker, Bulletin 1070, Item 10.

It appears from certified copies of extracts from the minutes of regular meetings thereafter held by the Township Committee of the Township of Middletown that Alfred Hilfiker, Jr. obtained a renewal of License C-17 for the 1955-56 licensing year and that on September 28, 1955, the renewed license was transferred, subject to the suspension previously imposed by the Director, from Alfred Hilfiker, Jr. to Middletown Lanes, Inc., and from premises 83 Park Avenue to premises on the northerly side of New Jersey State Highway No. 35, Township of Middletown. Said transfer was also subject to certain conditions concerning the new premises which are not material in deciding whether the suspension should be lifted. It further appears that Alfred Hilfiker, Sr. (father of defendant-licen-see) has died recently.

It thus appearing to my satisfaction that the illegal situation referred to in the original Conclusions and Order has been corrected, I shall lift the suspension heretofore impose.

Accordingly, it is, on this 6th day of October, 1955,

ORDERED that the suspension heretofore imposed upon the renewal of License C-17 be and the same is hereby lifted, effective immediately, and the renewed license is restored to full force and operation.

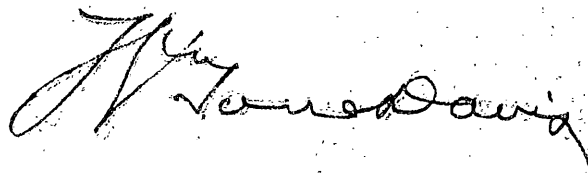
#### 12. STATE LICENSES - NEW APPLICATIONS FILED.

Miller Motor Haulage  
251-57 Hillside Avenue  
Newark, N. J.

Application filed October 24, 1955 for additional warehouse at 16-18 Runyon Street, Newark, N. J.

Henry J. Ruhmschottel  
408-410 70th Street  
Guttenberg, N. J.

Application filed October 25, 1955 for person to person, place to place transfer of State Beverage Distributor's License (SBD-79) from Jean Noger, 85 71st Street, Guttenberg, N. J.



William Howe Davis  
Director