

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd., Newark, N.J. 07102

March 26, 1969

BULLETIN 1843

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N. J. 07102

March 26, 1969

BULLETIN 1843

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY
(INDECENT ENTERTAINMENT) - PRIOR DISSIMILAR RECORD -
LICENSE REVOKED.

In the Matter of Disciplinary)
Proceedings against)

ROYAL CASTLE, INC.)
t/a Frank's)
35 River St.)
Newark, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-755 issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Newark)

-----)

Skoloff & Wolfe, Esqs., by Saul A. Wolfe, Esq., Attorneys
for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge as follows:

"During the early morning hours of Thursday, November 14 and Saturday, November 16, 1968, and on Saturday night November 23 into early morning hours of Sunday, November 24, 1968, you allowed, permitted and suffered in and upon your licensed premises lewdness, immoral activity and foul, filthy, indecent and obscene conduct, viz., in that you allowed, permitted and suffered a female dancer, commonly known as a 'Go Go Girl', to perform commit and engage in, by herself and in association with male patrons and customers on your licensed premises, in an obscene, indecent, filthy, lewd, lascivious, disgusting and immoral manner, in acts, gestures and movements of and with their hands and other parts of their bodies in association with said acts, gestures and movements, in manner and form having obscene, indecent, filthy, lewd, lascivious, disgusting, immoral and suggestive import and meaning; in violation of Rule 5 of State Regulation No. 20."

Reports of investigation on which the charge was based disclose that a female "Go-Go" dancer, wearing a bikini-type costume, during the course of her dance removed her breasts from the upper part of her costume and caressed and fondled them, performed bumps and grinds simulating sexual intercourse in both vertical and horizontal positions, not only in the dancing cage and on the barroom floor but also on the bar top, meanwhile disarranging the lower portion of

her costume to expose her private parts, in close proximity to several males seated at the bar (one being the principal stockholder of the licensee corporation), and at one point removing his eyeglasses from a male patron, placing the temples of the glasses in the crotch of her costume with the lenses exposed, thereupon announcing in gutter language that she now had a private part with eyes.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days effective April 5, 1951 for sale to minors, for fifteen days effective June 29, 1959 for permitting a brawl on the licensed premises, and by the Director for ninety days effective December 24, 1968 (currently effective) for permitting lewdness and immoral activity (solicitation for prostitution) on the licensed premises. Re Royal Castle, Inc., Bulletin 1832, Item 3; Bulletin 1835, Item 5.

All of the circumstances considered, including the previous record of suspensions of license and particularly the nature of the violation involved in the most recent one and the occurrence of the instant violation while the previous proceeding was pending, I deem the only proper penalty to be outright revocation of the license. Cf. Re Hillsboro Bar-Liquors, Inc., Bulletin 1796, Item 1.

Accordingly, it is, on this 22d day of January, 1969,

ORDERED that Plenary Retail Consumption License C-755, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Royal Castle, Inc., t/a Frank's, for premises 35 River Street, Newark, be and the same is hereby revoked, effective immediately.

JOSEPH M. KEEGAN
DIRECTOR

2. APPELLATE DECISIONS - SKIPPER'S, INC. v. LONG BRANCH

SKIPPER'S, INC., t/a SURF LOUNGE)
& RESTAURANT,)

Appellant,)

v.)

City Council of the City of)
Long Branch,)

Respondent.)

ON APPEAL
CONCLUSIONS
AND ORDER

Harry L. Shure, Esq., Attorney for Appellant
Julius J. Golden, Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Appellant appeals from the action of respondent City Council whereby the members thereof unanimously voted to deny the application for renewal of appellant's plenary retail consumption license for 1968-69 licensing year for premises 47 Matilda Terrace, Long Branch.

Upon the filing of the appeal an order dated July 1, 1968, was entered by the Director extending the term of appellant's 1967-68 license until further order herein.

Appellant's petition of appeal alleges that the action of respondent was erroneous.

Respondent's answer stated that "it denied the application of the appellant for good cause."

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15.

Although respondent was advised by the Director that the answer contained no reasons for its action as required by Rule 8 of State Regulation No. 2 and Rule 4 of State Regulation No. 15, and despite the fact that a request was made to comply therewith, respondent failed to submit reasons for its action.

At the opening of the hearing herein the appellant's attorney said that, although he was not present at the meeting of the respondent when the matter in question was considered, it was his understanding that no reasons were given for the respondent's action. The respondent's attorney stated that the reasons were given during the meeting by the councilmen and that he was prepared to call the president of the Council as a witness and he would enumerate the reasons which prompted respondent's action. Be that as it may, the failure of the respondent to fully comply with the rules aforementioned does not invalidate

the hearing below. The appellant was given an opportunity at this de novo hearing to produce testimony and cross-examine witnesses. Thus if appellant may have been deprived of any of its rights, the hearing on the appeal has remedied the condition. Cino v. Driscoll, 130 N.J.L. 535 (Sup.Ct. 1943).

Robert B. Cornell, president of the respondent, testified that during the June 27, 1968 meeting it was disclosed that there was an article published in a national magazine disclosing that one Anthony Russo, who until recent date had been a major stockholder and president of appellant, was indicted by the Monmouth County grand jury. Prior to appellant's application for renewal, Russo transferred the capital stock held by him to Nancy Simonetti, also a stockholder and officer of appellant. Councilman Cornell stated that "basically the transfer of the stock we felt was really a farce." He further testified that telephone calls received by the members of the Council influenced their vote to deny renewal, and an article was also considered wherein the United States District Attorney indicated "Mr. Russo was one of the top Cosa Nostra figures in the State of New Jersey." Moreover, Councilman Cornell testified that another reason was that, about three weeks prior to the hearing before respondent, two men were attacked by three patrons as they were in the parking lot, which attack resulted from an incident that had allegedly occurred in appellant's premises. The three men in question were subsequently apprehended by the State Police and all had prior criminal records. Councilman Cornell also stated that a person named Scala, who was under indictment and awaiting trial, "is the type of person that seems to frequent this [appellant's] place and they seem to be there constantly."

On cross examination Councilman Cornell, responding to a question asked of him by the appellant's attorney, stated that there were no written objections filed to the renewal; that he checked the past record of the appellant with the Police Department and was informed that there were never calls for police assistance whatsoever from appellant's premises. He also said that he has never been in appellant's premises and has no personal knowledge who may or may not be present at any given time in the premises. Moreover, he said that his information concerning Scala, who "three years ago he was in there every night", was obtained from a friend of Scala's who used to frequent the establishment. In summarization of the reasons for respondent's action, Councilman Cornell was asked various questions and answered as follows:

"Q So there were no objectors at the time of the meeting, there were no written objections filed with the city clerk when the application for renewal was made and published; the chief of police had no records of any complaints in connection with the applicant but council, because of some unknown phone calls that you say were made--

Mr. Golden: He didn't say 'unknown.'

"Q [Continuing] All right, phone calls that you say were made to various members and because

of newspaper articles, council saw fit not to renew the application. Is that correct?

"A. And also the United States District Attorney Satz's statement in the newspaper.

"Q His statement that you read in the newspaper and made no personal verification of?

"A Right."

Nancy Simonetti testified that she now owns ninety-eight per cent. of the capital stock of appellant. Her husband, Pasquale Simonetti, holds one per cent. and Charles Pine holds one per cent.; that the license has been held by appellant "approximately five years" and during that period of time there was never any trouble; that no person other than the persons named in the application has any interest in appellant's license.

On cross examination Mrs. Simonetti testified that she is a school teacher and, therefore, "I don't spend very much time at the tavern. That's why my husband manages it for me." She further stated that she purchased the stock formerly held by Anthony Russo and his wife, making payment therefor by giving them a promissory note.

Pasquale Simonetti testified that he owns one per cent. of the stock and is employed as "manager, bartender, porter, singer, everything you want;" that during the period the appellant has been in operation there never were any calls to the police and that, although Mr. Scala (who Councilman Cornell mentioned as a patron) was at one time a steady patron, he has not been in the place for two years.

On cross examination Mr. Simonetti testified, with reference to the incident occurring on June 23, 1968, that he was told by a bartender that a man had taken a woman's chair and that he (Simonetti) asked the man to permit the woman to sit there; that they shook hands and thereafter the six of them drank together; that near 3 a.m. "they left and the next thing I hear there's some noise outside, and I sent some fellows out to see what's going on and when they went out there, everybody was gone. And the next thing I know was what I read in the paper." Furthermore, Mr. Simonetti said that, if an argument starts, he attempts to stop it and if "a man gets out of line, don't appreciate my license, and out he goes. That's the way I run the place."

There has been no direct evidence presented herein to substantiate the action of the respondent. Councilman Cornell testified that he has never visited the appellant's place of business. Councilman Cornell gave as the reasons for his and his fellow members both denying renewal of appellant's license that there was an article in a national publication alleging that Anthony Russo was connected with an association which is reputed to resort to violence; that two men patrons were attacked by three other male patrons in the parking area after appellant's licensed premises were closed on June 23, 1968; that anonymous telephone calls were received by members of the respondent and, finally, that the United States District Attorney gave a statement to the press that Anthony Russo was a top Cosa Nostra figure in New Jersey. This type of evidence, without actual proof thereof, surely is

insufficient to base a determination thereon. The evidence must be legal and substantial in nature and not merely hearsay evidence or suspicion that the events in question had occurred.

Councilman Cornell testified that, although Anthony Russo transferred his interest in the license to Mrs. Simonetti, gave her a promissory note in payment therefor, the members of respondent questioned the bona fides of such transaction.

In Sobocienski et al. v. Newark et al., Bulletin 309, Item 2, Commissioner Burnett stated:

"While recognizing that considerable latitude should be given to appellants in seeking to support their charge of a 'front' situation, which here is essentially one of fraud, I can sustain that charge only on the basis of clear, cogent and convincing evidence. Summerill v. Summerill, 83 N.J. Eq. 3 (Ch. 1914), aff'd Id. 350 (E. & A. 1914); Firemen's Fund Ins. Co. v. Nicholson, 103 N.J. Eq. 32 (Ch. 1928), aff'd Id. 375 (E. & A. 1928); Newark Live Poultry Co. v. Fauer, 118 N.J.L. 556 (Sup.Ct. 1937), aff'd 120 N.J.L. 187 (E. & A. 1938)."

The mere assertion of a belief by respondent without proper proof to corroborate the facts thereof is insufficient to substantiate the charge. Mr. Simonetti testified he heard of the incident on June 23 when two male patrons were allegedly assaulted in the parking area. According to his testimony, he was convinced that the matter concerning the occupancy by a male of a female patron's stool in the barroom had been satisfactorily concluded and he had no knowledge that trouble had erupted between the parties until the following day when he read about it in the paper.

Under the circumstances appearing herein, with especial reference to Councilman Cornell's testimony, who, incidentally, was the only councilman who appeared at the hearing, it is apparent that the denial of appellant's license was grounded on hearsay evidence and suspicion and thus insufficient to warrant a refusal to renew. Cf. Cino v. Driscoll, supra. The care and attention given in this matter by the members of respondent Council are commendable but, upon the record presented, I find their action in denying renewal of the appellant's license to be unreasonable. Therefore, for the reasons aforementioned, I recommend that an order be entered reversing respondent's action.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record, including the transcript of testimony, the exhibits and the Hearer's report, I concur in the conclusions and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 23d day of January, 1969,

ORDERED that the action of the respondent be and the same is hereby reversed, and the respondent is hereby directed to renew appellant's plenary retail consumption license for the 1968-69 licensing period in accordance with the application filed therefor.

JOSEPH M. KEEGAN
DIRECTOR

3. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN RESTAURANT- APPLICATION OF OWNER FOR RETURN OF CASH DEPOSITED UNDER STIPULATION, AND COMMINGLED CASH REJECTED ABSENT GOOD FAITH- DEPOSITED CASH, COMMINGLED CASH AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure on May :
17, 1968 of a quantity of alcoholic : Case # 12,045
beverages, \$174.29 in cash, miscella- :
neous fixtures, furnishings, equipment, : ON HEARING
and foodstuffs in the unlicensed pre- : CONCLUSIONS
mises of Mama Lucia Restaurant, located : AND ORDER
at 563 Bloomfield Avenue, in the City :
of Newark, County of Essex and State :
of New Jersey. :

Sarcone and Mascia, Esqs., By C. Robert Sarcone, Esq.,
appearing for Clemente Piscitelli.
I. Edward Amada, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to R. S. 33:1-66 and State Regulation No. 28, and further, pursuant to a stipulation dated September 3, 1968 signed by Clemente Piscitelli to determine whether 36 containers of alcoholic beverages, \$174.29 in cash, certain fixtures, furnishings, equipment and foodstuffs, as set forth in an inventory hereinafter referred to, and marked Schedule "A", attached hereto, seized on May 17, 1968 at the unlicensed premises known as Mama Lucia Restaurant, 563 Bloomfield Avenue, Newark, constitute unlawful property and should be forfeited; and further, to determine whether the sum of \$800.00, representing the retail value of the fixtures, furnishings, equipment and foodstuffs, deposited under protest by Clemente Piscitelli, under the aforesaid stipulation, should be forfeited or returned to him.

At the said hearing Clemente Piscitelli, represented by counsel, appeared and sought the return of the money deposited as aforementioned, and the seized cash.

No claim was made for the return of the seized

alcoholic beverages.

The established facts as reflected in the file, which was admitted into evidence with consent of counsel for the claimant, and which was buttressed by additional testimony given at this hearing by ABC agents who participated in the said seizure, are as follows: Acting upon specific assignment precipitated by a complaint that alcoholic beverages were allegedly sold at these premises without a license, two ABC agents visited the said premises on May 15 and May 17, 1968. During their first visit on May 15th, after ordering food, they ordered and were served two glasses of wine and a bottle of beer. They consumed the said alcoholic beverages, and paid therefor before leaving the premises.

Upon their return to the premises on May 17th, the agents again took seats at one of the tables, ordered food and then ordered two glasses of wine which was served to them. At the end of their meal they ordered and were served a bottle of beer. On each of these visits, the agents observed bottles of wine and cans of beer being served to patrons at other tables.

The agents paid the dinner check on the last visit with a \$10.00 bill, the serial number of which had been previously recorded, and they noted that the money was placed in the cash register and commingled with the other money. They further observed that the alcoholic beverage items were specifically recorded on their dinner check.

Shortly thereafter, other agents entered the premises; and identified themselves to the waitress who served them. She identified herself as Marie Renee Ligas, and they were then approached by the claimant herein, who stated that the premises were owned by his family, and he is the head of the establishment.

A seizure was made and the "marked" \$10.00 bill was found commingled with the other seized monies in the cash register.

The records of this Division do not disclose any license or permit authorizing the sale of alcoholic beverages to have been issued to Clemente Piscitelli, the waitress, Marie Renee Ligas, or for any other individual therein, or for the premises in question. Upon deposit of the aforementioned sum of \$800.00, the goods and chattels were left on the premises and the stipulation, referred to hereinabove, was executed.

Samples of the wine and beer seized by the agent, were analyzed by the Division chemist on May 17, 1968 and he found that they all were alcoholic beverages fit for beverage purposes, with various percentages of alcohol by volume. Thus, one six-ounce bottle containing two ounces of alleged wine had 12.07% alcohol by volume; another six-ounce bottle containing five ounces of alleged beer contained 4.79% of alcohol by volume; and one 4/5 quart bottle containing four ounces of J & B Rare Blended Scotch Whisky, 86 Proof, had 43.45% of alcohol by volume.

The Division file contained the affidavits of mailing, publication, the original stipulation signed by the claimant, the inventory, the chemist's report certified by the Director, the cash receipt, the recording of "marked" money and the "marked" \$10.00 bill, all of which were admitted into evidence.

The sale of alcoholic beverages at these premises without a license is illegal, and the seized alcoholic beverages which were intended for sale therein, are illicit. R.S. 33:1-1(i). Such illicit alcoholic beverages and all other personal property seized in the said premises, including the commingled cash, constitute unlawful property, and are subject to forfeiture. R.S. 33:1-1(y); R.S. 33:1-2; R.S. 33:1-66.

Lucy Piscitelli, the wife of the claimant, testifying in support of the claimant, gave the following account: She was engaged in her usual duties as a cook in the premises on May 15 and 17, 1968 together with her husband. She had, prior thereto, instructed her waitresses never to sell any alcoholic beverages. She explained that the large quantity of alcoholic beverages in the register in the kitchen were the gifts of friends of hers who had sponsored a party for her and her husband on the preceding Monday because they had planned to take a European vacation. She did not know that the waitress sold any of the liquor, and never saw any liquor being sold. The usual practice in these premises is for patrons to bring in their own alcoholic beverages.

She acknowledged that the waitress admitted to her that she sold the wine and beer because "she was forced to do it". This waitress had been working for her for the past three years. Explaining what she meant by "forced", the waitress told her "They told me they had it before". The waitress is still employed by this claimant.

Jeanette Ennis testified that she was employed as a waitress at these premises on May 15th and denied selling any alcoholic beverages to anyone, including the ABC agents on that date. She was then shown the sales slip given to the agents on May 17th on which the items "b" and "w" were listed and she denied knowing what they stood for.

She conceded, however, that when she had a discussion with Miss Ligas about the sale of liquor Miss Ligas said, "I don't know why I did it....I just done it. We got busy, and I didn't realize what I was doing, and he insisted."

Marie Renee Ligas, a waitress employed by claimant on May 17, 1968, testified that she remembered serving the agents wine "Because he insisted and we were so busy and I wanted to please them, you know, and I did, I went and gave them two glasses of wine, which I knew I should have". She then served the beer "Another mistake". She agreed that the "b" and "w" on the sales check which represented a sale of beer and wine was written on the sales check; but it was the "first time I ever did that, and it was only because the wine was there".

The Division produced in rebuttal ABC Agent B who testified that in the company of Agent G he first visited these premises on May 15th and was served beer and wine by Miss Ennis. On May 17th these agents returned to the premises and he was served the wine and beer by Miss Ligas. On the latter date, he told Miss Ligas that he had purchased wine on his previous visit; she then unhesitatingly went into the kitchen and returned with two glasses of wine.

Agent B later purchased a can of beer and observed that other patrons were being served alcoholic beverages. He specifically noted that when he was served by Miss Ligas she hesitated and said, "I don't know you. You could be ABC agents."; but nevertheless, she proceeded to serve him.

The testimony was corroborated in all essential particulars by Agent G.

It is stipulated and admitted by the claimant that alcoholic beverages were, indeed, served to the ABC agents on May 17th, but it is contended that the sale and service of these alcoholic beverages were made without the authorization or knowledge of the claimant.

The general rule, however, is that a master is responsible for the wrongful acts of his agent and employee, if done within the scope of her employment upon the express or implied authority given her, considering the nature of the service required and the circumstances under which the act was committed. Smith v. Bosco, 126 N.J.L. 452, 454; Klitch v. Betts, 89 N.J.L. 348; Michael v. Southern Lumber Company, 101 N.J.L. 1. Whatever is done by the employee by virtue of her employment and in furtherance of its ends, is deemed by the law to be an act done within the scope of her employment. In determining whether such conduct was within the scope of her employment, it is proper to inquire whether she was engaged in serving her master. 37 C.J.S. Sec. 570, and cases cited therein.

The alcoholic beverages dispensed by Miss Ligas were made available by the claimant and her acts were clearly within the scope of her employment. It is absurd to believe that the claimant did not know of the sale of these alcoholic beverages since he and his wife were in the kitchen at the times when these alcoholic beverages were taken from the refrigerator in the kitchen.

The fact that sales were made on a prior occasion; that the sale of alcoholic beverages were specifically noted on the sales slip; and the presence of the claimant in the premises clearly refute the claimant's contention that he did not know or that such alcoholic beverages were being sold on these premises. See 48 Corpus Juris Secundum, Section 271, wherein it is stated:

"If the whole course of the principal's or master's business is unlawful, as where he keeps liquor for sale without a license, he is responsible for any sales made by his agents, clerks, or servants, whether or not

he knew of the particular sale or consented thereto, and no matter what his orders to them may have been."

I find, on the basis of the believable testimony and the logical inferences flowing therefrom, that the alcoholic beverages were kept by the claimant for the purpose of sale without a license, and that claimant unlawfully sold alcoholic beverages in these premises on May 17, 1968. See Seizure Case No. 10,009, Bulletin 1391, Item 4; Seizure Case No. 11,452, Bulletin 1642, Item 3. Therefore; such illicit alcoholic beverages, fixtures, furnishings and equipment found on the premises constitute unlawful property, and are subject to forfeiture. This is equally true of the commingled cash found in the cash register. Seizure Case No. 10,646, Bulletin 1435, Item 5; R.S. 33:1-2; R.S. 33:1-66.

The Director has the discretionary authority to return property subject to forfeiture to a claimant who has established to his satisfaction, by affirmative proof, that he has acted in good faith and did not know or have any reason to believe that his property would be used in unlawful liquor activity. Since the claimant has failed to establish these essential elements, the Director has no authority to relieve the claimant of forfeiture. R.S. 33:1-66(e & f); Seizure Case No. 11,439, Bulletin 1641, Item 6; Seizure Case No. 11,059, Bulletin 1533, Item 8.

Since I am persuaded that the claimant knew, or should have known of such unlawful activity, and has failed to satisfy the statutory requisites, I conclude that the preponderance of the credible evidence imperatively requires a recommended finding that the claimant's application for the return of the deposit be denied.

I, further, recommend that an Order be entered forfeiting the alcoholic beverages and the seized cash; and that the sum of \$800.00 deposited by this claimant under protest upon stipulation, pursuant to R.S. 33:1-66 likewise be forfeited and disposed of in accordance with law. R.S. 33:1-1(y); R.S. 33:1-2; R.S. 33:1-66.

Conclusions and Order

No exceptions to the Hearer's Report were filed by the claimant pursuant to Rule 4 of State Regulation No. 28.

After carefully considering the facts and circumstances herein, I concur in the recommended report and adopt them as my conclusions herein.

Accordingly, it is on this 23rd day of January, 1969,

DETERMINED and ORDERED that the sum of \$800.00, representing the appraised retail value of certain fixtures, furnishings, equipment and foodstuffs which were returned

to the claimant, Clemente Piscitelli, paid under protest pursuant to a stipulation signed by him, shall be and the same is hereby forfeited; and it is further

DETERMINED and ORDERED that the alcoholic beverages and cash in the sum of \$174.29 be and the same are hereby forfeited in accordance with the provisions of R.S. 33:1-66, and that they be retained for the use of hospitals and State, county and municipal institutions, or destroyed, in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

JOSEPH M. KEEGAN,
DIRECTOR

SCHEDULE "A"

- 36 - containers of alcoholic beverages
- \$174.29 - cash
- Miscellaneous fixtures, furnishings, equipment and foodstuffs

- 4. DISCIPLINARY PROCEEDINGS - FRONT - FALSE STATEMENT IN LICENSE APPLICATION - CRIMINALLY DISQUALIFIED EMPLOYEE - PRIOR RECORD DISREGARDED BECAUSE OF CHANGE OF STOCK-HOLDERS - UNLAWFUL SITUATION CORRECTED - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA - DEFERRED EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against
 KEARNY YACHT CLUB, A CORP.
 427 Passaic Avenue
 Kearny, N. J.
 Holder of Plenary Retail Consumption License C-11 issued by the Town Council of the Town of Kearny

CONCLUSIONS AND ORDER

Edward A. Dreskin, Esq., Attorney for Licensee
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) and (2) by false statements in its current application for license, it concealed the fact that Nicholas Furina had a 50 per cent interest in its corporate stock and the licensed business, in violation of R.S. 33:1-25, and (3) from March 9 to May 17, 1968, it employed Furina (then disqualified by reason of his conviction of crime involving moral turpitude, whose disqualification was removed effective May 17, 1968) as manager of the licensed business, in violation of Rule 1 of State Regulation No. 13.

Licensee has a previous record of suspension of license by the Director for ten days effective July 3, 1966, for sale to a minor, and for one hundred ten days effective July 17, 1967, for sale to minors and hindering investigation. Re Kearny Yacht Club, Bulletin 1685, Item 9; Bulletin 1750, Item 3.

During the pendency of this proceeding, the unlawful situation was corrected by appropriate stock transfer to Furina.

The prior record of suspensions of license disregarded by reason of intervening change of stockholders (Re Esposito's, Inc., Bulletin 1819, Item 5), the license will be suspended on the first and second charges for twenty days (Re O.K. Corral, Inc., Bulletin 1832, Item 6) and on the third charge for twenty days (Re Sajdik, Bulletin 1817, Item 7), or a total of forty days, with remission of five days for the plea entered, leaving a net suspension of thirty-five days.

Report of recent investigation discloses that the licensed premises have been completely destroyed by fire and that the licensed business is not presently being conducted and thus no effective penalty can be imposed at this time. Hence, the effective dates for the suspension will be fixed by the entry of a further order herein after the operation of the licensed business has been fully resumed on a substantial basis by the licensee or any transferee of the license.

Accordingly, it is, on this 22d day of January, 1969,

ORDERED that Plenary Retail Consumption License C-11, issued by the Town Council of the Town of Kearny to Kearny Yacht Club, A Corp., for premises 427 Passaic Avenue, Kearny, be and the same is hereby suspended for thirty-five (35) days, the effective dates of such suspension to be fixed by further order as aforesaid.

JOSEPH M. KEEGAN
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA - DEFERRED EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against)	
)	
CHESTER LIPKA)	CONCLUSIONS
384 Grove Street)	AND ORDER
Jersey City, N. J.)	
)	
Holder of Plenary Retail Consumption License C-272 issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City)	

Licensee, Pro se
Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on November 21, 1968, he permitted acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for thirty-five days effective July 2, 1968, for sale to minors and sale in violation of State Regulation No. 38. Re Lipka, Bulletin 1809, Item 6.

The prior record of suspension of license for dissimilar violation occurring within the past five years considered, the license will be suspended for sixty-five days, with remission of five days for the plea entered, leaving a net suspension of sixty days. Re Fay, Bulletin 1825, Item 5.

Report of recent investigation discloses that the licensed business has been discontinued and is not presently being conducted and thus no effective penalty can be imposed at this time. Hence, the effective dates for the suspension will be fixed by the entry of a further order herein after the operation of the licensed business has been fully resumed on a substantial basis by the licensee or any transferee of the license.

Accordingly, it is, on this 23d day of January, 1969,

ORDERED that Plenary Retail Consumption License C-272, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Chester Lipka for premises 384 Grove Street, Jersey City, be and the same is hereby suspended for sixty (60) days, the effective dates of such suspension to be fixed by further order as aforesaid.

JOSEPH M. KEEGAN
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CELEB'S CORNER, INC.)
t/a Celeb's Corner)
232 Front Street)
Elizabeth, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-76, issued by the City Council of the City of Elizabeth.)

Licensee, Pro se
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

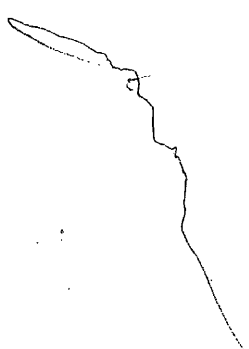
Licensee pleads non vult to a charge alleging that on November 15, 1968 it possessed alcoholic beverages in three bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Cakerts Enterprises, Inc., Bulletin 1825, Item 10.

Accordingly, it is, on this 28th day of January 1969,

ORDERED that Plenary Retail Consumption License C-76, issued by the City Council of the City of Elizabeth to Celeb's Corner, Inc., t/a Celeb's Corner, for premises 232 Front Street, Elizabeth, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Tuesday, February 4, 1969, and terminating at 2 a.m. Wednesday, February 19, 1969.

JOSEPH M. KEEGAN
DIRECTOR



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

In the Matter of Disciplinary Proceedings against)
 CLUB RIVIERA, INC.)
 506 Springfield Avenue)
 Newark, New Jersey)
 Holder of Plenary Retail Consumption License C-327 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark)

CONCLUSIONS AND ORDER

 Norman Fischbein, Esq., Attorney for Licensee
 Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control

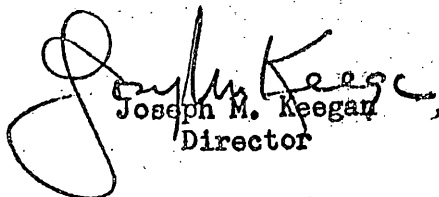
BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on October 2, 1968, it possessed alcoholic beverages in seven bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Grieco, Bulletin 1752, Item 6.

Accordingly, it is, on this 3d day of February, 1969,

ORDERED that Plenary Retail Consumption License C-327, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Club Riviera, Inc. for premises 506 Springfield Avenue, Newark, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a. m. Monday, February 10, 1969, and terminating at 2:00 a. m. Friday, March 7, 1969.


 Joseph M. Keegan
 Director