

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

BULLETIN 959

MARCH 9, 1953.

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THE UNIVERSITY OF CHICAGO  
DIVISION OF THE PHYSICAL SCIENCES  
DEPARTMENT OF CHEMISTRY

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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 959

MARCH 9, 1953.

1. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT SONGS) - HINDERING INVESTIGATION - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - CHARGE THAT LICENSEE WORKED ON LICENSED PREMISES WHILE ACTUALLY OR APPARENTLY INTOXICATED. DISMISSED - PRIOR RECORD - LICENSE SUSPENDED FOR 70 DAYS.

In the Matter of Disciplinary Proceedings against

STEPHEN VERNICEK  
T/a THE LOG CABIN  
Route #6  
Mount Olive Township  
P.O. Budd Lake, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-13, issued by the Township Committee of the Township of Mount Olive.

David Young, 3rd, Esq., by Harry L. Sears, 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 Friday, July 25, 1952, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly and indirectly, at your licensed premises to James J. ..., Harold L. ... and Vincent A. ..., persons under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon your licensed premises; in violation of Rule 1 of State Regulations No. 20.

"2. On Friday, July 25, 1952, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises in that entertainers performed in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulations No. 20.

"3. On Friday, July 25, 1952, you worked in and upon your licensed premises while actually or apparently intoxicated; in violation of Rule 24 of State Regulations No. 20.

"4. On Friday, July 25, 1952 and Saturday, July 26, 1952, while an inspector and investigators of the Division of Alcoholic Beverage Control were investigating the above alleged violations, you hindered and failed to facilitate such investigation; in violation of R. S. 33:1-35.

"5. On Saturday, July 26, 1952, between 2:00 a.m. and 2:25 a.m., you allowed, permitted and suffered the consumption of alcoholic beverages on your licensed premises; in violation of Section 11 of ordinance adopted October 1, 1940 by the Mount Olive Township Committee, which prohibits any such activity between 2:00 a.m. and 7:00 a.m. on week-days."

At the hearing herein, an ABC agent testified that he and a fellow agent entered defendant's licensed premises at about 10:00 p.m. on the evening of July 25, 1952 and stationed themselves at the service section of the bar; that there were three bartenders and one waitress on duty at the time; that he overheard the licensee tell a bartender to be careful in serving minors "because those two men over there (pointing to two men, not ABC men, at the bar) may be ABC men"; that a three-piece orchestra entertained from the center of the oval-shaped bar; that the guitar player sang a sexually suggestive song, commonly known as the Itty Ditty Girl, at the conclusion of which the licensee cautioned him not to sing any more such songs because there might be ABC men present. With respect to Itty Ditty Girl, the agent testified: "...there are several verses to it. I particularly remembered two of them where he referred to this girl going out with a trumpet player, and he repeated the verses saying that he could blow and she could blow, they could blow together ... blowing each other ... Another verse was that this same girl went out with an elevator operator, and that he went up and she went up, they went up and down together ... going up and down with each other." The agent testified that he heard the waitress order "two bottles of beer and two Schenley whiskies with ginger ale"; that he saw her serve the drinks to two couples seated at a table, placing a bottle of beer before each of the females and a shot glass of whiskey with a chaser in front of each of the males; and that he saw them consume their respective drinks. He testified that he observed three youths being served a glass of beer apiece by a bartender and as they started to consume their drinks he and his fellow agent made known their identities to the youths, two of whom were nineteen years of age; that the ABC agents and the youths repaired to a booth where the licensee approached them; that on the invitation of the ABC agent, the licensee accompanied him to the table where the two couples aforementioned were seated, when it was ascertained that one of the males in the party was twenty years of age. He testified, further, that the licensee referred to the two agents as "stool pigeons", "rats" and "spies" and at one time struck his fellow agent across the wrist, spilling the beer from the glass which had been seized from one of the minors; that the licensee thereafter stated, "Well, I slipped and I grabbed the table because I was half drunk"; that the licensee became loud, boisterous and uncooperative; that the local police arrived and the investigation was continued at police headquarters, despite the licensee's conduct in endeavoring to prevent the minors from making any statements to the ABC agents; that upon the return of the ABC agents to the defendant's licensed premises at 2:08 a.m., they observed patrons there consuming alcoholic beverages; and that when the alleged violation was called to the licensee's attention, he remarked, "They're finishing up their drinks".

The other ABC agent, who was present on the evening of July 25, 1952 and the early morning of July 26, 1952, testified in substantial agreement as to the aforementioned events in defendant's licensed premises at the times in question.

A third ABC agent testified that on the night of July 25th he remained outside the defendant's licensed premises until shortly after 11:00 p.m., when he was summoned inside by one of his fellow agents; that he observed a large gathering in the rear part of the barroom where there was some commotion; that he saw the licensee conducting himself in a boisterous manner and heard him directing insulting remarks at the ABC agents; that the licensee denied that he struck one of the agents, remarking that although he was drunk he knew what he was doing; that the licensee was instructed by the ABC agent in charge to summon the local police, at which time the licensee yelled, "I don't give a damn, lock up the place, I have plenty of money", and also, "Go ahead, call the damn police; I don't care, I'll even call them for you". This agent testified that at police headquarters the licensee said to him, "you were here before, weren't you" and when

the witness answered in the affirmative, the licensee said, "You know a couple of you guys were beaten up in Paterson"; that the licensee advised the minors not to tell anything to the ABC agents; that he (the testifying agent) returned to the defendant's premises at 2:08 a.m., at which time he observed at least seven patrons consuming alcoholic beverages.

James J. ... and Harold L. ... (each of whom was 19 years of age) testified that they were questioned as to their ages by Andrew Vernicek, the bartender, and when they informed him they were nineteen years of age he refused to serve them; that their adult companion, after showing proof of his age to the bartender, ordered and was served three glasses of beer, handing a glass of beer to each of the minors. They further testified that the licensee, in their opinion, was not under the influence of intoxicating liquor.

Vincent A. ..., (who was 20 years of age) testified that on the evening of July 25, 1952 he visited defendant's licensed premises in the company of an adult male and two adult female companions; that when questioned by the waitress concerning his age he told her he was twenty years old; that although his companions ordered alcoholic beverages, he ordered and was served a glass of plain ginger ale; that subsequently the licensee and an ABC agent came over to the table where he and his companions were seated and inquired as to their ages; that he and his male companion furnished proof of their ages; that although the ABC agent was requested by the licensee to examine his glass, the agent failed to do so. He further testified that, in his opinion, the licensee did not appear to him to be under the influence of intoxicating liquor.

Defendant produced a number of witnesses who testified that they were present on the licensed premises on the evening in question. All of these witnesses denied hearing the guitar player sing the Itty Ditty Girl song that evening. All were in agreement that, in their opinion, the licensee was not under the influence of intoxicating liquor. Donald Napoleon testified that he and his cousin, Vincent A. ..., and two girls were at defendant's licensed premises on July 25, 1952, but that Vincent A. ... prior to being interrogated by an ABC agent in the presence of the licensee had only a glass of ginger ale that evening. Andrew Vernicek admitted serving three glasses of beer at one time to the adult companion of the two nineteen-year-old minors but testified that he did not observe who consumed the contents thereof.

Stephen Vernicek, the licensee, testified concerning the events that allegedly took place during the evening in question. He denied that he struck the ABC agent with the intention of spilling the contents of the beer in the glass which the agent was holding at that time. His explanation was that he was pushed and fell on the table and the glass of beer was thereby spilled. His testimony, however, on most pertinent matters was evasive and improbable.

I have carefully examined the testimony of all the witnesses and have reached the following conclusions with reference to the charges preferred:

As to charge 1: There is no dispute that the two nineteen-year-old youths were served with and allowed, permitted and suffered to consume alcoholic beverages in defendant's licensed premises. I find defendant guilty as to that part of the charge. I do not, however, find defendant guilty with respect to that portion of the charge concerning Vincent A. ... That portion of the charge is dismissed for I find that the Division failed to sustain the requisite preponderance of proof.

As to charge 2: I am convinced that the agents' testimony truly represents the indecent nature of the song of the guitar player, who did not testify at the hearing. From that testimony, I believe

that the performance was lewd, indecent and immoral and I find defendant guilty as to charge 2.

As to charge 3: I am satisfied that the evidence presented is not sufficient to support a finding of fact that the licensee was actually or apparently intoxicated at the time in question. The ABC agents testified that the licensee was loud, boisterous, and uncooperative during the investigation but did not testify that from their observation they were of the opinion that the licensee was actually or apparently intoxicated. The fact that the man was loud, boisterous and uncooperative, in itself, is insufficient to sustain the charge. Moreover, all the witnesses produced by the defendant, as well as one produced by the Division, expressed the opinion that the licensee was not under the influence of intoxicating liquor at the time. I find defendant not guilty as to charge 3.

As to charge 4: I am satisfied that the licensee's actions, as described by the ABC agents, deliberately and purposely hindered the investigation. "Revised Statutes, 33:1-35 provides, with respect to authorized investigations by agents of the Division, that 'every licensee, and every director, officer, agent and employee of every licensee, shall ... facilitate, as far as may be in their power to do so, in any such investigation, ... and they shall not in any way hinder or delay or cause the hindrance or delay of same, in any manner whatsoever.' There can be no question or doubt as to the purpose and meaning of, and the necessity for, the statutory provision. Sound law enforcement requires that licensees cooperate with, and not hinder, the authorized activities of the control agents..." (Re Woodrow Wilson Democratic Club of Passaic, N. J., Inc., Bulletin 867, Item 2). I find defendant guilty as to charge 4.

As to charge 5: The pertinent ordinance provision reads: "No licensee shall sell, serve, deliver or allow, permit or suffer the sale, service, or delivery of any alcoholic beverage, or allow, permit or suffer the consumption of any alcoholic beverage on licensed premises, between the hours of 2:00 a.m. and 7:00 a.m. weekdays..." Violation of the ordinance is clearly established herein and I find defendant guilty as to charge 5.

In the absence of a prior record, the above violations would warrant the suspension of defendant's license for a total of sixty days. However, because of the prior record hereinafter disclosed in connection with the specification of penalty as to the first charge, there will be a total suspension of seventy days, the penalty as to each charge being as follows: charge 1, a suspension of twenty days instead of the usual ten days because, effective April 27, 1952, defendant's license was suspended by the municipal issuing authority for sale and service of alcoholic beverages to minors, and in view of such prior similar violation within five years the ten-day suspension will be doubled (cf. Re Carr, Bulletin 947, Item 3, citing Re Roey, Bulletin 747, Item 3); charge 2, a suspension of fifteen days (cf. Re S. E. W., Inc., Bulletin 891, Item 5); charge 4, a suspension of twenty days (cf. Re Menzel, Bulletin 948, Item 2); and charge 5, a suspension of fifteen days (cf. Re Belvedere and Pintozzi, Bulletin 899, Item 9).

Accordingly, it is, on this 4th day of February, 1953,

ORDERED that Plenary Retail Consumption License C-13, issued by the Township Committee of the Township of Mount Olive to Stephen Vernicek, t/a The Log Cabin, Route #6, Mount Olive Township, be and the same is hereby suspended for a period of seventy (70) days, commencing at 2:00 a.m. February 11, 1953, and terminating at 2:00 a.m. April 22, 1953.

DOMINIC A. CAVICCHIA  
Director.

2. ACTIVITY REPORT FOR FEBRUARY 1953

ARRESTS:		
Total number of persons arrested	-	26
Licensees and employees	-16	
Bootleggers	-10	
SEIZURES:		
Motor vehicles - cars	-	1
Stillis - 50 gallons or under	-	5
Mash - gallons	-	375.00
Distilled alcoholic beverages - gallons	-	11.18
Wine - gallons	-	245.91
Brewed malt alcoholic beverages - gallons	-	48.66
RETAIL LICENSEES:		
Premises inspected	-	821
Premises where alcoholic beverages were gauged	-	707
Bottles gauged	-	12,478
Premises where violations were found	-	106
Violations found	-	125
Type of violations found:		
Unqualified employees	-34	Gambling devices - 2
Disposal permit necessary	-9	Other mercantile business - 2
Reg. #38 sign not posted	-5	Prohibited signs - 2
		Other violations - 71
STATE LICENSEES:		
Premises inspected	-	24
License applications investigated	-	8
COMPLAINTS:		
Complaints assigned for investigation	-	504
Investigations completed	-	402
Investigations pending	-	134
LABORATORY:		
Analyses made	-	102
Refills from licensed premises - bottles	-	3
Bottles from unlicensed premises	-	20
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made	-	22
Persons fingerprinted for non-criminal purposes	-	197
Identification contacts made with other enforcement agencies	-	177
Motor vehicle identifications via N. J. State Police Teletype	-	4
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-	11
Violations involved:		
Sale to minors	-3	Permitting lottery (numbers, "50-50 Club") on premises - 2
Permitting brawl on premises	-3	Permitting female to tend bar (mun. reg.) - 1
Permitting bookmaking on premises	-2	Sale during prohibited hours - 1
Cases instituted at Division	-	15
Violations involved:		
Sale during prohibited hours	-5	Permitting immoral activity on premises - 1
Sale to minors	-2	Purchase from improper source - 1
Fraud and front	-2	Failure to have copy of license application on premises - 1
Hindering investigation	-2	Act or happening - 1
Possessing illicit liquor	-2	Failure to afford view into premises during prohibited hours - 1
Cases brought by municipalities on own initiative and reported to Division	-	8
Violations involved:		
Sale to minors	-5	
Sale during prohibited hours	-2	
Permitting brawl on premises	-2	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-	29
Appeals	-6	
Disciplinary proceedings	-16	
Eligibility	-6	
Tax revocation	-1	
PERMITS ISSUED:		
Total number of permits issued	-	688
Employment	136	Social affairs - 271
Solicitors	75	Special wine - 1
Disposal of alcoholic beverages	92	Miscellaneous - 113

DOMINIC A. CAVICCHIA  
Director.

Dated: March 2, 1953.

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE AND LANGUAGE) - SALE TO MINORS - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

CLUB 36, INC.
T/a CLUB 36, INC.
St. Hwy. #36 & Palmer Ave.
Raritan Township (Monmouth County)
P.O. Keansburg, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Raritan (Monmouth County).

Club 36, Inc., Defendant-licensee, by Elmer A. Nagy, Pres. & Treas. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that it (1) allowed, permitted and suffered lewdness and immoral activity in and upon its licensed premises in that a female entertainer performed in a lewd, indecent and immoral manner and a male entertainer recited stories, uttered words and phrases and made gestures and movements having lewd, lascivious, indecent, filthy, disgusting and suggestive import and meaning; in violation of Rule 5 of State Regulations No. 20, and (2) sold alcoholic beverages to minors and permitted the consumption of such beverages by such minors upon its licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file discloses that, at approximately 9:00 p.m., on Friday, January 2, 1953, two ABC agents entered defendant's licensed premises and sat at the bar. They observed two females, who appeared to be minors, consuming beer which had been served to them by a bartender. Because they had been assigned to investigate and observe the floor show, the agents did not identify themselves and interrogate the females at that time.

At approximately 10:30 p.m., a male master of ceremonies started the floor show by telling jokes. He was followed by several other entertainers whose performances were not objectionable. However, between the various "acts" the master of ceremonies told more jokes. His entire performance was replete with profanity, indecent and suggestive gestures and movements; and stories too vulgar to repeat here.

Thereafter a female dancer appeared, wearing very brief panties, a small "bra" and a long net skirt slit all the way up the front. After a few preliminary movements she removed the skirt and continued to perform clad only in the brief panties and small "bra". She did a series of movements known as "bumps and grinds" and rolled the muscles of her stomach in a rippling manner. Later she bent her knees and gradually lowered her body so that the lower parts of her legs (from the knees down) were resting on the floor with her knees apart and the upper part of her body in such a position that she was facing the ceiling. In that position she performed various movements, including "bumps and grinds" in a manner suggestive of sexual intercourse, meanwhile running her hands over her thighs and vulva in a caressing manner.

The agents then identified themselves and questioned the two young females, hereinabove mentioned, who admitted that they were

seventeen and eighteen years of age, respectively. Both signed statements admitting that they had consumed beer purchased from the bartender by the eighteen year old, and both denied being questioned as to their ages. The bartender also gave a signed statement in which he said that, although he had served the two girls beer without asking them their ages, he had been assured by the father of one of the girls (the father being an entertainer at the licensed premises) that both girls were "of age". However, in his statement, the father denies that he talked with the bartender with respect to the ages of his daughter and the other girl.

The president of defendant-corporation claimed that he had no knowledge of anything "off color" in the floor show and that the female dancer had performed in many night clubs and had assured him that her performance would not be lewd, immoral or indecent. He forwarded three letters from patrons who assert that defendant's licensed premises are well conducted and expressing the opinion that the floor show was not indecent. However, the dancer verbally admitted to the agents that her dance was "suggestive in spots".

I am convinced that the agents' reports describe and depict, with reasonable accuracy, what took place on the licensed premises on the night of January 2, 1953. The performances hereinabove referred to have no place on licensed premises. Re Bajewicz, Bulletin 902, Item 4; Re Corma, Bulletin 913, Item 4; Re MLC Corporation, Bulletin 934, Item 7.

"Entertainment, if presented upon licensed premises, must be of such character as not to be inimical to the public welfare and morals or to the best interests of the industry". Re DiAngelo, Bulletin 753, Item 4. Nor is it any excuse that the licensee did not know that the performances were going to be objectionable. Licensees are fully responsible for the conduct of entertainers upon their licensed premises. Re Hyett, Bulletin 947, Item 2; Re Blume, Bulletin 920, Item 6.

Defendant has no prior adjudicated record. I shall suspend the license for thirty days on charge (1) (Re MLC Corporation, supra; Re Corma, supra) and, in view of the fact that one of the minors was only seventeen years of age, I shall suspend the license for fifteen days on charge (2), Re Heslin & Scott, Bulletin 947, Item 5, making a total suspension of forty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty days.

Accordingly, it is, on this 17th day of February, 1953,

ORDERED that Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Raritan (Monmouth County) to Club 36, Inc., t/a Club 36, Inc., St. Hwy. #36 & Palmer Ave., Raritan Township (Monmouth County), be and the same is hereby suspended for a period of forty (40) days, commencing at 2:00 a.m. February 25, 1953, and terminating at 2:00 a.m. April 6, 1953.

DOMINIC A. CAVICCHIA  
Director.

4. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

MARTHA GOLTSCH, ADMINISTRATRIX )  
ESTATE OF ERWIN GOLTSCH )  
1717 Hudson Blvd. )  
Jersey City 5, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-293, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

-----  
Martha Goltsch, Administratrix Estate of Erwin Goltsch, Defendant-licensee, Pro Se.  
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to a charge alleging that she sold and served alcoholic beverages to minors, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on the evening of January 10, 1953, ABC agents visited defendant's licensed premises. Upon entering the barroom, the ABC agents observed two youths consuming beer. A short time thereafter four youths entered the licensed premises and took positions at the bar. Each of the four youths was served a glass of beer, with the exception of one who ordered and was served a glass of whiskey and ginger ale. The two youths who were in the licensed premises when the ABC agents arrived were served another glass of beer by the bartender. At this time, as each began to consume his respective drink the ABC agents made known their identity and questioned the youths with reference to their ages. It was ascertained that the ages of the young men were as follows: Thomas J. ---, 15 years; Donald J. ---, 16 years; Joseph W. ---, 17 years; Robert E. ---, 18 years; Theodore A. ---, 18 years; and Michael J. ---, 19 years.

No reasonable or justifiable excuse may be accepted for the sale and service of alcoholic beverages to the minors, especially the 15, 16 and 17-year-old boys.

Defendant has no prior adjudicated record. In view of the age of the youngest minor and the number of minors involved, I shall suspend defendant's license for a period of forty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty days. Cf. Re Critelli, Bulletin 956, Item 4.

Accordingly, it is, on this 11th day of February, 1953,

ORDERED that Plenary Retail Consumption License C-293, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Martha Goltsch, Administratrix Estate of Erwin Goltsch, 1717 Hudson Blvd., Jersey City, be and the same is hereby suspended for a period of forty (40) days, commencing at 2:00 a.m. February 18, 1953, and terminating at 2:00 a.m. March 30, 1953.

DOMINIC A. CAVICCHIA  
Director.

5. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE AND LANGUAGE) - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against SEIDLER'S BEACH, INCORPORATED T/a SEIDLER'S BEACH INCORPORATED Seidler's Beach Madison Township (Middlesex County) P.C. Cliffwood, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Madison (Middlesex County).

Seidler's Beach, Incorporated, Defendant-licensee, by Jacob C. Forbes, President. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On Saturday night, January 17, 1953, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, in that a female entertainer performed in a lewd, indecent and immoral manner and a male entertainer recited stories and uttered words and phrases having lewd, lascivious, indecent, filthy, disgusting and suggestive import and meaning; in violation of Rule 5 of State Regulations No. 20."

The file herein discloses that at 10:00 p.m. on January 17, 1953, ABC agents visited defendant's licensed premises and took seats at the bar. A short time thereafter, Jacob C. Forbes, president of defendant corporation, came over to the ABC agents and engaged in conversation with them concerning the business. At about 10:45 p.m., the ABC agents left Jacob C. Forbes, entered the "Rose Room" and sat at a table near the raised platform provided for use by the entertainers.

At 11:00 p.m. a five-piece orchestra began to play and a master of ceremonies recited jokes and stories, which were "double entendre" with allusions to sex and broadly suggestive in their context. After the presentation of a male singer, who rendered unobjectionable selections, a female dancer wearing a robe was introduced by the master of ceremonies. After completing a few steps back and forth on the platform, she removed the outer garment. Her attire then consisted of a bra with tassels attached thereto and a pair of small black panties with a white fringe. Her dance consisted of bumps and grinds, getting down on the floor in a prone position and moving her body in such a manner as to simulate sexual intercourse. In response to an encore, she sidled up to the master of ceremonies, faced him, and repeated the bumps and grinds until she appeared to be exhausted. The patrons indicated their approval of her performance with loud applause. Such "shows" have no place on licensed premises. Re Bajewicz, Bulletin 902, Item 4. Entertainment upon licensed premises must be of such character as not to be inimical to the public welfare and morals or the best interests of the alcoholic beverage industry. Re DiAngelo, Bulletin 753, Item 4.

Jacob C. Forbes, president of defendant-corporation, contends in mitigation of penalty that, although he did not see the show on the night in question, he saw part of it the night before, which was

the first performance thereof that he then discharged another female entertainer despite the existence of a three-week contract with her because he felt her performance was improper on licensed premises; and that he discharged the master of ceremonies immediately after the ABC agents told what had occurred on the evening in question. He further said that he followed the advice of the ABC agent and told the female dancer who performed on the evening in question to delete the objectionable part of her act. Regardless of the fact that Jacob C. Forbes did not witness the entertainment under consideration, a licensee is fully responsible for the conduct of the entertainers upon the licensed premises. Re Primiceri, Bulletin 916, Item 3, citing Guastamachio v. Brennan, 128 Conn. 356, 23 A 2nd 140 (Sup. Ct. of Err. Conn. 1941); Re Hyett, Bulletin 947, Item 2.

Defendant has no prior adjudicated record. Under the circumstances I shall suspend defendant's license for a period of thirty days. Re Bajewicz, supra; Re Corma, Bulletin 913, Item 4; Re Primiceri, supra; Re The MLC Corporation, Bulletin 934, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 19th day of February, 1953,

ORDERED that Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Madison (Middlesex County) to Seidler's Beach, Incorporated, t/a Seidler's Beach Incorporated, Seidler's Beach, Madison Township (Middlesex County), be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. February 26, 1953, and terminating at 2:00 a.m. March 23, 1953.

DOMINIC A. CAVICCHIA  
Director.

6. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

LEEDS AND LIPPINCOTT COMPANY )  
T/a CHALFONTE-HADDON HALL )  
n/e & n/w cors. No. Carolina )  
Ave. & Boardwalk )  
Atlantic City, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-169, issued by the Board of Commissioners of the City of Atlantic City. )  
- - - - - )

Moore, Butler & McGee, Esqs., Attorneys 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 August 11, 1952, you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, alcoholic beverages in bottles which bore labels which did not truly describe their contents, viz.,

One 4/5 quart bottle labeled 'Canadian Club Blended Canadian Whisky 90.4 Proof',

One 4/5 quart bottle labeled 'Cutty Sark Blended Scots Whisky 86 Proof',

One 4/5 quart bottle labeled 'Grant's Blended Scotch Whisky 8 years old 86 Proof',

One 4/5 quart bottle labeled '21 Brands Club Special Blended Whisky 86 Proof' and

One 4/5 quart bottle labeled 'Imperial Hiram Walker's Blended Whisky 86 Proof',

in violation of Rule 27 of State Regulations No. 20.

The file herein discloses that on August 11, 1952, an ABC agent, accompanied by William M. Pitcairn, employed as chief steward by defendant, tested twenty opened bottles at the "Peacock" bar of defendant's premises and seized the five bottles mentioned in the charge after his preliminary test indicated that the contents thereof were not genuine as labeled. The agent and the chief steward then went to the service bar, where the agent tested twelve opened bottles of alcoholic beverages and found all of them to be genuine as labeled. Thereafter the agent and the chief steward went to the main bar, where the agent tested forty opened bottles of alcoholic beverages and found all of them to be genuine as labeled. At the time of the seizure the chief steward stated that the help is very well treated, and that there was no apparent reason for anybody to tamper with the contents of the seized bottles. Subsequent analysis by the chemist employed by this Division indicated that the contents of three of the seized bottles were substantially lower in proof and varied slightly in acids and solids from contents of genuine bottles of the same products. His analysis also disclosed that the contents of the other two seized bottles were only slightly lower in proof and varied only to a slight degree in acids and solids from the contents of genuine bottles of the same product.

In attempted mitigation the attorneys for defendant have advised me that a private investigator has been employed to discover the method by which the violation occurred, and state that "Presently our best information is that a night cleaner, or some other employee, by means unknown, secured access to these bottles and took a drink, or few drinks from each, replacing the amount consumed with water." Nevertheless, a licensee is held strictly accountable for any "refills" found upon his licensed premises.

Defendant has no prior adjudicated record. Since no aggravating circumstances appear, I shall suspend defendant's license for twenty-five days, which is the minimum penalty imposed in cases involving five bottles. Re Levin, Bulletin 883, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 17th day of February, 1953,

ORDERED that Plenary Retail Consumption License C-169, issued by the Board of Commissioners of the City of Atlantic City to Leeds and Lippincott Company, t/a Chalfonte-Haddon Hall, for premises at n/e & n/w cors. No. Carolina Ave. & Boardwalk, Atlantic City, be and the same is hereby suspended for twenty (20) days, commencing at 7:00 a.m. February 24, 1953, and terminating at 7:00 a.m. March 16, 1953.

DOMINIC A. CAVICCHIA  
Director.

7. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

RICHARD MORRISROE  
605 Ocean Avenue  
Jersey City 5, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-34, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Richard Morrisroe, Defendant-licensee, Pro Se.  
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that he sold and delivered alcoholic beverages at retail in original containers for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that on Thursday, January 29, 1953, at about 12:45 a.m., an ABC agent purchased from a bartender in defendant's premises three bottles of beer to take home. The bartender placed the bottles in a paper bag and handed the bag to the agent who left the premises after paying for the beer. Shortly thereafter the agent returned to the licensed premises and he and a companion ABC agent identified themselves to the bartender who verbally admitted the sale.

Defendant has a prior record. Effective January 22, 1951, the local issuing authority suspended his license for a period of three days for selling alcoholic beverages to minors. The minimum penalty for a violation of this type consists of a suspension of the license for a period of fifteen days. Re Cohen, Bulletin 945, Item 14. In view of the prior record of defendant, I shall suspend his license in this case for a period of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 20th day of February, 1953,

ORDERED that Plenary Retail Consumption License C-34, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Richard Morrisroe, for premises 605 Ocean Avenue, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. March 2, 1953, and terminating at 2:00 a.m. March 17, 1953.

DOMINIC A. CAVICCHIA  
Director.

8. DISCIPLINARY PROCEEDINGS - SALE AND DISPLAY OF ALCOHOLIC BEVERAGES IN ORIGINAL CONTAINERS FOR OFF-PREMISES CONSUMPTION NOT IN PUBLIC BARROOM BY HOLDER OF PLENARY RETAIL CONSUMPTION LICENSE WITHOUT HAVING BROAD PACKAGE PRIVILEGE - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against )

FALLER BOWL O'DROME, INC. )  
872 River Road )  
New Milford, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Borough Council of the Borough of New Milford. )

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Faller Bowl O'Drome, Inc., by Joseph Pecorella, Pres.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded non vult to the following charges:

"1. On August 7, 1952, and prior thereto, you sold alcoholic beverages in original containers for off-premises consumption not from the public barroom of your licensed premises without having notation (the so-called 'broad package privilege') on your then current license certificate and statement in the application for your then current license as respectively set forth in Rules 4 and 2 of State Regulations No. 32; in violation of Rule 6 of State Regulations No. 32.

"2. On August 7, 1952, and prior thereto, you sold and displayed for sale alcoholic beverages in original containers for consumption off the licensed premises not in the public barroom of your licensed premises; in violation of P. L. 1948, ch. 98 (R. S. 33:1-12.23)."

The file herein discloses that on August 7, 1952, an ABC agent purchased an alcoholic beverage in its original container (bottle) for off-premises consumption, in a section of the licensed premises which was substantially separated from the public barroom and lobby by folding doors and partitions. The section of the licensed premises in which the purchase was made contained a display window, two counters and various types of racks and shelves. Alcoholic beverages in original containers were displayed for sale in the window and on the counters, racks and shelves.

Defendant's plenary retail consumption license certificate bears no notation authorizing sale of alcoholic beverages in original containers from portions of the licensed premises other than the public barroom (i.e., defendant has no so-called "broad package privilege"), nor was any claim of right thereto made in the application for license. Defendant admitted that sales of package goods had been made in what it designates as the "package department" since February, 1952, when it commenced business.

P. L. 1948, ch. 98 (R. S. 33:1-12.23), effective May 28, 1948, provides, inter alia, that:

"The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises ..."

A barroom means "that portion included within the four walls of the room in which the bar is located." Coral Lounge and Cocktail Bar, Inc. v. Hock, 5 N. J. Super. 163, 167.

An ABC agent assigned to make an inspection of defendant's premises has reported that the partitions formerly used to separate the "package department" from the barroom and lobby have been removed. However, the Division's records disclose that prior to the construction of defendant's licensed premises, defendant inquired as to the permissibility of a method of operation substantially similar to that ultimately undertaken, and was explicitly informed by a staff member that such operation was not permissible. Notwithstanding such information, defendant proceeded to set up its unlawful operation in a manner that must be considered a wilful and deliberate violation of the applicable law and regulations. Furthermore, when complaint of defendant's apparently unlawful operation was received and investigated by the Division, defendant was, on April 18, 1952, advised that the operation was unlawful and directed to alter the interior of the licensed premises to make it comply with the law and regulations. The file discloses that despite numerous reiterations of the Division's demand that the situation be corrected forthwith, there was a protracted delay before compliance. Not until after the charges herein were preferred and the non vult plea entered did defendant at long last (in September 1952) correct the unlawful condition.

Had the correction been made within a reasonable time after construction, I would be inclined (even despite the preconstruction admonition given the licensee as aforesaid) to forgive the violation and impose no penalty. But the licensee's persistent disregard of the repeated admonition conclusively demonstrates a motivation not of good faith but of careful calculation to postpone compliance to the point where the Division's demand might somehow ultimately abate. This conduct was deliberate and therefore contumacious. From the standpoint of effective enforcement and control, it must not go unpunished. Cf. Re D'Addetta, Bulletin 561, Item 10.

In admeasuring penalty, however, I shall take into account (a) the fact that defendant has no prior adjudicated record, and (b) the confessional plea entered herein. Under the circumstances I shall suspend the license for a period of ten days.

Accordingly, it is, on this 17th day of February, 1953,

ORDERED that Plenary Retail Consumption License C-3, issued by the Borough Council of the Borough of New Milford to Faller Bowl O'Drome, Inc., 872 River Road, New Milford, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. February 24, 1953, and terminating at 2:00 a.m. March 6, 1953.

DOMINIC A. CAVICCHIA  
Director.

9. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD OF ONE OF PARTNERS NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

RUDOLPH SEAKER & WM. DAVIS  
T/a TERMINAL BAR  
421 George St.  
New Brunswick, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-65, issued by the Board of Commissioners of the City of New Brunswick.

Rudolph Seaker & Wm. Davis, Defendant-licensees, Pro Se.  
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants 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 alcoholic beverages by said minors on their licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that; during the course of an investigation, Lloyd ---, 20 years of age, and Edward ---, 19 years of age, gave to ABC agents separate statements wherein they said that they had entered defendants' licensed premises on Sunday, January 4, 1953, at about 2:00 p.m.; that Lloyd purchased two or three glasses of beer for himself and two or three glasses of beer for Edward from William Davis, one of the defendants herein, and that each of the minors consumed the beer which was then served to them. On January 16, 1953, the agents accompanied the minors to defendants' premises and they identified the premises as the place in which the beer had been purchased, and further identified William Davis as the person who had made the sale, service and delivery of the beer. On January 16, 1953, William Davis denied that the minors had been in the licensed premises on January 4, 1953.

Rudolph Seaker and William Davis have been conducting the licensed business as partners for a period of approximately two years. As partners they have no prior adjudicated record. However, in 1937 a license then held by Rudolph A. Seaker and John R. Lyons, for premises at 145 Albany Street, New Brunswick, was suspended by the local issuing authority for seven days on a charge of selling alcoholic beverages during prohibited hours, in violation of local regulations, and on January 27, 1943, the Commissioner of Alcoholic Beverage Control suspended a license then held by Rudolph A. Seaker individually, for premises at 145 Albany Street, New Brunswick, for a period of sixty days after he had pleaded non vult to charges alleging that he had sold alcoholic beverages to persons actually or apparently intoxicated. See Re Seaker, Bulletin 551, Item 6. Since the prior violations were of a dissimilar character and occurred more than five years ago, I shall not consider them in fixing a period of suspension in this case. I shall suspend defendants' license for a period of ten days, which is the minimum period of suspension imposed in a case of this kind. Re Watters, Bulletin 954, Item 9. Five days will be remitted for the plea, leaving a net suspension of five days.

Accordingly, it is, on this 13th day of February, 1953,

ORDERED that Plenary Retail Consumption License C-65, issued by the Board of Commissioners of the City of New Brunswick to Rudolph Seaker & Wm. Davis, t/a Terminal Bar, for premises 421 George Street, New Brunswick, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. February 23, 1953, and terminating at 2:00 a.m. February 28, 1953.

DOMINIC A. CAVICCHIA  
Director.

10. STATE LICENSES - NEW APPLICATIONS FILED.

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

Application filed March 3, 1953 for transfer of Transportation License from David Miller, t/a Miller Motor Haulage.

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

Application filed March 3, 1953 for transfer of Public Warehouse License from David Miller, t/a Miller Motor Haulage.

Sunshine Brewing Co.  
West Elm & Gordon Streets  
Reading, Pa.

Application filed March 4, 1953 for transfer of Limited Wholesale License from Sunshine Brewing Co. (different corporation)

*Dominic A. Cavicchia*  
Dominic A. Cavicchia  
Director.