

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

BULLETIN 1475

October 2, 1962

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(Gloucester City)

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

October 2, 1962.

BULLETIN 1475

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (ROOM RENTING) - SALE TO MINORS - LOTTERY (RAFFLE) - ALLEGED ENTRAPMENT - LICENSE SUSPENDED FOR 205 DAYS.

In the Matter of Disciplinary
Proceedings against

HIGHLANDER HOTEL CORP.
t/a HIGHLANDER HOTEL CORP.
1 Navesink Avenue
Highlands, New Jersey

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-26, issued by the Borough
Council of the Borough of Highlands.

Reussille, Cornwell, Mausner & Carotenuto, Esqs., by John A. Flood, Jr.,
Esq., Attorneys for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The licensee pleaded not guilty to the following charges:

- '1. On February 9, 10, 16 and 17, 1962, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of arrangements for the renting of rooms, the offering to rent and the renting of rooms for the purpose of illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20.
- '2. On February 17, 1962, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly to a person under the age of twenty-one (21) years, viz., Judi ---, age 19, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.
- '3. On February 9, 1962, you allowed, permitted and suffered tickets and participation rights in a lottery, viz., a "raffle" or "drawing" for a prize of merchandise, to be sold or offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20.'

"To substantiate the charges, the Division called as its witnesses Judith --- (age 19) and three ABC agents hereinafter referred to as Agents S, G and F.

"Agent S testified that pursuant to an assignment to investigate a specific complaint that the licensee was renting rooms for immoral purposes and selling alcoholic beverages to minors, he and Agent G visited the licensed premises at about 9:10 p.m. on February 9, 1962; that the licensed premises consists of a three-storied hotel, on the ground floor of which is a barroom with an entrance into the lobby of the hotel; that he and Agent G entered the barroom and took seats at the bar which was being tended by John Overton; that Robert Horan, another bartender, was observed behind the desk in the lobby; that he and Agent G engaged in a few games of shuffle alley with Overton; that Overton sold him a chance for \$1 in a raffle for a box of candy on display in the premises and informed him that the drawing would take place on Valentine's Day; that at about 9:40 p.m., he asked Overton 'Could we bring a couple of "broad"s up here some night to rent a couple of rooms to get laid?'; that Overton replied 'Well, I'm only the bartender. I don't see anything' and then stated that Horan handled that end of the business.

"Agent S further testified that Horan relieved Overton behind the bar; that he made the same inquiry of Horan; that Horan stated that he and Agent G could have the rooms for their stated immoral purposes 'as long as you sign as husband and wife, who's going to know what you're doing'; that Horan quoted a price of \$3 for a single room and \$6 for a double room; that at about 12:55 a.m., prior to leaving the premises, he informed Horan that they may return on Wednesday and that Horan replied that they would be accommodated.

"Agent S further testified that at 11:20 p.m. on Friday, February 16, 1962, he and Agent G, together with Agent E, arrived in the vicinity of the licensed premises; that he and Agent G entered the barroom; that he was in possession of two 'marked' \$5 bills and two 'marked' \$1 bills; that Overton and Horan were tending bar; that Robert Harney, manager and waiter, was in the kitchen; that after seating themselves at the bar, he asked Overton about the raffle and learned that the drawing had not yet taken place; that Overton recognized them as patrons who had visited the premises on February 9-10 aforesaid; that he stated to Overton that he and Agent G contemplated renting two rooms for the night; that 'We're going to call up a couple of married broads to get laid. Maybe we'll get a room later on', to which Overton replied 'Good deal'; that shortly thereafter Agent G called Horan's attention to a particular female patron in the premises; that Horan stated that 'she's a married woman, somebody's wife'; that in response thereto, he (Agent S) stated 'Well, we're going to call up somebody's wife tonight and we're going to have them come down and we want to rent a couple of rooms to get laid'; that he would have to find out first if the 'girls' were available; that Horan stated he had rooms for them at the prices quoted on their previous visit and recommended that they use separate rooms with double beds at \$6 per room.

"Agent S further testified that at about midnight, February 16, 1962, following the aforesaid discussion, he observed an apparent female minor (later identified as Judith ---, age 19) enter the barroom in the company of a male adult (later identified as Tony Swain); that the couple took seats in a booth opposite the center of the bar; that Swain walked to the bar and spoke with Overton who handed him two nip bottles of beer and a glass; that Swain carried the two bottles of beer and the glass to the table, poured some of the contents of one of the bottles into the glass and gave it to Judith; that he observed Judith slowly consume some of the beer; that at about 12:50 a.m. Overton brought two additional nip bottles of beer to the booth, placed them on the table and received payment therefor from Swain; that Swain again poured part of the contents of one of the bottles into the glass which was in front of Judith and that he observed Judith consume a portion of her drink.

"Agent S further testified that in the interim (at 12:30 a.m. and again at 1:00 a.m.) Agent G, on a pretense of calling the two married

women, made two calls to Agent F from a telephone booth; that after each call, Agent G rejoined him and Overton (seated at the bar) and Horan (behind the bar); that after his first call Agent G informed Horan and Overton that he would have to call back at 1:00 a.m., at which time the 'girls' would let him know whether they would be free to come to the hotel; that in response thereto, Overton stated 'When you get fixed up I'll take care of you, make your arrangements'; that following the second call Agent G informed Horan and Overton that the 'girls' would arrive in the lobby in twenty minutes, that they would ask for 'Frank' and 'Dan' and would he (Overton) show them to the rooms.

"Agent S further testified that Overton then escorted him and Agent G to the third floor of the premises, gave him the key to room number 23, handed Agent G the key to room number 24 and stated that 'nobody will bother you up here. You are all alone up here'; that he and Agent G returned to the lobby and, in the presence of Overton and with his knowledge and approval, entered fictitious names in the hotel register, at which time he also paid Overton for the room with the four 'marked' bills; that the trio then proceeded to the barroom; that he and Agent G ordered two mixed drinks apiece and carried them to their respective rooms.

"Agent S further testified that at about 1:25 a.m. he heard a knock on his door and a command, 'Open up'; that he opened the door of his room, in front of which he observed Agent F, Horan and two local police officers; that in response to questioning by Agent F, he stated that he had rented the room to engage in meretricious relations with a married woman; that he had informed Horan to that effect prior to renting the room; that he had paid Overton \$6 for the use of his room and \$6 for Agent G's room and that one of the drinks on the table was for his 'girl'; that the aforesaid group, together with Overton (who had been summoned by Horan), proceeded to room number 24; that Agent F interrogated Agent G in like manner and received answers similar to those given by him, following which he and Agent G identified themselves and the entire group proceeded to the barroom; that Agent F recovered the four 'marked' bills which were found in the cash register; that Overton admitted that he had rented the rooms to him and Agent G for immoral purposes, admitted that a raffle was being conducted on the licensed premises and admitted the sale and service of the beer, as testified by him.

"On cross-examination Agent S reiterated the pertinent parts of his testimony on direct examination.

"Agent G was examined by the Division's attorney and substantially corroborated the testimony of Agent S with respect to his interrogation by Agent F in the doorway of his room (number 24) on the morning in question.

"In addition, it was stipulated by counsel that if Agent G were further examined, his testimony on direct and cross-examination would corroborate the testimony of Agent S in all other respects. It was also agreed that the licensee's attorney would be permitted to cross-examine Agent G with respect to charges 2 and 3 herein.

"On cross-examination Agent G testified that he did not question Judith and that, on February 9th aforesaid, Overton put the \$1 he had received from Agent S for the raffle on a shelf in back of the bar.

"Agent F testified that at about 1:20 a.m. on February 17, 1962, he and two local police officers entered the licensed premises; that he observed Judith (identified at the hearing) and Swain seated at a table on which there were two seven-ounce nip bottles of Schaefer beer and a partially filled glass of beer in front of Judith; that he questioned Judith; that Judith stated that she was 19 years of age and that she had consumed a portion of her drink, following which he seized the glass of beer and identified himself to Overton and Horan. In addition, Agent F

substantially corroborated the pertinent parts of Agent S's and Agent G's testimony with respect to the events which took place on the premises shortly after his arrival therein at 1:20 a.m. on the morning in question.

"On cross-examination Agent F testified that on February 17th aforesaid, Agent G called him at 12:30 and 1:00 a.m.; that in the second call Agent G informed him that the arrangements for the use of the rooms had been completed; that he and Agent S would be in the respective rooms; and that there was an apparent minor consuming beer at one of the tables in the barroom.

"Judith, in behalf of the Division, testified that she was born on September 18, 1942 and, hence, was 19 years of age at the time of the alleged violation.

"As a witness for the licensee, Judith testified that she and Swain entered the licensee's barroom on the night of February 16th aforesaid; that they sat at a table in a booth; that Swain brought two nip bottles of beer and a glass to their table; that some time later the bartender brought two more nip bottles of beer to the table; that the beer was for the personal consumption of Swain but that on two occasions she had consumed a portion of the beer.

"The attorney for the licensee has submitted a memorandum in which he sets forth extracts of the testimony, from which it is argued:

"A. Neither the licensee nor its manager, Mr. Harney, knew of the bartender's activities with respect to the raffle nor received any monies therefrom. However, licensees are duty bound to exercise close supervision over their licensed premises and violations occurring therein cannot be excused merely because they had no personal knowledge of them. Rule 33 of State Regulation No. 20. Essex Holding Corp. v. Hock (Sup. Ct. 1947), 136 N.J.L. 28.

"B. With respect to the second charge that since the Division testimony and the minor's testimony were not contradictory, but were explanatory of each other and as such, the evidence produced by the Division is consistent with and dictates the dismissal of the charge. The evidence however, is clear that the minor consumed a portion of the beer served to her adult companion. See Essex Holding Corp. v. Hock, supra.

"C. As to the first charge, the evidence of the agents on direct and cross-examination shows an entrapment with the legal result that the licensee cannot be found guilty of this charge. In support of its contention that the course of conduct pursued by the agents constituted entrapment, licensee cites the case of State v. Rosenberg, 37 N.J. Super. 197 (App. Div. 1955). The cited case is an appeal from a criminal conviction and, in his opinion, Judge Francis, commenting on the defense of the entrapment, states that: 'Generally, it may be said that where a police officer "envisages a crime, plans it, and activates its commission by one not theretofore intending its perpetration" for the purpose of providing a victim for prosecution, the defense is available.' (Under-scoring mine.) However, it should be borne in mind, as pointed out by Judge Jayne in In the Matter of the Appeal of Sam Schneider, 12 N.J. Super. 449 (App. Div. 1950), that: 'We are dealing here with a purely disciplinary measure and its alleged infraction' and that such measures are civil in nature and not criminal. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948). I find no evidence indicating that the agents engaged in trickery, persuasion or fraud to induce licensee's employees to commit an unlawful act. Their method of investigation was routine and merely afforded the employee an opportunity to commit the violation charged. The agents neither envisaged a crime nor did they intend that the employees perpetrate an indictable offense. Moreover, it is my opinion that the defense of entrapment is not available in these proceedings.

"It is significant to note that neither of the bartenders was called as a witness by the licensee.

"After reviewing the evidence and the memorandum submitted by the licensee's attorney, and without considering any of the exhibits placed in evidence by the Division, I conclude that the Division has established the truth of the charges 1, 2 and 3 herein by a fair preponderance of the believable evidence. I recommend that the licensee be found guilty on said charges.

"The licensee has no prior adjudicated record. It is further recommended that an order be entered suspending the license for one hundred eighty days on charge 1 (Re Petrucelli, Bulletin 1387, Item 3), for fifteen days on charge 2 (Re Sabo, Bulletin 1449, Item 3) and for ten days on charge 3 (Cf. Re Gorda, Bulletin 1331, Item 10), making a total suspension of two hundred five days."

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

Having carefully considered the record herein, including the transcript of the proceedings, the memorandum filed with the Hearer by licensee's attorneys and the Hearer's Report, I concur in the findings and conclusion of the Hearer and adopt his recommendation. Hence, I find the licensee guilty as charged.

Accordingly, it is, on this 6th day of August, 1962,

ORDERED that Plenary Retail Consumption License C-26, issued by the Borough Council of the Borough of Highlands to Highlander Hotel Corp., t/a Highlander Hotel Corp., for premises 1 Navesink Avenue, Highlands, be and the same is hereby suspended for two hundred five (205) days, commencing at 3:00 A.M. Monday, August 13, 1962, and terminating at 2:00 A.M. March 6, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - YARMCHUK v. PATERSON AND CLANCY.

Andrew Yarmchuk,)

Appellant,)

v.)

Board of Alcoholic Beverage)

Control for the City of)

Paterson, and John Patrick)

Clancy, t/a Clancy's)

Respondents.

ON APPEAL
CONCLUSIONS
AND ORDER

Martin Verp, Esq., Attorney for Appellant.

Theodore D. Rosenberg, Esq., by William J. Rosenberg, Esq.,
Attorney for Respondent Board.

Harold R. Sandford, Esq., Attorney for Respondent Clancy.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Board which, by resolution dated May 15, 1962, unanimously granted an application for a person-to-person and place-to-place transfer of plenary retail consumption license C-156 from Mary Smith, t/a Smitty's Bar & Grill, to John Patrick Clancy, t/a Clancy's, and from premises 1107 Madison Avenue to 65 North Straight Street, Paterson, upon condition that the transfer shall not become effective unless and until the proposed alterations are completed in accordance with recommendations by the Fire, Health and Building Departments of the City of Paterson.

"The petition of appeal alleges that the action of respondent Board was erroneous, improper and contrary to the interest of the public and in violation of the principle and spirit of said statute.'

"When the matter came on for hearing, Robert H. Chester (appearing as attorney for the Passaic County Retail Liquor Dealers' Association, not a party to these proceedings) was given permission to examine witnesses for the Association which, it was alleged, objected to the transfer of the license in question.

"Appellant's attorney then called the secretary of respondent Board who, pursuant to a subpoena, produced the minutes of the May 15, 1962, meeting of respondent Board at which respondent Clancy's application was considered, and the minutes of the January 12, 1962, meeting of the Board at which an application for a person-to-person and place-to-place transfer of a plenary retail consumption license from Willie Pross, t/a Willie's Tavern, to Butler, Inc., and from premises 30 N. West Street to premises 85-87 North Main Street, Paterson, was considered and denied.

"The minutes of both meetings were received in evidence to substantiate the contention of appellant's attorney that, since respondent Board, in considering the Butler, Inc. application, went on record establishing that the premises to which the applicant sought to transfer the license are in an area well served by taverns and package stores, and because the Clancy premises to which the license was transferred are in the same area, the Board thereby abused its discretionary powers in granting the Clancy application.

"Appellant's attorney then called Aaron Jacobs who testified that he operates a package liquor store at 107 North Main Street; that the Clancy premises are 'in a direct line, 200 feet; if you were to cross corners it would be 235 to 250 feet from my store;' that '65 North Straight Street happens to be part of the building of 134 North Main Street' and that he is opposed to the transfer in question for financial reasons. A map prepared by Mr. Jacobs, indicating the approximate locations of and distances between the licenses issued and outstanding in the vicinity of the premises to which the transfer was granted to Clancy, was received in evidence without objection.

"Upon completion of Mr. Jacobs' testimony, appellant's attorney stated that the appellant was not present because 'he was ill, and I felt that I certainly could not bring him here.' Neither the appellant nor anyone on behalf of the Passaic County Retail Liquor Dealers' Association appeared before the local issuing authority when the Clancy application was considered, and no witnesses for said Association were produced at the hearing on appeal.

"Rule 10 of State Regulation No. 15 provides, in part, that 'The failure of the appellant to appear at the time and place designated for the hearing of an appeal shall be cause for the dismissal of the appeal.' However, since Rule 15 of the aforesaid Regulation provides that the

rules may be relaxed where a strict adherence to them will result in injustice and since appellant's attorney raised a question respecting the impropriety of the Board's action in granting the Clancy application, I resolved that the appeal should be heard as to its merits and allowed appellant's attorney to further prosecute this appeal.

"Respondent Clancy was called on behalf of appellant and testified that the premises to which the transfer of the license was granted are on North Straight Street in a building part of which borders on North Main Street. Appellant's attorney then rested and the attorneys for the respondents moved to dismiss the appeal on the grounds that appellant failed to prove the allegations set forth in appellant's petition of appeal, i.e., that the action of respondent Board was improper and contrary to the interests of the public. Decision on the motion was reserved and, when respondents decided to rest on their motion to dismiss, each of the attorneys who appeared at the hearing was afforded an opportunity to sum up.

"It appears from the minutes of respondent Board at which the Butler, Inc. application was considered that the attorney representing the applicant stated that, in view of the 'strenuous objections,' his client wished to withdraw his application without prejudice. The Committee, however, continued to hear further objections, after which Commissioner Cheevers stated 'The Board has conducted a thorough investigation of the area, and we find within a two block radius of the proposed tavern, there are already situated seven taverns and two package stores. A motion would be in order to deny this application.' Commissioner Weisser so moved and it was seconded by Commissioner Pasquariello. On roll call all three Commissioners voted in the affirmative, and thereafter Commissioner Weisser stated that 'the area is well serviced by taverns and package stores at the present time.'

"It appears from the meeting of respondent Board, at which the Clancy application was considered, that appellant's attorney appeared on behalf of his client and submitted a petition (signed by sixty-four persons) which was circulated on behalf of the North Main Street Businessmen's Association by its President who owns a building directly across from Clancy's proposed premises and two other buildings in the area housing licensed premises; that appellant's attorney stated that in the North Main Street matter the Board went on record that it would not allow another tavern in the North Main Street area and that 'the people who have signed the petition have not come here tonight because of the fact that they were of the opinion that the Board would not license another tavern in that area.' It further appears that, when the Board reconvened after a recess, Commissioner Weisser stated that the Board had carefully considered the Clancy application and had examined the minutes of the meeting of January 12 and nowhere in those minutes did they find the statement by Mr. Verp indicating that the Board would not approve the location of another tavern in that area. 'We find that the next tavern is two blocks away from these proposed premises and there are only two taverns situated within a two block radius of the premises. This is actually a hardship case and we must face reality. In this instance, an individual's business would be wiped out by the march of progress. Mr. Clancy comes before this Board well recommended, and we will not foreclose on his chance to earn a livelihood.' Commissioner Weisser then proposed the following resolution which was unanimously adopted:

'WHEREAS, an application has been filed for a person-to-person and place-to-place transfer of Plenary Retail Consumption License C-156, heretofore issued to Mary Smith, t/a Smitty's Bar & Grill, 1107 Madison Avenue, Paterson, New Jersey, to John Patrick Clancy, t/a Clancy's, 65 North Straight Street, Paterson, New Jersey; and,

'WHEREAS, certain alterations are to be made at the premises situated at 65 North Straight Street, Paterson, New Jersey; NOW, THEREFORE,

'BE IT RESOLVED, that the above application is hereby granted, but on the special condition that the transfer shall not become effective or be endorsed on the license certificate until and unless the proposed alterations are completed in accordance with the recommendations stipulated by the Fire, Health and Building Departments of the City of Paterson.'

"It has been held consistently that the number of licensed premises to be permitted in any particular area is a matter confided to the sound discretion of the local issuing authority and that the Director's function on appeal is to determine whether reasonable cause exists for the issuing authority's determination and, if so, to affirm its action. Jacobs v. Newark et al., Bulletin 1398, Item 4, and cases cited therein.

"Considering the evidence adduced herein, I find that the statement made by Commissioner Weisser after respondent Board had considered and denied the Butler, Inc. application cannot be construed as an adoption by the issuing authority of a bona fide and uniform policy binding upon it; that reasonable cause existed for the granting of respondent Clancy's application; that the members of respondent Board were not improperly motivated or abused their discretionary powers, and that no evidence was presented to indicate that respondent Clancy was an unfit person to hold a liquor license. I conclude, therefore, that appellant failed to sustain the burden imposed upon him of establishing that the action of respondent issuing authority was erroneous, and I recommend that the action of respondent Board of Alcoholic Beverage Control for the City of Paterson be affirmed on the merits and that the appeal herein be dismissed."

Written exceptions to the Hearer's Report and written argument in substantiation of the exceptions were filed with me by appellant's attorney pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the record herein, including the transcript of the testimony, the exhibits, the Hearer's Report and the exceptions and argument with respect thereto, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 9th day of August, 1962,

ORDERED that the action of respondent Board of Alcoholic Beverage Control for the City of Paterson be and the same is hereby affirmed and that the appeal herein be dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (APPARENT HOMOSEXUALS) - LICENSE SUSPENDED FOR 100 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

FOUR CORNERS BAR (A CORP.))
 185 Market Street)
 Newark 2, New Jersey)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption)
 License C-801, issued by the Municipal)
 Board of Alcoholic Beverage Control of)
 the City of Newark.)

 Jack L. Cohen, Esq., Attorney for Licensee.

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

BY THE DIRECTOR:

Licensee pleaded non vult to the following charge:

"On April 5, 11, 13, 29, and May 4, 1962, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises and allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance, viz., in that you allowed, permitted and suffered persons who appeared to be homosexuals, e.g., males impersonating females, in and upon your licensed premises; allowed permitted and suffered such persons to frequent and congregate in and upon your licensed premises; allowed, permitted and suffered such persons to make overtures for and arrangements with other male patrons and customers for acts of perverted sexual relations; allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene language and conduct by such persons and by others in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

The agents found similar conditions on all five dates and the raid of these premises was made on May 4, 1962 by Newark City Police with the cooperation of ABC agents.

Counsel for the licensee has submitted a memorandum in support of his plea for mitigation of penalty, in which he argues the following: (1) that the licensee has made a "conscientious and reasonable effort, under difficult circumstances, to operate its premises in full compliance with applicable law and regulations"; (2) that the licensee did not itself allow and permit the prohibited conduct; and (3) that special consideration should be given to it because it has a large operation and would suffer more than would a smaller "neighborhood tavern".

My examination of the agents' reports convinces me that an unsatisfactory effort, if any, was made by the licensee to operate its premises consistent with the volume of its business. It is apparent that there was insufficient policing at these premises where it is admitted that there were at all times between 100 and 150 patrons present. Moreover,

the reports indicate that overtures were made to ABC agents to engage in perverted sexual acts; that the activities charged were of long duration, and that homosexuals had frequented these premises for "about a year". David Kaplan, vice-president and major stockholder of licensee, admitted that he was aware of these conditions and stated, "but what can I do?"

The file further indicates that while the stockholders themselves did not participate in the prohibited conduct, it is apparent that not only the above named corporate officer, but the bartenders and the special police officer employed by the licensee, were well aware of the activities complained of and acquiesced in the conduct and continuation of these activities.

With respect to the contention that licensee conducts a substantial operation with high fixed expenses, it should be pointed out that the fact that it does a large business, from which it presumably makes commensurate profits, is not a reason why, when it violates the law, it should not be punished by an interruption of the license, by grace of which the business is done. CF. Grant Lunch Corporation v. Driscoll, 129 N.J.L. 408, 29 Atl. 2nd 888, aff'd 130 N.J.L. 554, 33 Atl. 2nd 900, cert. denied 64 Sup. Ct. 431, 320 U.S.801.

Oral argument is unnecessary, and the request of counsel for the licensee for same is accordingly denied. My consideration of the facts and circumstances in this case, including the memorandum of counsel, the reports of the agents and the file in the case, satisfies me that mitigation of the established penalty imposed in similar cases is unwarranted.

Licensee has no prior adjudicated record. However, it should be noted, although not considered in fixing penalty because the offense occurred more than ten years ago, that when David Kaplan and Helen Kaplan, stockholders of 50 per cent of the outstanding stock of the within licensee, were licensees of premises at 23½ Halsey Street, Newark, their license was suspended for fifty days by the local issuing authority, effective February 21, 1946, for violation of Rule 7 of State Regulation No. 20. Under the circumstances appearing herein, I shall suspend licensee's license for a period of one hundred days. Re Markowitz, Bulletin 1371, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of ninety-five days.

Accordingly, it is, on this 6th day of August, 1962,

ORDERED that Plenary Retail Consumption License C-801, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Four Corners Bar (A Corp.) for premises 185 Market Street, Newark, be and the same is hereby suspended for ninety-five (95) days, commencing at 2:00 A.M. Monday, August 13, 1962, and terminating at 2:00 A.M. Friday, November 16, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION
NO. 38 - SALE TO A MINOR - PRIOR DISSIMILAR RECORD - LICENSE
SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

DABBLE CLARK & JOSEPH S. PARKER)
t/a DEE'S DEN)
281 Grand Street)
Paterson 1, New Jersey)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption)
License C-263, issued by the Board)
of Alcoholic Beverage Control)
for the City of Paterson.)

-----)

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

BY THE DIRECTOR:

Licensees pleaded non vult to charges alleging that (1) on May 19, May 26 and June 2, 1962, they, on each occasion, sold a pint bottle of wine for off-premises consumption, in violation of Rule 1 of State Regulation No. 38, and (2) on June 2, 1962, they sold drinks of alcoholic beverages to a minor, age 20, in violation of Rule 1 of State Regulation No. 20.

The licensees have a prior adjudicated record. On September 8, 1959, the Director, on appeal from a conviction by the local issuing authority on a charge alleging a brawl and act of violence on the licensed premises, entered an order suspending their license for fifteen days, effective September 15, 1959 (Re Clark and Parker v. Paterson, Bulletin 1303, Item 2), and the issuing authority suspended their license for ten days for permitting a brawl and disturbance on their licensed premises, and for twenty days for permitting an intoxicated person to work on their premises and hindering an investigation, effective February 29, 1960 and May 2, 1960, respectively.

The penalty usually imposed for the violation set forth in Charge 1 is fifteen days (Re Szczepanik, Bulletin 1457, Item 6) and ten days for the violation set forth in Charge 2 (Re Britton, Bulletin 1451, Item 11). However, because the instant violations are the fourth occurring within a five-year period, ten days will be added, making a total suspension of thirty-five days. Cf. Re The New French Quarters, Inc., Bulletin 1281, Item 14. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 6th day of August, 1962,

ORDERED that Plenary Retail Consumption License C-263, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Dabble Clark and Joseph S. Parker, t/a Dee's Den, for premises 281 Grand Street, Paterson, be and the same is hereby suspended for thirty (30) days, commencing at 3:00 A.M. Monday, August 13, 1962, and terminating at 3:00 A.M. Wednesday, September 12, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SOLICITOR TRANSPORTING IN VEHICLE WITHOUT TRANSIT INSIGNIA AFFIXED - HINDERING INVESTIGATION - PERMIT SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

DANIEL GEORGE FEIGELMAN)
107 North Rumson Avenue)
Margate City, New Jersey.)

CONCLUSIONS
AND ORDER

Holder of Solicitor's Permit No. 2951, issued by the Director of the Division of Alcoholic Beverage Control.)

Permittee, Pro se.

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

BY THE DIRECTOR:

Solicitor pleads non vult to the following charges:

"1. On December 12, 1961, you engaged in conduct prohibited to your employer, Austin Nichols & Company, Inc., holder of a New Jersey plenary wholesale license, in that you transported alcoholic beverages in a vehicle without a transit insignia affixed thereto or transit inscription painted thereon, contrary to Rule 2 of State Regulation No. 17; in violation of Rule 12 of State Regulation No. 14.

"2. On December 12, 1961, you failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, examination and inspection being conducted by an Inspector and an Investigator of this Division; in violation of R.S. 33:1-35."

Solicitor has no prior adjudicated record. I shall suspend his solicitor's permit for thirty days on both charges, less five days remission for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 6th day of August, 1962,

ORDERED that Solicitor's Permit No. 2951, issued by the Director of the Division of Alcoholic Beverage Control to Daniel George Feigelman, 107 North Rumson Avenue, Margate City, be and the same is hereby suspended for twenty-five (25) days, commencing at 7:00 A.M. Monday, August 13, 1962, and terminating at 7:00 A.M. Friday, September 7, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION
NO. 38 - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS,
LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JOHN ZARZECKI)
341 Warren Street)
Jersey City 2, New Jersey.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-11, issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Jersey City.)

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Licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that at
11:05 p.m. on Tuesday, July 3, 1962, he sold six 12-ounce cans of
beer for off-premises consumption, in violation of Rule 1 of State
Regulation No. 38.

Licensee has a previous adjudicated record. His license
was suspended for ten days effective March 27, 1961, for possession
of alcoholic beverages in bottles bearing labels which did not truly
describe their contents. Bulletin 1386, Item 9.

I shall suspend the license for the minimum period of
fifteen days for the instant violation (Re Szczepanik, Bulletin 1457,
Item 6), plus five days for the dissimilar past record occurring
within five years (Re Paulin, Bulletin 1459, Item 5), making a total
suspension of twenty days. Five days will be remitted for the plea
entered, leaving a net suspension of fifteen days.

Accordingly, it is, on this 6th day of August 1962,

ORDERED that plenary retail consumption license C-11, issued
by the Municipal Board of Alcoholic Beverage Control of the City of
Jersey City to John Zarzecki, for premises 341 Warren Street, Jersey
City, be and the same is hereby suspended for fifteen (15) days, com-
mencing at 2 a.m. Monday, August 13, 1962, and terminating at 2 a.m.
Tuesday, August 28, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary
Proceedings against

STELIOS SAFFOS
t/a S. S. CAFE
1250 Kaighn Avenue
Camden, New Jersey

Holder of Plenary Retail Consumption
License C-86 (for the 1961-62 licensing
year) and C-157 (for the 1962-63
licensing year), issued by the Municipal
Board of Alcoholic Beverage Control
of the City of Camden.

CONCLUSIONS
AND ORDER

A. Morton Shapiro, Esq., Attorney for the Licensee.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 9, 1962, he possessed on the licensed premises alcoholic beverages in four 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 Harper's Bar, Inc., Bulletin 1414, Item 4.

Accordingly, it is, on this 6th day of August, 1962,

ORDERED that Plenary Retail Consumption License C-157, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Stelios Saffos, t/a S. S. Cafe, for premises 1250 Kaighn Avenue, Camden, be and the same is hereby suspended for fifteen (15) days, commencing at 7:00 A.M. Monday, August 13, 1962, and terminating at 7:00 A.M. Tuesday, August 28, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - FAILURE TO CLOSE LICENSED PREMISES
IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 15 DAYS,
LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
ALESSANDRO LAUTERIO)
10 Marshall Street)
Paterson, New Jersey)
Holder of Plenary Retail Consumption)
License C-157, issued by the Board)
of Alcoholic Beverage Control for the)
City of Paterson.)
-----)

CONCLUSIONS
AND ORDER

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

BY THE DIRECTOR:

Licensee pleads non vult to the following charge:

"On Sunday, July 8, 1962, at about 11:55 A.M.,
you failed to have your entire licensed premises
closed; in violation of Section II of an Ordinance
adopted by the Board of Alcoholic Beverage Control
for the City of Paterson on May 27, 1948."

At the time mentioned in the aforesaid charge, ABC agents
observed two male patrons in the licensee's premises.

The local ordinance prohibits licensed premises from
being open on Sundays during the hours of 3:00 A.M. and 1:00 P.M.

Absent prior record, the license will be suspended for
fifteen days (Re Katsanis, Bulletin 1118, Item 11), less five
days remission for the plea entered, leaving a net suspension of
ten days.

Accordingly, it is, on this 6th day of August, 1962,

ORDERED that Plenary Retail Consumption License C-157,
issued by the Board of Alcoholic Beverage Control for the City
of Paterson to Alessandro Lauterio for premises 10 Marshall Street,
Paterson, be and the same is hereby suspended for ten (10) days,
commencing at 3:00 A.M. Monday, August 13, 1962, and terminating
at 3:00 A.M. Thursday, August 23, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary)
 Proceedings against)

MAC MCGUIRE'S TOWN HOUSE, INC.)
 t/a MAC MCGUIRE'S TOWN HOUSE)
 425 Nicholson Road)
 Gloucester City, New Jersey.)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption)
 License C-30, issued by the Mayor)
 and Common Council of Gloucester City.)

 Licensee, by Raphael F. McGuire, President, Pro se.
 David S. Piltzer, Esq., Appearing for Division of Alcoholic
 Beverage Control.

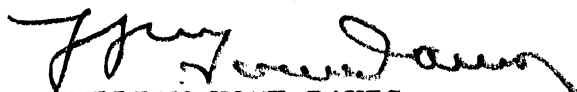
BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
 June 21, 1962, it possessed an alcoholic beverage in one bottle
 bearing a label which did not truly describe its contents, in
 violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for
 ten days, with remission of five days for the plea entered, leaving
 a net suspension of five days. Re Marchitto, Bulletin 1461,
 Item 13.

Accordingly, it is, on this 20th day of August 1962,

ORDERED that plenary retail consumption license C-30,
 issued by the Mayor and Common Council of Gloucester City to Mac
 McGuire's Town House, Inc., t/a Mac McGuire's Town House, for
 premises 425 Nicholson Road, Gloucester City, be and the same is
 hereby suspended for five (5) days, commencing at 7 a.m. Monday,
 August 27, 1962, and terminating at 7 a.m. Saturday, September 1,
 1962.


 WILLIAM HOWE DAVIS
 DIRECTOR