

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

BULLETIN 1813

September 16, 1968

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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

BULLETIN 1813

September 16, 1968

1. COURT DECISIONS - KARAM and FRANK O'HARA, INC. v. WEST ORANGE and RALLO'S RESTAURANT & PANTRY - DIRECTOR REVERSED.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
DOCKET NO. A-1283-66

EMILE J. KARAM, Individually, and  
t/a The Crest, and FRANK O'HARA,  
INC., a Corporation of the State  
of New Jersey, t/a O'Hara's Cafe,

Plaintiffs-Appellants,

vs.

ALCOHOLIC BEVERAGE CONTROL  
BOARD OF WEST ORANGE, and  
RALLO'S RESTAURANT & PANTRY,  
et als,

Defendants-Respondents.

---

Argued May 6, 1968 -- Decided Aug. 8, 1968

Before Judges Conford, Collester and Labrecque.

On appeal from Department of Law and Public Safety,  
Division of Alcoholic Beverage Control.

Mr. William J. Gearty argued the cause for appellant  
Emile J. Karam, &c., and Mr. Harry P. Durkin argued  
the cause for appellant Frank O'Hara, Inc., &c.

Mr. Harry A. Margolis argued the cause for respondent  
Board of Alcoholic Beverage Control of West Orange  
(Messrs. Margolis & Margolis, attorneys), and  
Mr. Martin Gelber argued the cause for respondent  
Rallo's Restaurant & Pantry, et als.

The opinion of the court was delivered by  
CONFORD, S. J. A. D.

(Appeal from Director's decision in Karam et. al. v. West Orange and Rallo's Bar, Inc., Bulletin 1739, Item 1. Director reversed. Opinion not approved for publication by the Court committee on opinions.)

2. APPELLATE DECISIONS - PARUTA v. PATERSON.

ANTHONY D. PARUTA,  
t/a Paruta's,

Appellant,

v.

Board of Alcoholic Beverage  
Control for the City of  
Paterson,

Respondent.

ON APPEAL

CONCLUSIONS  
and  
ORDER

-----)  
Goodman & Rothenberg, Esqs., by Sylvan G. Rothenberg, Esq.,  
Attorneys for Appellant  
Joseph L. Conn, Esq., by Samuel K. Yucht, Esq., Attorney  
for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the unanimous action of respondent whereby it suspended appellant's license for thirty days effective February 12, 1968. Appellant was adjudged guilty in disciplinary proceedings on a charge alleging that on December 9, 1967, he sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20. The licensed premises are located at 89 Market Street, Paterson.

Upon filing of the appeal, an order was entered on February 7, 1968, staying respondent's order of suspension until further order of the Director.

Appellant alleges in his petition of appeal that the suspension of his license was erroneous in that respondent based its findings upon testimony of a witness who admitted perjuring himself and therefore such findings were against the weight of the believable evidence and that the alleged alcoholic beverages were not produced at the hearing; furthermore, the penalty was excessive under the circumstances.

Respondent in its answer denies the aforesaid allegations and states that in imposing penalty, it took into consideration appellant's prior record.

The parties agreed to submit the matter upon the stenographic transcript of the proceedings held before respondent, pursuant to Rule 8 of State Regulation No. 15, which was supplemented by summation and argument herein by the respective attorneys.

It appears from the testimony of Dominic --- (who was born September 5, 1948 and was 19 years of age at the time of the alleged violation) that on December 9 at about 7:30 p.m. he purchased two 6-packs of Colt 45 beer and a bottle of gin; that no inquiry with reference to his age was made by the person subsequently identified by him to be the licensee; that he was apprehended by the police and taken to police headquarters. Shortly thereafter, he directed Officer George Brejack and Officer Carl Gorman to appellant's establishment where he first identified appellant's father-in-law as the person who waited on him but then said it was appellant after he saw him approaching in his direction.

Manuel --- testified that he accompanied Dominic in a car to appellant's premises at the time in question, but remained in the car parked around the corner until Dominic returned.

George Brejack, a member of the Paterson Police Department, testified that at approximately 8:00 p.m. on December 9, he observed a car double-parked on Jersey just off Grand Street and saw Dominic seated behind the wheel; that he asked Dominic for his driver's license and registration; that when the door was opened and the light went on, on the floor behind the seat "we found a bottle of gin, and in the back part we found two six-packs of Colt 45;" that at first Dominic claimed the alcoholic beverages were his father's but thereafter admitted he had made the purchase at appellant's premises. Officer Brejack further testified that while riding in the police car, Dominic directed them to the licensed premises for the purpose of identification of the person who allegedly sold him the alcoholic beverages.

Officer Brejack also testified that at the time there was an older man behind the counter to whom Dominic pointed as the one who made the sale. However, when appellant walked down from the bar, Dominic identified appellant as the person who had actually sold him the alcoholic beverages. The witness testified that appellant said, "Give me a break. Throw the stuff away... I'm only trying to make a living. Please give me a break." Appellant was then advised by him to come to police headquarters with reference to the matter.

Officer Carl Gorman substantially corroborated the testimony of Officer Brejack as to the events taking place on the evening in question and reiterated the statement made by appellant when he was identified as the person who had sold Dominic the alcoholic beverages that evening.

Anthony Paruta testified that he was on duty at his licensed premises on December 9, as was his father-in-law. He saw the police officers and Dominic come into the premises and observed Dominic point to his father-in-law, then look at appellant and say, "That's him." At no time, he stated, did he see Dominic in the licensed premises previous to his being brought in by the police officers.

When questioned with reference to the statement directing the officer to "throw the stuff away", he admitted that he could have made the statement because he was "so nervous" when the confrontation occurred.

Anthony Romano testified that he was in the licensed premises previous to and at the time the officers arrived on December 9, but did not see any sale made by appellant to Dominic. In fact he stated that he had never seen Dominic prior to his being brought in by the police officers.

We are dealing in this matter with a purely disciplinary action and such action is civil in nature and not criminal. In re Schneider, 12 N.J. Super. 449 (App. Div. 1951). Thus, the proof must be supported by a fair preponderance of the credible evidence only. Butler Oak Tavern v. Div. of Alcoholic Beverage Control, 20 N.J. 373 (1956).

During the course of the hearing, appellant's attorney moved that the matter be dismissed on the ground that the legal age of the minor had not been adequately proved since it was established solely by his testimony. However, the rule in these proceedings is that the testimony by the minor himself is sufficient

to establish his age. State v. Huggins, 83 N.J.L. 43; State v. Koettgen, 89 N.J.L. 678; State v. Girone, 91 N.J.L. 498; Melstan Corp. v. Randolph, Bulletin 1496, Item 1.

Appellant further argued that since the alcoholic beverages in question were not produced at the hearing, it had not been established that they were, in fact, alcoholic beverages. The rule is well established that where a person is sold an original container of alcoholic beverages, it is permissible to infer that a bottle bearing a label which represents that its contents are beer or gin does in fact contain an alcoholic beverage. Cf. Rule v. Parsippany-Troy Hills, Bulletin 1226, Item 1; State v. Marks, 65 N.J.L. 84; Lewinsohn v. United States, 278 F. 421; Holmes v. Cavicchia, 29 N.J. Super. 434, reprinted in Bulletin 1003, Item 1; R.S. 33:1-1.1.

These arguments are, therefore, without merit and must be rejected.

Although granting that there may be some conflict as to the identity of the person who sold the alcoholic beverages, failure to identify the specific person is not fatal in disciplinary proceedings against a licensee. Re LaCorte, Bulletin 469, Item 1; Ott's Incorporated v. Div. of Alcoholic Beverage Control (App. Div. 1962), not officially reported, reprinted in Bulletin 1444, Item 1.

Appellant also asserts as a ground for reversal that the penalty imposed by respondent was excessive. It has consistently been held by this Division that a suspension of license in disciplinary proceedings rests in the first instance within the sound discretion of the local issuing authority and that the power of the Director to reduce or modify it must be sparingly exercised and only with the greatest of caution. Harrison Wine and Liquor Co., Inc. v. Harrison, Bulletin 1296, Item 2.

At the time of the imposition of the penalty, it was stated that the prior record of appellant was taken into consideration. Since appellant has a record of suspension of license by the municipal issuing authority for ten days effective January 2, 1962 and again for ten days effective January 3, 1963, both for sale to minors, I cannot see that the suspension of thirty days imposed herein was so severe as to warrant modification thereof.

After careful examination of the evidence, I am satisfied that respondent was justified in finding guilt. I, therefore, recommend that an order be entered affirming respondent's action and dismissing the appeal, and fixing the effective dates for the suspension imposed by respondent and stayed pending the entry of the order herein.

#### Conclusions and Order

Exceptions to the Hearer's report and argument in support thereof were filed by the attorneys for appellant, pursuant to Rule 14 of State Regulation No. 15.

I have examined and considered each of the exceptions of the appellant and find them to be without merit.

Having carefully considered all of the evidence adduced herein, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 5th day of August 1968,

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

ORDERED that Plenary Retail Consumption License C-202, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Anthony D. Paruta, t/a Paruta's, for premises 89 Market Street, Paterson, be and the same is hereby suspended for thirty (30) days, commencing at 3 a.m. Monday, August 12, 1968, and terminating at 3 a.m. Wednesday, September 11, 1968.

JOSEPH M. KEEGAN  
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SOLICITATION FOR PROSTITUTION - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 100 DAYS.

In the Matter of Disciplinary Proceedings against  
POODLE CLUB, INC.  
24 William Street  
Newark, New Jersey  
Holder of Plenary Retail Consumption License C-649 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark

SUPPLEMENTAL  
CONCLUSIONS  
AND ORDER

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John J. Egan, Esq., Attorney for Licensee  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following supplemental report herein:

Supplemental Hearer's Report

On April 25, 1968, an order was entered revoking the subject license after the Director adjudged the licensee guilty of allowing, permitting and suffering lewdness and immoral activity on its licensed premises on November 17-18, 1967. Re Poodle Club, Inc., Bulletin 1797, Item 1. The penalty of revocation of the said license was bottomed, in addition to the serious nature of the established violation, upon the critical fact that the licensee did not appear on the date and the adjourned dates scheduled peremptorily for hearing thereon. After the entry of the said order, a petition was filed by the licensee's attorney in which he pleaded (and repeated the same at the hearing) that he was solely at fault for the non-appearance of the licensee and took "full responsibility for the licensee not being present or represented." At his request, the Director re-opened this matter for the sole purpose of permitting the licensee to present evidence in defense of the charge.

For completeness, the testimony of the Division's witnesses, as set forth in the original Hearer's report, is repeated

as follows: ABC Agents B and F participated in the investigation of the subject premises pursuant to a specific assignment to investigate alleged prostitution and procuring for prostitution. On November 17, 1967, at 11:40 p. m., the agents entered the premises and engaged in a conversation with a female patron. She confided that she engaged in prostitution and obtained many of her customers at these premises. She was asked whether the bartender and owner knew what she was doing, and she replied, "Sure, they all know, what you think every broad in here is doing, all making a buck the same as me." Agent B asked the bartender if he would recommend this female, and the bartender (later identified as Robert J. Theobald) recommended her highly as a desirable person with whom to have sexual intercourse. The female boasted that she frequently attends stag parties and engages in all sorts of perverted intercourse. In the presence of the bartender, the agents asked this female what her charge would be and she stated that she charged \$25. Arrangements were thereupon made to meet her at her room at a nearby hotel.

After notifying local police officers, Agent F entered her room and paid her in marked money to engage in sexual relations. While Agent F was in the room with this female, other ABC agents, together with the local police, were admitted to the room by Agent F and they then recovered the marked money given to this female by Agent F. Shortly thereafter Theobald was arrested and admitted having a conversation with the agent with respect to the activities of this female.

At the supplemental hearing, Robert J. Theobald, testifying on behalf of the licensee, gave the following account: He was employed as a part time bartender by the licensee and was performing said services on the date charged herein. He categorically denied any knowledge of solicitation of the agents for prostitution by Ethel ---, or that he participated in any way in the making of overtures and arrangements between her and the ABC agents. He acknowledged that one of the agents asked him "How is she?", and his response as he "toasted her the drink" was "She is all right." He found no particular significance in this exchange and insisted that it did not relate to any of her activities as a prostitute. He further stated that he did not overhear any of the conversation between the agents and this female patron. Later that evening, when he was confronted by the agents, he told them, "I don't know anything. I don't know what is going on."

Ethel ---, a confessed prostitute, admitted that she solicited these agents at the licensed premises on the date charged herein and arranged to engage in prostitution with them at a charge of \$20. She denied that the bartender or any employee of the licensee was aware of her activities. She did remember, however, that when the agents bought a drink for the bartender and asked him about her, the bartender answered, "'She seems all right,' 'O.K.,' something to that effect." She further admitted that she arranged to meet the agents at her room in a nearby hotel. After one of the agents entered her room and while they were in a state of undress, other agents, accompanied by local police officers, entered the room and arrested her. She was then charged in the Newark Municipal Court and pleaded guilty to a charge of prostitution.

On cross examination, she denied that the bartender knew of her solicitation, or participated in her arrangements to engage in prostitution with the agents. She acknowledged that she had been a frequent patron of these licensed premises but stated that at no time did she engage in prostitution at the premises.

and that the licensee's employees knew nothing of her activities.

Several character witnesses called by the licensee testified that they knew Anthony Margotta, the principal officer of the corporate licensee, and that he has a "very good reputation."

We are dealing with a purely disciplinary measure which is civil in nature and not criminal. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948); The Panda v. Driscoll, 135 N.J.L. 164 (E. & A. 1946). Thus the Division need establish its case only by a fair preponderance of the credible evidence, and not by proof beyond a reasonable doubt. Butler Oak Tavern v. Div. of Alcoholic Beverage Control, 20 N.J. 373; Freud and Pittala v. Davis, 64 N.J. Super. 242.

Rule 5 of State Regulation No. 20 provides as follows:

"No licensee shall engage in or allow, permit or suffer in or upon the licensed premises any lewdness, immoral activity, or foul, filthy, indecent or obscene language or conduct, or any brawl, act of violence, disturbance or unnecessary noise; nor shall any licensee allow, permit or suffer the licensed place of business to be conducted in such manner as to become a nuisance."

The specific charge herein alleges that the licensee had violated this rule by allowing, permitting and suffering solicitation for prostitution and the making of overtures and arrangements for acts of illicit sexual intercourse. Our courts have clearly established that "the commission of an overt act on the licensed premises in furtherance or promotion or encouragement of an illicit purpose is in itself an immoral activity comprehended by the scope of the regulatory rule." In re Schneider, 12 N.J. Super. 449 (App. Div. 1951). It is not essential in establishing the guilt of the licensee that the prostitution must have been committed on the licensed premises. In re Olympic, Inc., 49 N.J. Super. 299, cert. den. 27 N.J. 279 (1958). As the court stated in Schneider, at p.458:

"The object manifestly inherent in the rule with which we are here concerned is primarily to discourage and prevent not only lewdness, fornication, prostitution, but all forms of licentious practices and immoral indecency on the licensed premises. The primary intent of the regulation is to suppress the inception of any immoral activity..."

In evaluating the testimony of the witnesses herein, I have had an opportunity to observe their demeanor as they testified at the hearing. I am guided by the basic legal principle that no testimony need be believed but, rather, the Hearer must credit as much or as little as he finds reliable. 7 Wigmore Evidence, sec. 2100 (1940). Evidence, to be believed, must not only proceed from the mouths of credible witnesses but must be credible in itself and must be such as common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546.

I am persuaded that the truth lies in the version given by the Division agents, which I find to be forthright, credible and factual. On the contrary, I am singularly unimpressed with

the credibility of the witnesses for the licensee. I find that the version given by the bartender of his conversation with the agents does violence to common experience. He admits that the agents questioned him about the prostitute and he replied, "She is all right. She is OK." Obviously, within the context of the setting, the agents were not inquiring about her health. Furthermore, it taxes credulity to believe that after being treated to a drink, which the bartender admitted consuming slowly, intermittently, he only was asked one question and did not engage in any conversation with the agents. This version of what transpired is disingenuous and unacceptable. The detailed testimony in this regard by the agents is the more credible and believable. These agents, who were assigned specifically to investigate alleged prostitution at these licensed premises, were interested in learning whether or not this female patron engaged in prostitution or was amenable to solicitation for that purpose. And it is equally clear that the bartender understood the nature and import of their inquiry. I am convinced that he meant to convey the fact that she was, indeed, amenable and available for such activity and he gave unhesitating assurance of that fact.

The testimony of Ethel is equally unbelievable on that score. She was certainly anxious to have the support in her solicitation from the bartender who knew her as a regular patron at these premises and was undoubtedly aware of the nature of her activity. The testimony of this convicted prostitute is further suspect because she at first stated that she asked the agents to meet her in the lobby of the hotel and later recanted with the admission that she advised them to meet her on the sixth floor where her room was located. How did she know that her room would be on the sixth floor when she testified that she had not patronized this hotel for many years prior thereto? It is unnecessary to point out the many other inconsistencies in her testimony, except to emphasize that she admitted soliciting the agents at the licensed premises for the purpose of prostitution and setting a fee for her performance.

There is no evidence to suggest that the agents had any improper motive in making the investigation of these premises, or that they had any personal malice against the licensee. As stated hereinabove, they visited these premises pursuant to a specific assignment.

The testimony indicates that Margotta, the president of the corporate licensee, was present in the premises on the date herein charged but was unaware of this episode. However, a licensee is responsible for the misconduct of its employees and is accountable for their activities during their employment on the licensed premises. In re Schneider, supra; Kravis v. Hock, supra. As the Supreme Court said in Essex Holding Corp. v. Hock, 136 N.J.L. 28, 31:

"Although the word 'suffer' may require a different interpretation in the case of a trespasser, it imposes responsibility on a licensee, regardless of knowledge, where there is a failure to prevent the prohibited conduct by those occupying the premises with his authority. Guastamachio v. Brennan, 128 Conn. 356; 23 Atl. Rep. (2d) 140."

It is axiomatic that a licensee may not avoid his responsibility for conduct occurring on his premises by merely closing his eyes and ears. On the contrary, licensees or their employees

must use their eyes and ears, and use them effectively, to prevent the improper use of their premises. Re Iandoli, Bulletin 1795, Item 1; Re Ehrlich, Bulletin 1441, Item 5.

Substantial evidence supports the charge that solicitation for prostitution and the making of overtures and arrangements for illicit sexual intercourse occurred on the licensed premises on the date charged and that the licensee, through its employee, allowed, permitted and suffered these acts to take place. Cf. Re Ritchie's, Inc., Bulletin 1426, Item 1; Re B & N Tavern, Inc., Bulletin 1688, Item 1; Re Kirby, Bulletin 1792, Item 1.

It has long been held that the solicitation for immoral purposes and the making of arrangements for sexual intercourse cannot and will not be tolerated on licensed premises. The public is entitled to protection from these sordid and dangerous evils. Re 17 Club, Inc., Bulletin 949, Item 2, aff'd In re 17 Club, Inc., 26 N.J. Super. 43 (App. Div. 1953). In fact, where it has been established that the licensee or his employees actually procured a female or made offers to male patrons to procure a female to engage in acts of illicit sexual intercourse with them and made arrangements therefor, this Division has unhesitatingly revoked the license. Re Tiny's Bar & Grill, Inc., Bulletin 1718, Item 1; Re Soto Pruna, Bulletin 1713, Item 1. This dimension is not embodied in the charge against this licensee, nor is there evidence that the licensee, through its employees, actually procured this female or made arrangements therefor.

I conclude that the Division has established the truth of this charge by a fair preponderance of the credible evidence --indeed, by substantial evidence--and I recommend that the licensee be found guilty of this charge.

Licensee has a prior adjudicated record. Its license was suspended by the Director for twenty days effective July 2, 1963, for sale to minors, and for sixty-five days effective December 1, 1964, for permitting acceptance of horse race and numbers bets. Re Poodle Club, Inc., Bulletin 1525, Item 5; Bulletin 1596, Item 2.

The order dated April 25, 1968, directing revocation of this license, was based in large measure upon the failure of the licensee to appear and challenge the charge against it. The Director observed that "considering its inexcusable and cynical failure to enter a plea to this charge or to appear at the hearing herein, it is clear that the continuance of this license would be contrary to the public interest."

In the totality of the facts and circumstances herein, it is recommended that the penalty of revocation be modified as follows: that the license be suspended for ninety days (Re Fantaco, Inc., Bulletin 1766, Item 2), to which should be added ten days by reason of the prior record of two suspensions of license for dissimilar violations within the past five years (Re Silver Star Cafe, Inc., Bulletin 1783, Item 5), or a total of one hundred days.

#### Supplemental Conclusions and Order

No exceptions to the supplemental Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record, including the transcript of the testimony and the supplemental Hearer's report, I concur in the findings and conclusions of the Hearer and adopt

his recommendation.

Accordingly, it is, on this 5th day of August 1968,

ORDERED that Plenary Retail Consumption License C-649, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Poodle Club, Inc. for premises 24 William Street, Newark, be and the same is hereby suspended for one hundred (100) days, commencing at 2:00 a.m. Monday, August 12, 1968, and terminating at 2:00 a.m. Wednesday, November 20, 1968.

JOSEPH M. KEEGAN  
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE AND NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

AMERICAN HOUSE, INC. )  
t/a Rex Bar )  
118 N. Warren Street )  
Trenton, New Jersey )

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption License C-7, issued by the City Council of the City of Trenton )

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Cascone & Hofing, Esqs., by Peter P. Cascone, Jr., Esq.,  
Attorneys for Licensee  
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 divers dates between June 12 and September 21, 1967, it variously permitted acceptance of horse race and numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re Tony Pratts, Inc., Bulletin 1797, Item 4.

Accordingly, it is on the 31st day of July, 1968,

ORDERED that Plenary Retail Consumption License C-7, issued by the City Council of the City of Trenton to American House, Inc., t/a Rex Bar, for premises 118 N. Warren Street, Trenton, be and the same is hereby suspended for fifty-five (55) days, commencing at 2:00 A.M. Wednesday, August 7, 1968, and terminating at 2:00 A.M. Tuesday, October 1, 1968.

JOSEPH M. KEEGAN  
DIRECTOR

5. CANCELLATION PROCEEDINGS - UNLAWFUL SITUATION CORRECTED - ORDER TO SHOW CAUSE DISCHARGED.

In the Matter of Cancellation Proceedings against

WALLY'S TAVERN, INC.  
196 Monroe Street  
Passaic, New Jersey

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption License C-159 issued by the Municipal Board of Alcoholic Beverage Control of the City of Passaic

-----  
Diamond & Diamond, Esqs., by Lawrence Diamond, Esq.,  
Attorneys for Licensee  
Edward F. Ambrose, Esq. Appearing for the Division of  
Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads no contest to an order to show cause why its license should not be cancelled and declared null and void for the following reason:

"Said license was improvidently issued in violation of R.S.33:1-25 in that your corporation was disqualified from obtaining such license by reason of the fact that Walter Pitkewicz, an officer, director and holder of 99% of your issued and outstanding stock, was and is unable to qualify for an alcoholic beverage license as an individual applicant by reason of his having been convicted on or about January 28, 1966, in the New Jersey Superior Court, Passaic County Law Division (Criminal) of the crime of possession of lottery slips (N.J.S. 2A:121-3), being a crime involving moral turpitude."

The facts are sufficiently set forth in the quoted charge when there is added the fact that the disqualifying conviction of crime was set forth in the application for license and was not concealed by any false statement therein.

During the pendency of the proceedings, the stockholding interest of Walter Pitkewicz was sold to John J. Tomczyk, apparently fully qualified. Hence, the unlawful situation no longer exists and the order to show cause will be discharged. Re Sea Star Corp., Bulletin 1589, Item 7.

Accordingly, it is, on the 30th day of July, 1968,

ORDERED that the order to show cause herein be and the same is hereby discharged.

JOSEPH M. KEEGAN  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

EDWARD CHRISTENSEN and )  
ARLINE CHRISTENSEN )  
t/a Garden State Cafe )  
4100 Atlantic Avenue )  
Wildwood, New Jersey )

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption License C-47 issued by the Board of Commissioners of the City of Wildwood )  
- - - - - )

Licenses, by Edward Christensen, Pro se )  
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control )

BY THE DIRECTOR:

Licenses plead non vult to a charge alleging that on June 29, 1968, they sold a drink of beer to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Mercurio, Bulletin 1798, Item 3.

Accordingly, it is, on this 29th day of July, 1968,

ORDERED that Plenary Retail Consumption License C-47, issued by the Board of Commissioners of the City of Wildwood to Edward Christensen and Arline Christensen, t/a Garden State Cafe, for premises 4100 Atlantic Avenue, Wildwood, be and the same is hereby suspended for ten (10) days, commencing\* at 3:00 A.M. Monday, August 5, 1968, and terminating at 3:00 A.M. Thursday, August 15, 1968.

JOSEPH M. KEEGAN  
DIRECTOR

\*By order dated August 2, 1968, the suspension was deferred to commence at 3:00 a.m. Tuesday, September 3, 1968, and to terminate at 3:00 a.m. Friday, September 13, 1968.

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against ALFRED HILLMAN t/a Hillman's Bar 18 Washington Street South River, New Jersey

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-25, issued by the Borough Council of the Borough of South River.

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 May 17, 1968, he possessed an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective June 20, 1955, and for fifteen days effective March 9, 1959, both for sale during prohibited hours, and for twenty-seven days effective April 1, 1963, for sale to minors and sale during prohibited hours, and by the Director for sixty-five days effective February 7, 1968, for permitting acceptance of horse race bets on the licensed premises. Re Hillman, Bulletin 1784, Item 5.

The prior record of suspensions of license for dissimilar violations in 1955, 1959 and 1963 occurring more than five years ago disregarded, but considering the record of suspension in 1968, within the past five years for dissimilar violation, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Battaglia, Bulletin 1796, Item 9.

Accordingly, it is on this 30th day of July, 1968,

ORDERED that Plenary Retail Consumption License C-25, issued by the Borough Council of the Borough of South River to Alfred Hillman, t/a Hillman's Bar, for premises 18 Washington Street, South River, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Tuesday, August 6, 1968, and terminating at 2:00 a.m. Friday, August 16, 1968.

JOSEPH M. KEEGAN DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS - SERVICE TO FEMALES AT BAR - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

HALLJACK, INC.  
t/a Freddy's Cafe  
401 Ocean Avenue  
Jersey City, New Jersey

)  
)  
) CONCLUSIONS  
) and  
) ORDER

Holder of Plenary Retail Consumption License C-15, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

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A. Nathan Cowen, Esq., Attorney for Licensee  
Louis F. Treole, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on May 11, 1968 it (1) sold six cans of beer for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38, and (2) served alcoholic beverages to females at a public bar on the licensed premises, in violation of municipal ordinance.

Absent prior record, the license will be suspended on the first charge for fifteen days (Re Y & H Tavern, Inc., Bulletin 1800, Item 6) and on the second charge for five days (Re The Nut Club, Inc., Bulletin 1759, Item 9), or a total of twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days.

Accordingly, it is, on this 6th day of August 1968,

ORDERED that Plenary Retail Consumption License C-15, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Halljack, Inc., t/a Freddy's Cafe, for premises 401 Ocean Avenue, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Monday, August 12, 1968, and terminating at 2 a.m. Tuesday, August 27, 1968.

JOSEPH M. KEEGAN  
DIRECTOR

9. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #317 )  
 In the Matter of the Automatic )  
 Suspension of Plenary Retail )  
 Consumption License C-3 issued )  
 by the Municipal Board of Alco- )  
 holic Beverage Control of the )  
 Township of Hillside to )  
 HILLSIDE BOWLING, INC. )  
 t/a Hillside Lanes )  
 1386 Liberty Avenue )  
 Hillside, New Jersey )  
 ----- )

O R D E R

BY THE DIRECTOR:

On August 1, 1968, Anton Danco, secretary-treasurer of the licensee corporation, was fined \$100 in the Hillside Municipal Court after pleading guilty to a charge that he sold alcoholic beverages to minors on June 21, 1968, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of the license for the balance of its term. R.S. 33:1-31.1.

By order dated July 15, 1968, I suspended the license for forty-five days commencing July 22, 1968 and terminating September 5, 1968, in disciplinary proceedings involving a charge alleging that the licensee sold alcoholic beverages to the same minors. Re Hillside Bowling, Inc., Bulletin 1812, Item 6. Under the circumstances, the suspension currently being served, I shall, on my own motion, enter an order lifting the statutory automatic suspension in anticipation of the service of the disciplinary suspension. Cf. Re Hedy's Bar, Inc., Bulletin 1699, Item 4.

Accordingly, it is, on this 12th day of August, 1968,

ORDERED that the statutory automatic suspension of said license C-3 be and the same is hereby lifted effective 2:00 a.m. Thursday, September 5, 1968.

JOSEPH M. KEEGAN  
 DIRECTOR

10. DISCIPLINARY PROCEEDINGS - POSSESSION OF SLOT MACHINES -  
LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
ASBURY PARK LODGE #128, B.P.O. ELKS  
1701 Park Avenue  
Asbury Park, New Jersey  
Holder of Plenary Retail Consumption License C-1027 issued by the Director of the Division of Alcoholic Beverage Control

CONCLUSIONS  
and  
ORDER

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Robert M. Hanlon, Esq., Attorney for Licensee  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

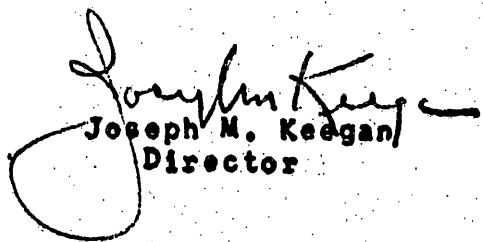
BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on divers dates between May 18 and June 8, 1968, it possessed five slot machines on its licensed premises, in violation of Rule 8 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 Court Lakewood #127, Foresters of America, Bulletin 1449, Item 4.

Accordingly, it is, on this 12th day of August, 1968,

ORDERED that Plenary Retail Consumption License C-1027, issued by the Director of the Division of Alcoholic Beverage Control to Asbury Park Lodge #128, B.P.O. Elks, for premises 1701 Park Avenue, Asbury Park, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. Monday, August 19, 1968, and terminating at 3:00 a.m. Saturday, August 24, 1968.

  
Joseph M. Keegan  
Director