

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

BULLETIN 1045

JANUARY 6, 1955.

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THE UNIVERSITY OF CHICAGO  
DEPARTMENT OF CHEMISTRY  
5800 S. UNIVERSITY AVENUE  
CHICAGO, ILLINOIS 60637

RECEIVED  
JAN 15 1964

TO THE DIRECTOR  
FROM THE DEPARTMENT OF CHEMISTRY

RE: [Illegible]

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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 1045

JANUARY 6, 1955.

1. NEW LEGISLATION - SUPPLEMENT TO DISORDERLY PERSONS LAW - DRINKING OR POSSESSING INTOXICATING BEVERAGES AT INTERSCHOLASTIC ATHLETIC CONTESTS.

Senate, No. 10 (1954) was approved by the Governor on July 15, 1954 and thereupon became Chapter 147 of the Laws of 1954. The Act reads as follows:

"AN ACT concerning disorderly persons, and supplementing chapter 170 of Title 2A of the New Jersey Statutes.

"BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Any person who drinks, or has in his possession, any intoxicating beverage while in attendance as a spectator or otherwise, at any place where an interscholastic athletic contest is taking place, is a disorderly person, and shall be punished by a fine of not more than \$50.00, or by imprisonment for not more than 30 days, or both.

2. This act shall take effect immediately."

2. APPELLATE DECISIONS - RICHWINE v. PENNSAUKEN TOWNSHIP.  
DEL CASTILLO v. PENNSAUKEN TOWNSHIP.

WILLIAM KING RICHWINE, trading as )  
COOPER RIVER GOLF CLUB, )

Appellant, )

-vs- )

TOWNSHIP COMMITTEE OF THE TOWNSHIP )  
OF PENNSAUKEN, )

Respondent. )

----- )  
NILO DEL CASTILLO, )

Appellant, )

-vs- )

TOWNSHIP COMMITTEE OF THE TOWNSHIP )  
OF PENNSAUKEN, )

Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

-----  
Carl Kisselman, Esq., Attorney for Appellants.  
Thomas F. Salter, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The two appeals to be considered herein are from the action of the respondent in (1) denying, on July 12, 1954, an application filed by appellant Nilo Del Castillo to transfer a plenary retail consumption license for the 1953-54 licensing period from William King Richwine to him and from premises at Marlton Pike and Lexington

Avenue to premises on Crescent Boulevard and Burwood Avenue and an application filed by appellant Nilo Del Castillo to renew said license for the 1954-55 licensing year for the latter premises; and (2) denying, on July 26, 1954, an application filed by appellant William King Richwine for a renewal of his license for the 1954-55 licensing period for premises at Marlton Pike and Lexington Avenue and an application filed by appellant Nilo Del Castillo for a transfer of said renewal license from William King Richwine to him and from the premises at Marlton Pike and Lexington Avenue to premises on Crescent Boulevard and Burwood Avenue, Pennsauken.

A resume of the undisputed facts in the instant case is as follows: Appellant Richwine, holder of a plenary retail consumption license for the year 1953-54, conducted his business on Marlton Pike and Lexington Avenue in a building situated on a tract of land used as a golf course. The property, including the licensed premises, was sold and as a result thereof appellant Richwine discontinued operation of his business, as of December 31, 1953. The new owner thereof, a religious institution, has at all times thereafter been in possession of the premises in question. On June 28, 1954, appellant Del Castillo filed an application with respondent for transfer to him of the license for the 1953-54 period held by appellant Richwine to premises located on Crescent Boulevard and Burwood Avenue and at the same time filed an application for the renewal of the license for the 1954-55 licensing period. On July 12, 1954 the applications for transfer and renewal, respectively, filed by appellant Del Castillo were denied by respondent. On July 13, 1954 appellant Richwine filed an application for renewal of his license for the premises on Marlton Pike and Lexington Avenue and appellant Del Castillo filed an application for a transfer of the license similar to the application filed by him on June 28, 1954. Both applications were denied by the respondent Township Committee on July 26, 1954.

The license issued to appellant Richwine for the 1953-54 licensing year expired at midnight on June 30, 1954. Thereafter there was nothing to transfer. In Re Madden & Goldstein, Bulletin 198, Item 1, it was said:

"\*\*\* a license may not be transferred where no application for transfer was ever approved by the issuing authority within the term of the license, and where the applicant failed to comply with the statutory requisites before the license sought to be transferred had expired.\*\*\*"

Therefore, respondent had no power to approve the transfer and renewal of the license for which application was filed by Del Castillo on June 28, 1954.

The action of the respondent in refusing to renew appellant Richwine's license for the 1954-55 period must also be sustained. It is apparent that appellant Richwine had no interest whatsoever after December 31, 1953 in the licensed premises on Marlton Pike and Lexington Avenue wherein he formerly operated his liquor establishment. It is well established that an applicant for a liquor license must have possession, a right to possession of, or interest in, the premises sought to be licensed. This principle was first enunciated in Procoli v. Trenton, Bulletin 28, Item 6. It has consistently been followed to date. Caplan v. Trenton, Bulletin 29, Item 11; Re Pennsauken, Bulletin 48, Item 8; Re Sakin, Bulletin 67, Item 13; White Castle, Inc. v. Clifton, Bulletin 97, Item 13; D'Annibale v. Fredon, Bulletin 139, Item 7; Agzigian v. Pequannock, Bulletin 216, Item 1; Eavenson v. South Orange, Bulletin 283, Item 8; Vasapoli v. Plainfield, Bulletin 301, Item 7; Licata v. Camden, Bulletin 342, Item 1; Hindin v. Egg Harbor, Bulletin 399, Item 1; Gimber v. Galloway, Bulletin 427, Item 9; Bodrato v. Northvale, Bulletin 433, Item 1; Berry v. Newark, Bulletin 433, Item 8; Alberts v. Roselle, Bulletin 444, Item 1; Montclair Athletic Club v. Montclair, Bulletin 859, Item 1; Terlizzi v. Union City et als.,

Bulletin 860, Item 2; Ways & Witteborn v. Egg Harbor, Bulletin 951, Item 3. It follows that the application filed by Del Castillo for the transfer of the renewal license was also properly denied.

After considering all the evidence herein I conclude that appellants have failed to sustain the burden of establishing that the action of respondent was erroneous. In view of this it is unnecessary to consider any other grounds advanced by respondent for its action in the matter. Respondent's action will be affirmed.

Accordingly, it is, on this 20th day of December, 1954,

ORDERED that the action of respondent be and the same is hereby affirmed and the appeals herein be and the same are hereby dismissed.

WILLIAM HOWE DAVIS  
Director.

3. APPELLATE DECISIONS - GASSMAN v. MIDDLETOWN TOWNSHIP. (MONMOUTH COUNTY).

ROSE GASSMAN, trading as )  
ROSE X-BRENTWOOD HOTEL, )  
Appellant, )  
-vs- )  
TOWNSHIP COMMITTEE OF THE )  
TOWNSHIP OF MIDDLETOWN )  
(Monmouth County), )  
Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

-----  
Edmond J. Dwyer, Esq., Attorney for Appellant.  
Roberts, Pillsbury & Carton, Esqs., by Michael J. Barnacle, Esq.,  
Attorneys for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby it suspended appellant's plenary retail consumption license for fifty days (to commence July 30, 1954) after finding her guilty of a charge alleging that she permitted the sale, service and delivery of alcoholic beverages to minors, in violation of Rule 1 of State Regulations No. 20. During the pendency of this appeal the license was transferred from appellant to Brentwood Hotel Corporation, effective November 11, 1954, subject to the outcome of these proceedings.

Upon the filing of this appeal I entered an order, on July 29, 1954, staying the order of suspension pending determination of the appeal.

In her petition of appeal appellant alleged that respondent's action was erroneous because of the insufficiency of the evidence and because the penalty was excessive. These allegations were denied in respondent's answer.

At the hearing herein, counsel for appellant admitted appellant's guilt but contended that the penalty was excessive in view of the surrounding circumstances. He adverted to certain alleged mitigating circumstances and, although he did not deny appellant's previous suspension by respondent for a period of five days, effective January 18, 1954, for sale of alcoholic beverages to a minor, he contended that, because of the lapse of time between the alleged

violation and the time of the hearing, appellant was not able properly to defend herself in that case. He further contended that, in the instant case, respondent's members were influenced by the letter from this Division transmitting to respondent a synopsis of the facts constituting the violation, which letter cited a similar adjudicated case and made reference to the Division's penalty policy with respect to repeated offenses. In this connection, there was introduced in evidence a resolution adopted by respondent on September 22, 1954, to the effect that respondent has "no objection to a reduction" of the penalty by the Director on this appeal "if he sees fit to make such a reduction."

The power of the Director to reduce penalties on appeal should be exercised only where such penalty is manifestly unreasonable and clearly excessive. Benedetti v. Trenton, Bulletin 1040, Item 1, and cases there cited. The minors involved in the instant case were six females, three of whom were 18 years of age; the remainder were 19 years of age. As hereinbefore indicated, appellant's license was only recently suspended for sale of alcoholic beverages to a minor. Under the circumstances, the penalty in the instant case is not excessive. The plea for mitigation may still be made to respondent, which may grant relief if it determines such action to be advisable. Triano v. Bloomfield, Bulletin 677, Item 10.

I shall affirm respondent's action.

Accordingly, it is, on this 27th day of December, 1954,

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

ORDERED that the fifty-day suspension by respondent of appellant's Plenary Retail Consumption License C-4, for premises on Leonard Avenue, Middletown, be and the same is hereby restored and reimposed against the Brentwood Hotel Corporation, for the same premises, to commence at 2:00 a.m. January 5, 1955 and terminate at 2:00 a.m. February 24, 1955.

WILLIAM HOWE DAVIS  
Director.

4. APPELLATE DECISIONS - PRIBILA v. LINDEN.

DOROTHY E. PRIBILA, t/a )  
VILLAGE INN, )

Appellant, )

-vs- )

ON APPEAL  
CONCLUSIONS AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY )  
OF LINDEN, )

Respondent. )

-----  
Harry B. Kotler, Esq., Attorney for Appellant.  
Lewis Winetsky, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The appeal herein, entitled as hereinabove set forth, was filed from the action of respondent whereby it suspended plenary retail consumption license C-51, for a period of fifteen days commencing at 2:00 a.m. October 15, 1954. Upon the filing of this appeal an order, dated October 14, 1954, was entered by me staying respondent's order of suspension until the entry of a further order herein. R.S. 33:1-31. The licensed premises are located at 1906 East St. George Avenue, Linden.

Before any testimony was taken at the hearing below and again before any testimony was taken at the hearing held herein, attorney for appellant moved to dismiss the complaint upon the ground that "the licensee is an estate; the licensee did not receive a notice pursuant to the statute."

The motion to dismiss is based upon the sole ground that the written charge preferred by respondent Board was addressed to Dorothy Pribila, t/a Village Inn, whereas Plenary Retail Consumption License C-51 has been issued by respondent Board to Dorothy E. Pribila, Administratrix of the Estate of Raymond R. Murawski. In considering this motion it should be noted that an estate is not a legal entity and may not hold a liquor license. Re Branigan, Bulletin 129, Item 3. There is no doubt that a five-days' notice setting forth the charge preferred by respondent was sent by registered mail addressed to Dorothy Pribila, t/a Village Inn, at the licensed premises. The Notice advised her that "You will be afforded full opportunity to be heard on the foregoing charges and to show cause why Plenary Retail Consumption License C-51, issued to you by the Linden Board of Alcoholic Beverage Control, should not be suspended or revoked." The failure to set forth in the notice that the license was held by her in her representative capacity was a mere technical defect which did not in any way prejudice the licensee or prevent her from presenting a defense to the charge. Aside from any question as to whether this technical defect was waived by the entry of a "not guilty" plea at the hearing below or by participating in the hearing held herein (Laura v. Puncerelli, 91 N.J.L. 38; aff'd 92 N.J.L. 518), I conclude that there was substantial compliance with that portion of R.S. 33:1-31 which provides that:

"No suspension or revocation of any license shall be made until a five-day notice of the charges preferred against the licensee shall have been given to him personally or by mailing the same by registered mail addressed to him at the licensed premises and a reasonable opportunity to be heard thereon afforded to him."

I shall, therefore, affirm the action of the Hearer in denying the motion to dismiss.

As to the merits: The charge in the disciplinary proceedings instituted by respondent alleged that:

"On July 16th, 1954 you sold and served alcoholic beverages to the winners of a bowling machine game at the expense of the losers of the said game and you did permit and allow a disturbance and brawl to take place on your licensed premises and you did withhold report of the same to the local authorities, in violation of Article 4, Section 12 of the Alcoholic Beverage Control Ordinance of the City of Linden and Rule No. 5 and Rule No. 7 of the State Regulations No. 20."

The evidence herein discloses that John Reinman entered the licensed premises on July 16, 1954, at about 7:00 p.m., and spent the evening drinking beer, playing darts and, later on, playing a machine described as a "bowling game." Dorothy Gamache entered about 9:45 p.m. Between 11:00 p.m. and 1:45 a.m. she, John and four other patrons played six games on said machine and it was understood, by the players at least, that the losers of each game were to pay for the drinks. It further appears that, after each game, the six players went to the bar and that drinks were served to them by Dorothy Pribila who received payment, after each game, from the three persons who had lost. I am not impressed by Dorothy Pribila's denial of any knowledge that "the loser was to buy beer for the

winner." John Reinman and Dorothy Gamache testified that the six players had discussed this subject while the drinks were being served. The evidence is clearly sufficient to sustain that portion of the charge which alleges, in effect, that gambling was permitted in violation of Rule 7 of State Regulations No. 20.

About 1:45 a.m. Dorothy Gamache and John Reinman engaged in an argument. She says that he "pawed" her and called her names. He says that there was some discussion between them about "paying for beer;" that he left the premises and that, as he was leaving, Dorothy Gamache called him a "moocher." Dorothy Pribila admits that the two patrons "had a few words" and that, after John left the premises, she remarked to Dorothy Gamache that "it is best if John stayed out of the place." Nevertheless, John, who says he was then intoxicated, returned to the premises, threw a dime on the bar and engaged in further argument with Dorothy Gamache. The evidence further shows that a drinking glass held by Dorothy Gamache was broken while she was seated at the bar; that there was a scuffle between the two patrons; that Paul Ligush, a day-time bartender, grabbed John Reinman "after they were up against the pinball machine;" and that John was taken to a hospital, having been cut from "a point about in the mid-forehead, through the eyebrow, across the eye, down the left cheek to a point opposite the upper lip and across the bridge of the nose" by the broken glass held by Dorothy Gamache. Dorothy Pribila admits that she saw John "come back into the bar-room" and throw the dime on the bar but says that thereafter she left the bar and was answering a telephone call when Ligush grabbed John. She admits that she did not call the police. She apparently contends that, under the circumstances, she did not "allow, permit or suffer" the disturbance or brawl. However, the argument had been going on for many minutes. The male patron, who says he was intoxicated, was permitted to return. There is a space of five feet between the bar and the machine. I conclude that the evidence is sufficient to sustain the finding that the licensee permitted and allowed the disturbance and brawl in violation of the local ordinance and Rule 5 of State Regulations No. 20. Plikaytis v. Harrison, Bulletin 754, Item 1. Therefore, the action of respondent will be affirmed.

Accordingly, it is, on this 27th day of December, 1954,

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

ORDERED that the fifteen-day suspension by respondent of Plenary Retail Consumption License C-51, held by Dorothy E. Pribila, Administratrix of the Estate of Raymond R. Murawski, for premises 1906 East St. George Avenue, Linden, be and the same is hereby restored and reimposed against said license, commencing at 2:00 a.m. January 3, 1955, and terminating at 2:00 a.m. January 18, 1955.

WILLIAM HOWE DAVIS  
Director.

5. LICENSES - MUNICIPAL MAGISTRATES - HEREIN RULING THAT MAGISTRATE MAY BE MEMBER AND OFFICER OF ALCOHOLIC BEVERAGE LICENSED ORGANIZATION IN HIS MUNICIPALITY, BUT MAY NOT SIT AS MAGISTRATE IN A CASE INVOLVING SUCH ORGANIZATION - RULING IN RE BUTERA, BULLETIN 257, ITEM 4, SUPERSEDED TO EXTENT IT MAY DIFFER FROM RULING HEREIN.

December 21, 1954

Honorable  
Municipal Magistrate

My dear Judge:

This is in reply to your letter of November 23rd, received in this office on November 29th, inquiring whether you, as a magistrate, may be a member, a director and the secretary of the Board of Directors of the \_\_\_\_\_ Club which you state to be a charitable, fraternal, and social organization and which proposes to apply for a club liquor license for premises which are apparently located in the same municipality where you act as magistrate.

It is axiomatic that a magistrate may not himself hold an alcoholic beverage license or be employed by any person, partnership or corporation operating a licensed alcoholic beverage business for private profit. (Re Johnson, Bulletin 116, Item 1; Re Branigan, Bulletin 129, Item 3; Re Sweeney, Bulletin 130, Item 7; Re Lederer, Bulletin 196, Item 15; Re Sugrue, Bulletin 227, Item 2.) These rulings are referred to and the principles enunciated in Re Kerner, Bulletin 298, Item 9, and followed in Re Melillo, Bulletin 309, Item 6, copies enclosed.

It is a matter of common knowledge, however, that magistrates and judges are often members of fraternal, social or similar organizations which do not operate for private profit and which hold alcoholic beverage licenses. Similarly, in many instances, they are officers, directors or trustees in such organizations. They, like many other men, are often urged by a common gregarious feeling to join fraternal lodges or similar organizations and there appears to be no sensible reason why they should be barred from participating in the activities of such organizations merely because they are, by coincidence, acting in a magisterial capacity. Conversely, the organization itself should not be precluded from holding a license because of such coincidence. Therefore, it is my considered opinion that magistrates and judges may be members, officers, directors or trustees of non-profit organizations holding alcoholic beverage licenses. To the extent that the ruling in Re Butera, Bulletin 257, Item 4, copy enclosed, may indicate otherwise, such ruling is hereby superseded, but, of course, you would not sit as magistrate in any case involving an alleged or possible infraction of the liquor laws or ordinances by this or any other club of which you may be a member, officer or director; nor, of course, would you if sitting as magistrate in a case involving any other licensee, be influenced by the fact of your membership in a particular licensed organization.

For your further guidance, I am enclosing a copy of State Regulations No. 7 setting forth the qualifications necessary to render an organization eligible for a club license and otherwise governing such licenses.

In view of the further statement in your letter that the club is considering the filing of its application for club license with the Township Committee, I assume that no member of the Township Committee is a member of this organization because, otherwise, jurisdiction over the license application would be vested in the State Director and not in the Township Committee pursuant to the provisions of R. S. 33:1-20.

Very truly yours,  
WILLIAM HOWE DAVIS  
Director.

6. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE, FEMALE IMPERSONATORS) - ALLOWING PREMISES TO BE CONDUCTED AS A NUISANCE - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary Proceedings against

FILED  
DEPT.

POLKA CLUB, INC.  
324 Springfield Avenue  
Newark 3, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-76, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

-----  
Carl J. Yagoda, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On Monday night, September 27 and early Tuesday morning, September 28, 1954, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises in that males and females entertained and performed in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulations No. 20.

"2. On the occasion aforesaid you allowed, permitted and suffered female impersonators in and upon your licensed premises; in violation of Rule 4 of State Regulations No. 20.

"3. On the occasion aforesaid, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises and your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered female impersonators and persons who appeared to be homosexuals in and upon your licensed premises and there to congregate and conduct themselves in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulations No. 20."

The file herein discloses that, on the afternoon of September 27, 1954, an ABC agent observed, in the defendant's barroom, a sign advertising a show designated as AUTUMN JAMBOREE to be performed at the licensed premises that night. The bartender told him that it was to be a "faggy" show, adding, "You know, when all the men change into women." He informed the agent that tickets could be purchased at the door for \$1.25.

At 9:30, on the same night, four ABC agents entered defendant's barroom and talked to defendant's president who was tending bar. He also told them that there was to be a "faggy" show in the ballroom (Flamingo Room) of the licensed premises. The agents noticed a number of males wearing mascara, lipstick, rouge and eyebrow make-up and attired in shirts and "slacks" of the type designed for women. Numerous male patrons and three of the waiters were thus "made up" and attired, as were also the male who sold the entertainment tickets and the male who conducted the agents to their seats. The latter two males were known as "Sally" and "Wan," respectively. Some of the other male patrons wore evening gowns. In all, there were at least twenty males in the audience who dressed and acted like females.

The entertainment consisted of numerous singing and dancing "acts" involving more than a dozen entertainers. Three were females.

The remainder were males all but one of whom were referred to by female names and wore female attire, many of their costumes being of the type worn by female burlesque artists. Some of the male entertainers wore abbreviated "panties" and "bras."

It is unnecessary to describe in minute detail the various acts performed by the different entertainers. Suffice it to say that many of the performances by the male entertainers who were dressed as females and the dances of several of the female entertainers, which included "bumps and grinds," were lewd and suggestive. The performance of a male and female, ending in simulated intercourse, with the female's legs wrapped around the body of the male, was particularly lewd and vulgar. Nearly all of these "acts" were highly suggestive, designed to inflame the passions of the audience. Such performances will not be tolerated upon licensed premises. Re New Frisco Club & Restaurant, Inc., Bulletin 1040, Item 2; Re Di Angelo, Bulletin 753, Item 4.

Defendant's president made a written statement in which he admitted that he had seen some of the show; that there had been "bumps and grinds"; that some of the male entertainers had dressed and "made up" like females; and that one of the "acts" had ended with simulated sexual intercourse. He claimed, however, that he had seen the same show at various places in this state and that he thought that it was a "legitimate" show.

Defendant has no prior adjudicated record. I have given considerable thought to the proper penalty to be imposed in this case. The charges herein are serious. As has already been pointed out, the performances which resulted in charge (1) have no place and will not be tolerated upon licensed premises. Nor can there be any excuse for the conduct covered by charges (2) and (3). Rigid enforcement of the regulations, the violation of which forms the basis of the charges herein, is essential to the preservation of decency and the protection of the public morals which demand a severe penalty in this case. However, after considering, most carefully, all of the facts and circumstances herein, including the fact that (except for the entertainers) no overt acts of familiarity or indecency occurred between the female impersonators or any other persons upon the licensed premises (as was the case in Re Lloyd, decided simultaneously herewith), I shall not revoke the license but, instead, shall suspend it for the balance of its term.

If the licensee values the privilege of the license it will be well advised to avoid further violations. In addition, all licensees should take notice that degradation and depravity, which constitute so serious a threat to the public welfare and morals, will not be tolerated upon licensed premises and that such premises cannot be permitted to become havens for deviates or persons of low morality. Licensees who fail to heed this warning do so at their peril.

Accordingly, it is, on this 27th day of December, 1954,

ORDERED that Plenary Retail Consumption License C-76, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Polka Club, Inc., for premises 324 Springfield Avenue, Newark, be and the same is hereby suspended for the balance of its term, commencing at 2:00 a.m. January 3, 1955, and terminating at midnight June 30, 1955.

WILLIAM HOWE DAVIS  
Director.

7. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES  
(FEMALE IMPERSONATORS) - ALLOWING PREMISES TO BE CONDUCTED AS A  
NUISANCE - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME -  
LICENSE SUSPENDED FOR 120 DAYS.

In the Matter of Disciplinary )  
Proceedings against )

JESSIE LLOYD )  
76 West Jersey Street )  
Elizabeth 2, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-146, issued by the )  
Municipal Board of Alcoholic )  
Beverage Control of the City of )  
Elizabeth. )

-----)  
Hueston & Frank, Esqs., by Robert T. Hueston, Esq., Attorneys for  
Defendant-licensee.

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

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On July 1, 2, 3, 15, 22, 23 and October 8 and 9, 1954,  
you allowed, permitted and suffered female impersonators in  
and upon your licensed premises; in violation of Rule 4 of  
State Regulations No. 20.

"2. On all the occasions aforesaid you allowed, permitted  
and suffered lewdness and immoral activity in and upon your  
licensed premises and your licensed place of business to be  
conducted in such manner as to become a nuisance in that you  
permitted numerous persons who appeared to be homosexuals to  
frequent and congregate on your licensed premises and conduct  
themselves in a manner offensive to common decency and public  
morals; in violation of Rule 5 of State Regulations No. 20."

The file herein discloses that ABC agents visited defendant's  
licensed premises on a number of occasions between July 1 and  
October 4, 1954, as set forth in the charges and that, on all but  
one of these occasions, there were present in the barroom varying  
numbers (up to thirty) of male patrons who greeted each other as  
"Honey" and "Dear", called each other by women's names (such as  
"Stephanie", "Georgiana" and "Sally") and otherwise acted in an  
effeminate manner. During much of the time the licensee was per-  
sonally present and served drinks to these patrons.

During their visit on the night of July 2 the agents recog-  
nized a male patron known to them to be a "female impersonator."  
This patron informed the agents that he had "retired" and had  
settled down and married a Marine. He also acted in an extremely  
effeminate manner and, when one of his kind slapped his abdomen, he  
chided him saying, "Look out for my baby."

On their last visit (October 8 and 9) the agents saw at least  
thirty of these male patrons, some of whom were embracing and kissing  
one another. Others were seen in poses and attitudes more intimate  
and affectionate than is normal or common between males. One agent  
asked the bartender, "Is everybody present a fag?" and the reply  
was, "Most of them are queers" and, when the bartender was asked,  
"Can I get fixed up? How about that fellow in the white blouse.  
Is he a queer?", he replied, "Wait till I see who you mean. Some  
of them are paired up together." He then left the agents and, when

he returned, he reported, "Yeah, yeah" and followed with, "See these three guys coming in now. They are all queers. \*\*\* We got about twenty to twenty-five of them that come here. Look, I'm going to serve them now." When the latest arrivals were served, the agents made known their identity to the bartender who relinquished his duties to the licensee and volunteered a signed statement. The licensee made no statement.

From the foregoing it is obvious that defendant's licensed premises were, for a considerable period of time, a rendezvous for "queers" or, more politely, "female impersonators", within the contemplation of Rule 4 of State Regulations No. 20. It is also clear that some of them openly conducted themselves in the manner hereinabove described in defendant's barroom in full view of the licensee, the bartender and the other patrons. Even if there were no plea (non vult) in this case, it would be inconceivable that defendant was ignorant of their proclivities and, perhaps more important, their conduct upon the licensed premises.

Defendant has a prior record. Effective July 7, 1947, her license was suspended for ten days by the local issuing authority for sale of alcoholic beverages to minors. Cf. Re Lloyd, Bulletin 797, Item 6. However, because of the dissimilarity of the violation and the lapse of time, I shall disregard such prior record. Re Weinstein, Bulletin 1002, Item 13.

I have given considerable thought to the proper penalty to be imposed in this case. The charges herein are serious. The conditions and conduct hereinabove described constitute lewdness and immoral activity within the meaning of the Regulations and are offensive to common decency and public morals. There can be no excuse for such conditions or conduct upon licensed premises. Rigid enforcement of the Regulations, the violation of which forms the basis of the charges herein, is essential to the preservation of decency and the protection of the public morals. There should be a severe penalty in this case. However, after considering most carefully all of the facts and circumstances herein, including the fact that neither the patrons nor anyone connected with the licensed premises were "made up" or attired as females, and the absence of any lewd entertainment (as was the case in Re Polka Club, Inc., decided simultaneously herewith), I shall not revoke the license but, instead, shall suspend it for one hundred twenty days.

If the licensee values the privilege of the license, she will be well advised to avoid further violations. In addition, all licensees should take notice that degradation and depravity, which constitute so serious a threat to the public welfare and morals, will not be tolerated upon licensed premises and that such premises cannot be permitted to become havens for deviates or persons of low morality. Licensees who fail to heed this warning do so at their peril.

Accordingly, it is, on this 27th day of December, 1954,

ORDERED that Plenary Retail Consumption License C-146, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to Jessie Lloyd, for premises 76 West Jersey Street, Elizabeth, be and the same is hereby suspended for one hundred twenty (120) days, commencing at 2:00 a.m. January 3, 1955, and terminating at 2:00 a.m. May 3, 1955.

WILLIAM HOWE DAVIS  
Director.

8. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL IN MOTOR VEHICLE REGISTERED IN WIFE'S NAME - APPLICATION OF WIFE FOR RETURN OF MOTOR VEHICLE DENIED FOR FAILURE TO OVERCOME PRESUMPTION THAT SHE WAS AWARE OF HUSBAND'S UNLAWFUL ACTIVITIES - MOTOR VEHICLE RETURNED TO INNOCENT LIENOR - ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure on August 13, 1954 of 101 one-half gallon "Mason" jars of alcohol and a Lincoln sedan, on the northbound lane of the New Jersey Turnpike, at the 85 Mile Post, Raritan Township, County of Middlesex and State of New Jersey.

Case No. 8682

ON HEARING CONCLUSIONS AND ORDER

Philip Barbash, Esq., Attorney for Greenwich Trust Company. Tepper, Tepper and Verney, Esqs., by Bernard Verney, Esq., Attorneys for Lucille Coleman. I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether 101 half-gallon "Mason" jars of alcohol, and a Lincoln sedan, described in a schedule attached hereto, seized on August 13, 1954 on the northbound lane of the New Jersey Turnpike, at the 85 Mile Post in Raritan Township, New Jersey constitute unlawful property and should be forfeited.

When the matter came on for hearing, pursuant to R.S. 33:1-66, an appearance was entered on behalf of Lucille Coleman, the registered owner of the Lincoln sedan, who sought its return; and an appearance was entered on behalf of Greenwich Trust Company, which sought recognition of its alleged lien on such motor vehicle.

Reports of ABC agents and other documents in the file, presented in evidence with consent of counsel for the above claimants, disclose the following facts:

A New Jersey State trooper halted the vehicle on August 13, 1954 on the above highway during a routine patrol of traffic thereon. Henry B. Carr was driving the car, and Jesse Coleman, husband of Lucille Coleman, was a passenger therein. When the trooper discovered the jars of alcohol, some in the trunk of the car, and some on the rear seat, he seized the alcohol and motor vehicle. None of the jars had any labels affixed thereto, or stamps indicating the payment of tax on alcoholic beverages.

The alcohol and motor vehicle were thereafter turned over to agents of the Division of Alcoholic Beverage Control. The contents of one of the jars was analyzed by the Division chemist, who reports that it is an alcoholic beverage containing alcohol and water, fit for beverage purposes, with an alcoholic content by volume of 47.1 per cent.

Jesse Coleman signed a statement wherein it appears that he purchased the alcohol (corn whiskey) somewhere in Virginia from a stranger whom he met in a gas station, for which he paid \$96.00; that the alcohol was delivered to him by the stranger in the woods where it had been hidden; and that it was his intent to bring the alcohol to the home of his employer in Bronxville, New York, where he resided, for consumption in a "little club" -- a "pinochle club" in the basement of the dwelling.

The alcohol is illicit because of the absence of any labels or tax stamps on the jars. R.S. 33:1-1(i), R.S. 33:1-88. It is obviously bootleg alcohol. Such illicit alcohol and the motor

vehicle in which it was transported and found constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

Lucille Coleman claims to be the actual owner of the motor vehicle and asserts that she did not know, or have any reason to suspect that her husband would use the motor vehicle to transport illicit alcoholic beverages. The normal presumption is that a wife, by reason of their marital relation, has knowledge of her husband's unlawful activities. Seizure Case No. 8679, Bulletin 1041, Item 7; Seizure Case No. 8525, Bulletin 1027, Item 3.

Mrs. Coleman testified that she has been married to Jesse Coleman for fourteen years; that she and her husband have been employed in domestic service during the entire period; that when the Lincoln sedan was purchased they were so employed by the president of a nationally known advertising agency, and at the time of the seizure they were employed by another prominent person, at a monthly salary of \$400.00 in addition to room and board; that they purchased a farm in North Carolina and used their income to make improvements thereon, and managed to save some money in a bank account; that they have owned motor vehicles, some registered in her name, and some registered in her husband's name.

Mrs. Coleman's attention was directed to her husband's fingerprint record which discloses his arrest in 1949 in North Castle, Armonk, New York for a violation of a liquor law for which he was fined \$200.00, and his arrest on July 1, 1950 by police of the same municipality for a similar violation for which he was fined \$300.00, or in the alternative was sentenced to 90 days in jail. She acknowledged that she knew of her husband's arrest in 1949 the day following the arrest.

Mrs. Coleman and her husband left their place of employment in Bronxville, New York, a day or so before the seizure and drove to North Carolina. Their employer had left on a trip to Europe, their employment had been terminated, and the Colemans took all their belongings with them. They arrived in North Carolina Thursday morning and Jesse Coleman left Thursday night, purchased the illicit liquor, and was returning to New York when apprehended.

In the light of all the circumstances presented, it appears improbable that Mrs. Coleman did not know or have any reason to suspect that her husband was likely to transport illicit alcoholic beverages in the car, and hence she has not overcome the presumption heretofore referred to. In the absence of satisfactory evidence of her lack of knowledge of or reason to suspect her husband's unlawful activities, the car cannot be returned to her. R.S. 33:1-66(f). Consequently it is not necessary to determine whether she is the actual sole owner of the family car, or whether her husband has a substantial interest therein.

The collection manager of the Greenwich Trust Company testified on its behalf. It appears therefrom that the bank purchased by assignment a conditional sales contract dated November 4, 1952 signed by Jesse Coleman, and Lucille Coleman covering the Lincoln sedan in question, securing an unpaid balance of \$2972.16. The sale was made by a Greenwich automobile dealer. The named buyer was Lucille Coleman of a North Carolina address.

The application for credit submitted to the bank prior to its extending credit named Jesse Coleman as the applicant, gave his employment as a chauffeur, employed by the president of the advertising

concern of Rye, New York. The references furnished were a bank of New Rochelle, a finance company located in White Plains, New York, and a bank located in North Carolina.

The New Rochelle bank and the finance company advised that they had satisfactory financial dealings with Jesse Coleman. The employer verified the fact of employment. The bank did not seek specifically to ascertain whether Jesse Coleman had a criminal record for violating any liquor law.

A finance company must establish that it made an adequate investigation of the character, identity, and employment of the person with whom it dealt and that it did not discover such person's criminal record or any facts which would have led a reasonably prudent person to suspect that he had such a record. Seizure Case No. 7546, Bulletin 873, Item 4; Seizure Case No. 8604, Bulletin 1037, Item 4.

Where a reasonable credit inquiry, such as an ordinary prudent person should be expected to make, fails to reveal any fact or suspicious circumstance tending to indicate that the purchaser of an automobile is of ill repute, no arbitrary requirement should properly be placed upon an automobile finance company to include inquiry of the chief of police or other law enforcement official concerning any record of the proposed purchaser before acquiring its lien upon an automobile. Seizure Case No. 7546, supra.

In the instant case, the bank had every reason to believe that it was dealing with a person of good character. Its inquiry developed that Jesse Coleman and his wife were employed as chauffeur and housekeeper by persons who normally required references of the highest character from such servants; and that the two references who previously dealt with them advised that they had satisfactory dealings with the Colemans. There was nothing which came to the attention of the bank to alert it to make specific inquiry as to whether Jesse Coleman had a criminal record. I shall recognize the lien claim of the bank in the amount of \$1191.90, the present balance due on its lien after allowance for prepayment.

The Director of the Division of Purchase & Property has advised that the State of New Jersey is not interested in retaining the Lincoln sedan for the use of any state agency upon payment of the lien claim. The retail value of such vehicle does not appear to exceed the amount of such lien and the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if, on or before the 3rd day of January, 1955, the Greenwich Trust Company pays the costs incurred in the seizure and storage of the Lincoln sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to such bank; and it is further

DETERMINED and ORDERED that the jars of alcohol described in the aforesaid Schedule "A" constitute unlawful property, and the same be and hereby are forfeited in accordance with the provisions of R.S. 33:1-66, and that they be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS  
Director.

Dated: December 22, 1954.

SCHEDULE "A"

- 101 - one-half gallon "Mason" jars of alcohol
- 1 - Lincoln Sedan, Serial and Engine No. 52LP-20915H, 1954 N. Y. Registration No. 8...

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

In the Matter of Disciplinary )  
Proceedings against )

HERMAN RILEY and JAMES )  
DiGIRALAMO, t/a ALPINE INN )  
35 John Street )  
Haledon, N. J., )

CONCLUSIONS  
AND ORDER

-----)  
Holders of Plenary Retail Consump- )  
tion License C-13, issued by the )  
Borough Council of the Borough of )  
Haledon: )

Joseph L. Ferraro, Esq., Attorney for Defendant-licensees.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charge:

"On Saturday night, October 16 and early Sunday morning, October 17, 1954, 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; in violation of Rule 5 of State Regulations No. 20."

The file herein discloses that on Saturday night, October 16, and Sunday morning, October 17, 1954, ABC agents who were present in defendants' licensed premises observed therein numerous couples being entertained by a three-piece orchestra and a floor show. One of the acts was presented by "Stephanie" who appeared upon the dance floor attired in a brassiere, abbreviated tights and knitted hose. For a short period she solo-danced and then, with her arms extended above her head, oscillated the lower part of her torso rhythmically with the drum beat. She then squatted close to the floor and indulged in a series of suggestive "bumps and grinds" to the accompaniment of the drummer's intermittent beat. During the course of the agents' visit the floor show was repeated and "Stephanie" again danced in the manner set forth above. The agents then identified themselves to the manager, to one of the licensees who arrived later, and to "Stephanie" who told the agents that her act was "jitterbug, modern interpretative, Mambo, Afro-Cuban and about 10% suggestive."

This type of performance has no place on licensed premises.  
Re New Frisco Club & Restaurant, Inc., Bulletin 1040, Item 2;  
Re DiAngelo, Bulletin 753, Item 4.

Defendants have no prior adjudicated record. I shall suspend defendants' license for thirty days and remit five days for the plea entered herein, leaving a net suspension of twenty-five days. Re New Frisco Club & Restaurant, Inc., supra.

Accordingly, it is, on this 27th day of December, 1954,

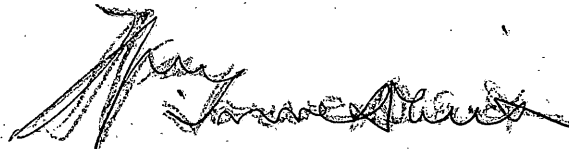
ORDERED that Plenary Retail Consumption License C-13, issued by the Borough Council of the Borough of Haledon to Herman Riley and James DiGiralamo, t/a Alpine Inn, for premises 35 John Street, Haledon, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. January 3, 1955, and terminating at 3:00 a.m. January 28, 1955.

WILLIAM HOWE DAVIS  
Director.

10. STATE LICENSES - NEW APPLICATION FILED.

Maislin Bros. Transport Limited  
400 Grace Street  
Secaucus, N. J.

Application filed January 1, 1955 for Transportation License.



William Howe Davis  
Director.