

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

BULLETIN 953

JANUARY 19, 1953.

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ITEM

1. DISCIPLINARY PROCEEDINGS (Hoboken) - LEWDNESS AND IMMORAL ACTIVITIES (RENTING ROOMS FOR IMMORAL PURPOSES), (OBSCENE CONDUCT BY ENTERTAINER) - FEMALE IMPERSONATOR - HOSTESSES - EMPLOYMENT OF UNQUALIFIED PERSONS (NON-RESIDENTS AND PERSON CONVICTED OF CRIMES INVOLVING MORAL TURPITUDE) - LOTTERY - SALE OF ALCOHOLIC BEVERAGES BEYOND TERMS OF LICENSE - BOTTLING ALCOHOLIC BEVERAGE - LICENSE REVOKED.

"6. On November 30, 1951, and on divers dates prior thereto, you allowed, permitted and suffered a lottery, commonly known as a 'raffle' or 'drawing', to be conducted in and upon your licensed premises, and possessed, had custody of and allowed, permitted and suffered tickets and participation rights in such aforementioned lottery in and upon your licensed premises; in violation of Rule 6 of State Regulations No. 20.

"7. On November 30, 1951, you sold an alcoholic beverage, not pursuant to and within the terms of your license as defined by R. S. 33:1-12(1) in that you made a sale of whiskey for consumption off the licensed premises in other than the original container; in violation of R.S. 33:1-2.

"8. On November 30, 1951, you, not being the holder of any license so to do, bottled an alcoholic beverage for the purpose of sale, viz., whiskey in a 7-ounce soft drink bottle labeled '7-Up'; in violation of R. S. 33:1-78.

"9. On November 30, 1951 and on divers dates prior thereto, you knowingly employed and had connected with you in a business capacity Lawrence Garaventi, a person who had been convicted of crimes involving moral turpitude, viz., in or about April 1922 of the crime of robbery and in or about April 1936 of the crime of unlawful operation of a still; in violation of Rule 1 of State Regulations No. 13."

(Hearing of this case took three full days, the third day two months after the first, with 377 pages of transcribed testimony and argument. Although defendant-licensee entered a plea of not guilty to all nine charges a Memorandum filed for defendant-licensee on May 1, 1952 sets forth that with respect to Charges 6 and 7: "The licensee ... enters a plea of non vult.")

Four of the Division's agents participated in the investigations leading to the proceedings herein. In the testimony and comment hereinafter set forth the full names of the agents will not be used but, instead, just the initial letter of the last name: "W", "K", "M" and "P".

F O R T H E D I V I S I O N

The night of November 16th (Investigator "W" testifying).

Waitresses Norma Maccagnano and Mildred Butler and Mary Del Geno (hat check girl) accepted and drank "several rounds" of alcoholic beverage drinks at the expense of male patrons. Later Norma and Mildred had several drinks at the expense of Investigators "W" and "K".

— — "W" and "K" asked Hank (Frank Brignola) the night bartender whether it would be possible to get rooms in the hotel upstairs. They told him that they had "a couple of girl friends" they would like to take up to the rooms for the purpose of engaging in sexual intercourse. Hank said "You can get the rooms here ... there won't be any trouble"; told them they would not need luggage; and told them the rooms would cost three dollars apiece.

— — Later "Joe", who had been meeting people coming in and ushering them to the bar or tables, went to the band platform. "He started to sing ... During his song (Heart of My Heart) he sang in a high-pitched voice, and he put his hands on his hips and swished his hips

back and forth as a woman would do, and also moved his hands about in effeminate fashion. Several times during the song he would say 'Whoops', and jump forward and put one of his hands to his posterior as though he had been goosed ... During the act, during his song, he had a handkerchief in his hand and he rolled it up to a point ... in a long form, elongated form ... He held it in one hand and bent down as though to lick it, and when he bent down to lick it he would work it so that the handkerchief would fall over ... After the song was finished he put the handkerchief on his head like a turban and went down amongst the patrons and he was taking money from the male patrons in front of them on the bar, money in front of them. One time we observed him kiss one of the male patrons right on the forehead after getting money." Then "he came long the bar to where Investigator 'K' and I were standing and took a dollar bill from Investigator 'K' and a dollar bill from myself from the money we had, and he was swishing as he came down ... moving his hips as a woman would. After he grabbed the money he returned over and grabbed Investigator 'K' at his groin, his private parts, and said 'Oh what beautiful blue eyes you have'." Norma Maccagnano and Mildred Butler were with the two agents at the time when this occurred; "they giggled and said they didn't have to worry about 'Joe' because he is a queer."

The night of November 17th (Investigator "W" testifying).

Investigators "W" and "K" spoke to Hank (Frank Brignola) about getting rooms upstairs to which to take a couple of girls for the purpose of having sexual intercourse. "Hank told us he couldn't get us rooms. He said we would have to see Babe (Lawrence Garaventi); he took charge of the rooms and he is the only one who knew which were vacant and available." Hank said Babe was out and would be back later.

— — Again the agents observed "Joe" walking about the premises "in a very dainty fashion, swishing his hips as he went up and down the barroom" and speaking "in a very effeminate manner." Again "Joe" sang in a falsetto voice. He also swished his hips and "pretended he had been goosed ... and toward the end of the song he again performed the routine of folding up the handkerchief in an elongated form and pretended to lick it and have the handkerchief fall down as he bent forward with his tongue ... After he got through the performance he went down amongst the male patrons and again solicited them for money they had on the bar."

The night of November 21st (Investigator "W" testifying).

Hank was tending bar. Norma Maccagnano and Mildred Butler, standing at the bar, consumed several rounds of drinks at the expense of male patrons. "The men would take turns buying the drinks."

— — Investigator "W" again spoke to Hank about getting rooms upstairs to use for the purpose of sexual intercourse with a couple of girls he and "K" had lined up. Lawrence Garaventi was on the premises. "He would greet customers coming in and show them places at the bar and also would show them places at the tables or booths." Hank introduced the agents to Lawrence Garaventi who said "Well, I can get you rooms because we always have a couple of rooms set aside for friends." Investigator "W" told Lawrence Garaventi that he and "K" had a couple of girls lined up to take upstairs and that they didn't want to get in any trouble, and Lawrence Garaventi then told the agents he would get rooms for them any time they wanted.

— — Again "Joe" sang "in a high falsetto voice and moving his hips and arms about in an effeminate manner", and later walked about the

premises "swishing and walking daintily as he went up and down talking to the patrons."

The night of November 30th (Investigator "W" testifying).

Hank was tending bar. "Joe" was on the bandstand, singing. Lawrence Garaventi was sitting in a booth with a man and a woman. "From time to time Babe (Lawrence Garaventi) would get up when people came in, while 'Joe' was singing, and escort people to the bar or tables in the premises." Investigator "W" called Babe over and told him that he and "K" had lined up a couple of girls who were coming down later by cab. "I told him 'K' would make a 'phone call and they (the girls) would come down and see about coming up to the rooms." The investigator told Babe that the girls' names were Terry and Joe. Babe told "W" the rooms were three dollars a couple. "I told him we wanted rooms shortly. He said 'Let me know when you want them'."

— — Investigator "W" asked Babe about selling a pint of liquor to take upstairs. Babe said "I can't give you a pint but I'll give you a soda bottle full of whiskey", and then Babe walked to the center of the bar and talked to Hank.

— — While Babe was speaking to Hank, Investigator "W" observed Margaret De Mesky and Norma Maccagnano, seated at a table with four male patrons and drinking at the expense of those patrons. Mildred Butler served the drinks and the payments were made to Mildred by the men seated at the table. Mary Del Geno accepted and consumed a drink at the bar at the expense of a male patron. Elsie Sherman (one of the musicians) accepted and consumed a drink at the bar at the expense of a male patron.

— — "Joe" came by and said he was "selling chances on cuff links, a lighter, tie clasp and set, buckle set." He sold two chances to "W" and two to "K" at two chances for a quarter.

— — "After Babe spoke to Hank, Hank took a bottle of Seagram's 7 Crown whiskey from the back bar and took also a 7-Up bottle and filled the bottle with whiskey from the Seagram's 7 Crown. After filling it up he brought it down around to the bar and put a cap on it, hit the cap on top of the bar and set the bottle in front of Investigator 'K'. 'K' asked him how much it would cost and he said 'two dollars. That is what Babe told me to charge you'."

— — Investigator "W" testified that "Babe returned to us. I told him I would like to get the rooms now because the girls were going to join us and 'K' would make a telephone call. Again I asked how much the rooms would cost. He said 'three dollars'. We each gave him the marked three dollars that we had ... He put the money in his pocket and called over 'Joe' and spoke something to him and 'Joe' went over to the side of the bar and lifted the latch on the door which led into the hallway and went out. Shortly after he returned and spoke to Babe ... Babe said 'I hope the girls are o.k. because if they talk there might be trouble'." Babe went to the men's room and when he returned "W" asked him whether they could have glasses to take to the hotel rooms. Babe said "take the shot glasses and other glasses that you have and use them in the room ... I'll take you up to the rooms now." Investigator "K" took the 7-Up bottle filled with whiskey; "W" took the glasses; and the two investigators followed Babe out of the tavern door where Babe unlocked the hotel door, told them the rooms were in front on the third floor, Rooms 14 and 15, and said "Right at the top of the stairs ... when the girls come I'll send them up." "W" and "K" went up together; put on the lights in Rooms 14 and 15 and found the rooms empty, and then went to Room 14 and stayed there waiting. About five minutes later Investigators "M" and "P",

together with Babe, entered Room 14. Investigator "M" asked Babe to empty his pockets and included in the money removed therefrom were the six marked one-dollar bills made up prior to the agents' entering the premises. Shortly thereafter four members of the Hoboken Police Department (two detectives and two uniformed policemen) joined the others in Room 14. A little while later Investigator "K" and all of the police went down to the barroom and Investigator "K" seized the drinks from Norma and Margaret at the table at which they were seated."

(The six marked one-dollar bills; the 7-Up bottle containing whiskey; two bottles into which the drinks seized from Norma and Margaret had been poured; and the chance book, belt set and lighter seized from "Joe" were introduced and marked in evidence herein.)

The parties concerned were taken to police headquarters: Norma Maccagnano, Mildred Butler, Margaret De Mesky, Frank Brignola, "Joe", and Lawrence Garaventi. There Investigator "W" took sworn statements from Norma and Mildred and Frank. The statements were introduced and marked in evidence herein.

Investigator "K" testified that his testimony on direct examination would, if taken, be substantially the same as that given on direct examination by Investigator "W". Investigator "P" testified that he was present on the licensed premises on the nights of November 17th, 21st and 30th, 1951; that he observed the entertainment and conduct by "Joe" on November 17th and 21st and the acceptance of drinks, at the expense of customers, by Norma and Mildred on November 17th; that on November 30th he heard the conversation between Investigators "W" and "K" and Frank Brignola and a portion of the agents' conversation with Lawrence Garaventi (with respect to the price of the rooms but not with respect to the mention of "girls"); and that as to the indicated matters his testimony would be substantially the same as that of Investigator "W".

Investigator "M" testified that he was present at the licensed premises on the night of November 30, 1951; that he entered with Investigator "P"; that he and "P" stood next to Investigators "W" and "K" at the bar; that Frank Brignola was bartending; that he observed "Joe" sell the chances to "W" and "K" and observed Elsie Sherman accept a drink at the expense of a male patron. He testified to the same effect as Investigator "W" with respect to the conversation between "W" and "K" and Lawrence Garaventi regarding obtaining of rooms, price of the rooms, sale of the whiskey in the soft drink bottle, and Babe's telling the agents to take their glasses upstairs. He testified, further, that when Babe returned to the tavern, after having directed "W" and "K" to the rooms upstairs, he ("M") revealed his identity and asked Babe to escort him to the rooms he had rented to the two agents; that Babe did so and the agents were found in Room 14; and that he there took from Babe the six one-dollar bills which had been given to him by "W" and "K" and which he ("M") had marked beforehand.

Introduced and marked in evidence herein were copies of four letters, textually as follows:

From the Division to Lawrence Garaventi (February 3, 1949):

"Please be advised that the record furnished us by The State Bureau of Identification, at your request, through our Identification Bureau, discloses that you have been convicted of at least two crimes which in the opinion of the Director are crimes involving moral turpitude; that is robbery in 1922 and operating an illegal still in 1936. Those crimes both involve moral turpitude...."

From the Division to Mrs. Margaret Garaventi (February 4, 1949):

"Enclosed is copy of letter dated February 3, 1949, which was sent to your husband.

"You will note from the enclosed letter that, because of your husband's convictions, he may not be employed by you or connected in any business capacity with your licensed premises."

From the Division to Mrs. Garaventi (September 26, 1950 - Registered Mail):

"By letters of February 3 and 4, 1949, respectively, your husband, Lawrence Garaventi, and you were advised that in the opinion of the Director your husband is disqualified from holding a liquor license or being employed by a liquor licensee in this State. The reason for the disqualification, as previously pointed out, is that he was convicted in or about April 1922 and in or about April 1936, respectively, of crimes involving moral turpitude, viz., the crime of robbery and the crime of unlawful operation of a still. Nevertheless, it appears from reports of Division investigation that on August 7, 1950 one of our agents found him tending bar at your premises. It further appears from a sworn statement given by him to the agent on that date that he had been cleaning your tavern since your regular porter left to join the Navy several days before the investigation.

"We note that, although you admitted having been apprised by this Division of your husband's disqualification, you claimed in sworn statements that you were away on vacation during the period that the employment occurred and that such employment was not only without your knowledge but also contrary to your specific instructions to him. You added that you had left the premises in charge of a bartender, Marco Sisti, and that he was unaware of your husband's criminal record. Your claim of lack of knowledge of your husband's employment is corroborated by his statement and your claim concerning your bartender's ignorance of your husband's criminal record is corroborated by a sworn statement of the bartender.

"Since employment of a disqualified person is contrary to the Alcoholic Beverage Law and the Division Regulations (R. S. 33:1-25 and 26 and Rule 1 of State Regulations No. 13) and, hence, cause for suspension or revocation of your license, serious consideration has been given to the question whether disciplinary proceedings should be instituted against you. However, under all the circumstances and in view of the fact that you have no previous record of a similar violation, it has been determined to accept your above mentioned claims and, accordingly, we will withhold proceedings this time. On the other hand, you are given fair warning that if, during the period of your husband's disqualification, his services are again utilized in any way on your licensed premises or in furtherance of your licensed business, with or without compensation, disciplinary proceedings may be instituted against you and the present warning considered an aggravating circumstance in determining the proper penalty to be imposed.

"It is your responsibility to see that no unqualified persons are employed at your premises or in connection with your business. You may not avoid that responsibility merely

by entrusting the operation of the business to an employee. Accordingly, you would be well advised in the future, when leaving someone else in charge of your premises, to give him appropriate instructions against engaging or accepting the services of your husband or any other disqualified person.

"You must let us have, immediately and without fail, a letter signed personally by you, acknowledging receipt of this letter and pledging strict future compliance with the above cited Law and Regulations."

From Mrs. Margaret Garaventi to the Division (September 30, 1950 -- Registered Mail):

"Received your letter of Sept. 26, 1950 and in accordance to my orders my husband is not permitted at any time to go behind the bar or to be employed on the premises, which I have always fulfilled.

"I am very sorry it had to happen that way."

TESTIFYING IN BEHALF OF DEFENDANT-LICENSEE

Mrs. Margaret Garaventi. She has been married for twenty-two years to Lawrence Garaventi who "used to fight under the name of Babe Sieger when he was younger." She has held the license for the Sportsmen's Bar and Grill for almost four years. She owns the building with the licensed tavern on the ground floor and with the two upper stories a 15-room "hotel for men". She has seen no women in the hotel since 1950. She conducts a restaurant on the tavern premises and has a "restaurant license" issued by the City of Hoboken. Her husband, Lawrence Garaventi, is in charge of the hotel and there is no connection between the hotel and the licensed premises. She goes to the licensed premises "practically every day ... sometimes I go in the afternoon; sometimes I go in the evening." The "capacity" of the waitresses employed by her was to serve drinks. "That was what they were working there for." She instructed the waitresses not to drink with patrons of the tavern. "I always tell them they should never; never drink with any patrons, never whatsoever." She paid the girls three dollars a night and "most naturally" they got tips in addition to their salary. She never saw any of the waitresses drink with any patrons, but she did not know whether or not any relatives of the waitresses came to the tavern. She never allowed, permitted or suffered any lewdness or immoral activity upon the licensed premises: "Never, Mr. Krivit, never." Asked whether she permitted or knew of the renting of rooms in her hotel for the purpose of illicit sexual intercourse, she replied: "No, I didn't know that." "Joe" is her genial host: "A genial host is that he sits patrons when they come in, and he is pleasant, takes care of them, makes sure they have a place to sit." She saw "Joe" perform on the nights of November 16th, 17th and 21st, 1951. "He sings some songs ... good songs, no bad ones. Like Easter Parade, something to that effect ... Well, I mean a few little songs there. Just didn't do it as far as any bad songs are concerned." Asked to describe actually what she saw "Joe" do in the performance of Easter Parade, she answered: "Well, he would sing around, swing a little, sway a little, Easter Bonnet, he had a bonnet and put it on, tie it around his neck." "Joe" was not a female impersonator: "Oh, no. He is far from that. He certainly is not." When her Attorney asked "How often do the police of Hoboken come in?", she replied: "Fifty percent of the police of Hoboken come into my place, and come in with their wives, Mr. Krivit ... Positively. I have a policeman

lives right on my block who I know very well." Then defendant-licensee was asked by her Attorney whether "Joe" ever engaged in "foul, filthy and obscene conduct", and she answered: "No, sir. I never heard him, never." Again the Attorney asked whether she ever permitted or suffered the waitresses to accept drinks at the expense of customers or patrons. She replied: "Never. I told you that before, Mr. Krivit. I told my girls every night, or every time I seen them -- I can't say every night -- but I always told them never, never drink with any of the patrons, never." Mrs. Garaventi testified that she employed Elsie Sherman and Kay Dare to work as musicians on the licensed premises; that November 30th, 1951 was their first night; and that she did not know they were non-residents of New Jersey and did not know of any rule requiring a permit for the girls. She did not know "Joe" was conducting a raffle on the licensed premises: "If he done that he did it on his own. I didn't know anything at all about it." Her husband, Lawrence Garaventi, "has no connection whatsoever with my tavern." When her Attorney asked whether her husband was ever connected with her in a business capacity, Mrs. Garaventi replied: "None whatsoever in the tavern. I was fully aware my husband could never go behind the bar and never have any license. I was fully aware of that Mr. Krivit. Why should I jeopardize my license to have my husband go behind the bar or do anything in the tavern?"

Mildred Butler. She has been employed as a waitress on the licensed premises for a little over a year and was working there on the nights of November 16th, 17th, 21st and 30th, 1951. The tavern "is operated very good manner or I wouldn't be there ... It is a clean place, run respectable. Mrs. Garaventi, the owner of it, is respectable." Members of the Hoboken Police Department come there with their wives "just to patronize, pleasure." She had never seen any lewdness or immorality in or upon the licensed premises: "Never, or I wouldn't be there." She saw "Joe" perform on the nights of November 16th, 17th, 21st and 30th, 1951, and he never did, in her presence, any act of a lewd or indecent nature. "Almost all" of the members of her family come to the tavern. "My mother has been there; my two brothers; my sister; my brother-in-law have been there." Investigator "W" asked her to have a drink, but "No, I wouldn't drink. I didn't have any drink ... because we don't drink with patrons ... because I got strict orders from Mrs. Garaventi not to drink with patrons." She did drink with some persons who came in: "My brothers; my mother when she came in; my aunt; the fellow I go with; my brother-in-law -- all in the family"; but she never took a drink with any stranger. She served drinks (on November 30th) at a table where Margaret De Mesky's mother-in-law and father-in-law sat.

Margaret De Mesky. She is the wife of a Jersey City Fireman. They have two children, one six years old and one one year old. She has worked as a waitress for defendant-licensee for one year, on Friday, Saturday and Sunday nights from nine until two. She never saw any act of lewdness or immoral activity in the tavern. She never accepted any alcoholic beverages at the expense of customers or patrons, but only at the expense of relatives. "My mother-in-law and father-in-law comes into the place very often; in fact, make it a practice to come in there always to see me. We sat down with a friend of theirs, relatives of my mother-in-law, we had a drink." The friend was Morris Kelly, "distantly related." Her brothers came to the tavern and "I drank with them", and her husband's relatives also came to the tavern often -- "Uncles." She had never seen any of the waitresses drink in the tavern with any patrons. She had never known Investigator "K" until the night of November 30th when he took her statement: "When he had mentioned his name, and I remembered his brother and I went to the same school together. I know the family."

Norma Maccagnano. She had been working as a waitress in defendant-licensee's tavern for about seven months. The place was "operated very nicely." Lawrence Garaventi never participated in any way in running the tavern. When she first went to work Mrs. Garaventi "told me never to drink with customers ... I drank with like Margie's relatives; they weren't relatives of mine but friends, friends I mean." On one occasion she had a drink with Investigators "W" and "K". "They said 'have a drink' ... I said 'no' first ... They said 'come on, have a drink' ... so I said 'all right'"; but when Frank Brignola served the drink he did not know it was for her. "I have a brother-in-law and sister-in-law come in -- occasionally they come in and buy me a drink", but she never drank with "so-called strangers." She had never seen "Joe" perform in a lewd or indecent manner or impersonate a female.

Loretta T. Daly. This witness identified Investigator "K" at the Hearing. She testified that she had known him for four or five years; that he called her Loretta and knew her last name and that she knew him only as "Skippy"; and that she had been with him at defendant-licensee's tavern "in the fall of 1950." Immediately defendant-licensee's Attorney asked: "You say it was 1950, this being 1952. Have you refreshed your recollection since you have testified? She answered: "I forgot this was 1952, to be truthful; that is when I went -- I have been in the hospital." Her recollection was that she had seen "K" at the tavern in 1951 (some months before the investigation herein) when "I met him there and he sent me a drink"; and that she had met him on a different day in 1951 at the Grove Tavern in Jersey City. She testified that she had known "K" and had known he was an ABC agent for about four years before she met him at the Grove Tavern: "He told me in Bosco's restaurant on First Street (Jersey City) when I first met him four years ago, when he told me he became an ABC man." Then the Attorney for defendant-licensee asked: "After you met him in the Grove Tavern did he make any arrangements to go anywhere with you?", and Loretta Daly answered: "If I may state it in my own words, I was sitting in the Grove Tavern. I was having a beer. So Skippy came in, and he says to me, 'What's doing?' I says, 'I'm sitting around.' He says, 'Want to go for a ride?' I says, 'All right.' He says, 'But we aren't going to Union City. I have to go to Hoboken.' We didn't only go to the Sportsman Tavern, we went to another place -- two other places. As Skippy was driving we came down River Street to the Sportsman Club and Skippy showed me a tavern and said, 'I had that place closed up, too' -- meaning the Irish House or Dublin or Shamrock House in Hoboken. I know it was on a Monday night because it was very slow all around. Tuesday, the bartender in the Sportsman Club is off, but Mr. C. ('Joe') was there and another bartender was there. I only know him by name. I told him how Skippy was an ABC man ... And Wednesday night (the following night) I went down there again and I told Hank (Frank Brignola)." The Attorney for defendant-licensee asked Loretta Daly whether she had seen "K" since, and she answered, "No." Then, Question: "This (at the Hearing) is the first time?" Answer: "I have been very sick, as I said before. Why I said 1950 is because I lost my brother then. It has been on my mind." Question: "Any question in your mind that this is not the man you referred to as Skippy?" Answer: "Oh no, no doubt whatsoever." On cross-examination Loretta Daly testified that she first met Investigator "K" at a New Year's party in Bosco's restaurant on January 1, 1947. When asked, on further cross-examination, "Can you tell us the circumstances under which you brought to the attention of the Garaventis or Mr. Krivit the fact that you knew Mr. 'K'?", she answered: "Well no. I read a piece in the paper about the Sportsman Club. Naturally, I called up, wanted to know what it was all about. Mrs. Garaventi says to me, 'Were you ever in the Sportsman Club with Skippy? -- because Skippy said he doesn't know you.' I told her, 'Yes, I was in

there.' That was the whole story." Then Loretta Daly denied that she had ever "worked" for defendant-licensee, but admitted: "I helped out for one week -- weekend, it was ... in 1950" as a hat-check girl.

"Joe". He is fifty-nine years old; married and "wife lives with me all those thirty-seven years." He testified that he had been employed for almost two years as "entertainer" and "genial host" at defendant-licensee's premises. As genial host, "I greet people coming in, good evening them and good night them, sit them down at the bar or a table where they prefer to sit, see that everybody coming in the doorway is not under age, don't get served, intoxicated don't get served; that is my job." Asked by defendant-licensee's Attorney, "Do you ever see any police officials come into the place?", he answered: "Oh, yes. Every night." He testified that he "sings songs, sing a hundred different songs ... all popular tunes"; that he never did anything of a vulgar or indecent nature while he sang. "Never did in my life. I am in this business forty years." "Joe" was asked by the Attorney for defendant-licensee: "... is there any one who made any particular song famous that you impersonate? Like Helen Morgan?" He replied: "Certainly, I impersonate a lot of stars." He testified that he used a handkerchief during his performance. "Simply wave it when I sing a song like Easter Parade." Then, Question: "Did you ever roll this handkerchief to an elongated roll and put the handkerchief in your mouth?" Answer: "No. I do like You Got Me Crying Again, and when it comes to the part 'Your lips are sweeter ... Your kisses right from the start come from your lips' -- that is all." Question: "Then you take the end of the handkerchief?" Answer: "That is right." Question: "Which is opened out?" Answer: "That is right. Just like Helen Morgan." Question: "Put it to your lips?" Answer: "That is right. Just like Helen Morgan." Question: "Was she made famous?" Answer: "That is right. Sits on a table. That is all she does. With a handkerchief." Question: "She used to hold the handkerchief in her hand?" Answer: "That is right. That is what made her song." Question: "Have you ever swished your hips or did bumps or grinds in any way?" Answer: "No, but I do songs with gestures like in." Question: "Gestures?" Answer: "Certainly." Question: "What kind of gestures do you use?" Answer: "According to the song I sing. Like, 'right from the start, come from your lips' all them bars with gestures." "Joe" testified that Mrs. Margaret Garaventi "comes in nearly every night Her hours wasn't every night the same; probably stood an hour, half-hour." Asked whether he ever saw any relatives of the waitresses come into the tavern, "Joe" replied: "Yes, quite often. In fact, I know their mothers. Their mothers used to come in there quite often Millie's mother came in there with her aunt; Norma's mother came in, and Margie's mother-in-law." He testified that he saw Margie and Norma seated with Margie's mother-in-law and father-in-law on a night during Thanksgiving week in 1951. He testified that Lawrence Garaventi came to the tavern "occasionally, I would say twice a week, sometimes not at all", and that Lawrence Garaventi never had anything to do with the running of the tavern.

Frank Brignola (Hank). This witness testified that he had worked at defendant-licensee's tavern for two and one-half years as night bartender and night manager. Then, on further direct examination -- Question: "Do you see Mrs. Garaventi very often or did you?" Answer: "Who?" Question: "Did you see Mrs. Garaventi very often?" Answer: "I don't see him at all." Question: "Mrs. Garaventi." Answer: "Yes." Question: "How often do you see her? At that time, before November 1951, how often did you see her?" Answer: "Never." Question: "Before November 1951." Answer: "Pretty regular -- five or six nights a week." Then Frank Brignola testified that he did not see "Joe" put on a lewd or indecent act on November 16th, 17th, 21st or 30th, 1951, or at any other time. The Attorney for defendant-licensee then asked him, "Who is in charge of renting rooms upstairs?", and he answered: "I guess Lawrence, Babe Garaventi." Question: "Has

he any connection whatsoever with the tavern?" Answer: "None whatsoever." Asked whether he knew Investigator "K" Frank Brignola testified: "I met him once. I seen him in the tavern. I wasn't introduced to him." He was with "Loretta Daly ... Loretta Daly told me that same night when he was there. When he went to the gent's room she said he was an Investigator for the ABC", and, therefore, that when Investigator "K" entered the premises (with Investigator "W") on the night of November 16, 1951, he knew "K" was an ABC man. Frank Brignola testified, further, that on November 16th Investigator "W" approached him on the subject of getting rooms: "He said, 'How about getting a room here?' I said, 'No rooms available, besides the hotel has nothing to do with the bar.' That is all I said." Asked whether "W" had indicated to him that he wanted rooms for sexual intercourse, Frank Brignola answered: "No such talk ... no talk about it. He just inquired if he can get a room ... I told him 'No connection between the hotel and bar.' I said, 'You have to see Babe'." Then defendant-licensee's Attorney asked (with respect to the night of November 30th): "Did they ever say to you that they wanted some rooms a couple of hours to get laid?" Answer: "That is a lie; never mentioned such talk like that. We wouldn't stand for it." This witness testified that on the night of November 30th Investigator "W" asked him to pour whiskey into a 7-Up bottle. "He asked me for a pint first. I said we don't sell pints, just quarts. He said, 'Put some in a 7-Up bottle.' I hesitated a while. I knew who they were. There was nothing to fear. I took a chance and put it in a 7-Up bottle. I didn't think it was a violation because a violation is putting whiskey in a whiskey bottle but not a 7-Up bottle. Like a glass or container." Then Question: "Did you ever give these men the price of the rooms?" Answer: "No, never discussed price."

Lawrence Garaventi. Defendant-licensee's husband testified that he had taken care of the hotel above the licensed premises since 1949 but that he had no connection with the licensed premises; that theretofore he had worked as a longshoreman until "I hurt my back ... laid up about eighteen months"; that he went into the licensed premises "Not too often, maybe once a week, twice every two weeks"; and that he never gave any orders or participated in any way in the running of the licensed premises, never hired or discharged anyone there, never went behind the bar, and never dispensed any liquor. Then, Question: "Did you at any time between November 16 and November 30 or at any other time employ the licensed premises for the purpose of arranging immoral acts in connection with the hotel?" Answer: "No, sir." Lawrence Garaventi then testified that he had never seen any of the Division's agents until the night of November 30, 1951, and that when Investigator "W" spoke to him on that night he was sitting in a booth talking with a "Mr. and Mrs. Riorden" who were back from a honeymoon in California. Asked about his conversation with Investigator "W" he testified: "Well, he said to me, he said 'I am tired', he says, 'I want to go up and rest a while, take a shower ... I says 'all right' ... He said 'I want to get a room for myself and friend', and he pointed to 'K'. 'We are very tired, want to take a shower and go to sleep for a while ... I called 'Joe' over and I told 'Joe' to go up and see if the porter was there." He testified that "Joe" went up "through the tavern, moved tables and chairs", that "Joe" told him he didn't want to go outside because he "was sick, laid up with a cold." "Joe" came downstairs through the same door, locking it and putting the tables and chairs back, and told Lawrence Garaventi that the porter wasn't there; whereupon he (Garaventi) said to the Investigators, "All right, I'll take you up to the rooms.... They says, 'All right.' As we were walking out of the tavern ... while we were in the lobby there going out of the tavern to go to the hotel entrance, that is when they handed me the money for the rooms." Then, Question: "Was there any other talk?" Answer: "No, not at that time. When we

left I took them up to the hotel. That is when Mr. 'W' approached me. He said, 'Look, I expect my wife', he says, 'and my friend expects his girl friend.' He says, 'Can you send them up when they come in?' I said, 'I'm sorry; when they come in if they ask for you I'll call you downstairs.'" Then, Question: "Have you ever made arrangements at any time -- whether on the 16th, 17th, 20th, 21st or 30th, or any other time with anybody, ABC men or anybody else, for the use of the rooms upstairs for immoral purposes?" Answer: "Look, Mr. Krivit, the way those fellows 'pitch' in that place, I wouldn't spit on anything like that. I wouldn't stand for anything like that. I made mistakes when I was a kid, but something like that I wouldn't stand for." Question: "Where is the register kept in the daytime?" Answer: "Upstairs in the linen room. There used to be an office there, but there was some new State law, fire violation. We had to eliminate four rooms in the place. That is where the book was. We had to eliminate that to make up a fire exit." Question: "The register is kept downstairs?" Answer: "Right." Later, the question: "Police officers come in the Sportsman Bar and Grill?", and the answer: "Yes, sir."

Called in rebuttal, Investigator "W" testified as follows:

Mildred Butler did not decline to drink with him on the night of November 16th, but had several drinks with him and "K". On the night of November 30th no other female was seated with Margaret De Mesky and Norma Maccagnano, but four young men were seated with them on that occasion. He ("W") witnessed the taking of Margaret De Mesky's sworn statement by "K" on November 30th and she did not say that the people seated with her were relatives. Called in rebuttal, Investigator "K" testified as follows: On the night of November 16th Mildred Butler did not decline to drink but, instead, had several drinks with him and "W". On the night of November 30th no other females were seated with Margaret De Mesky and Norma Maccagnano but, instead, four young men were seated with them. He ("K") took Margaret De Mesky's sworn statement on the night of November 30th and she did not say that the persons sitting with her were relatives or members of her family.

Further rebuttal testimony by Investigator "K": Question: "Did you see in court this morning a lady who gave her name as Loretta Daly and said she lived at 77 Railroad Avenue, Jersey City? Were you here this morning?" Answer: "Yes, Sir." Question: "Did you see her on the stand?" Answer: "Yes, sir." Question: "Do you see that young lady in the Hearing room now?" Answer: "Yes, sir." Question: "Have you ever seen that lady prior to today?" Answer: "No, sir." Question: "Were you an agent of this Division on January 1, 1947?" Answer: "No, sir." Question: "Or on January 1, 1948?" Answer: "No, sir." Question: "When did you become an agent of the Division of ABC?" Answer: "May 22, 1950." Question: "How old are you Mr. 'K'?" Answer: "I am twenty-five years of age." Question: "Did you as testified by Loretta Daly meet her about five years ago in Bosco's restaurant in Jersey City?" Answer: "No, sir." Question: "Have you ever been in the Sportsman Club in the company of Loretta Daly?" Answer: "No, sir." Question: "Mr. 'K', how old were you when Miss Loretta T. Daly states that she first met you approximately five years ago?" Answer: "I would be twenty years old." Question: "At that time, did you frequent any taverns?" Answer: "No, sir."

This case has been a new Director's most unpleasant inheritance. Although unoriginal, the theory and pattern of defense are unique in

the experience and history of the Department (now Division). As will have been observed from the testimony hereinabove recounted, these are proceedings in which the defense alleges that the Division's entire case, in the activities and sworn testimony of four of its agents, was fabricated from beginning to end in frame-up of an innocent licensee upon whose premises none of the charged violations was committed. In attempted support of the defense position in this regard is the contention that defendant-licensee's employees knew that one of the principal agents in the investigations leading to the charges was an ABC man before he and his fellow agent entered the premises on November 16th. The apparent purpose is to show that it would be most unreasonable to expect guilty conduct with such forewarning.

The Memorandum in Behalf of Defendant-Licensee begins as follows:

"The defendant-licensee senses the futility of arguing that where there is a direct denial of the testimony offered by the investigators for the Division of Alcoholic Beverage Control and the licensee's witnesses, that the Director should accept the licensee's version.

"And yet, in evaluating the testimony offered by both sides, can the director say within the realm of reasonable probability that the investigators are truthful and the witnesses for the licensee are not?"

The answer is an emphatic Yes. I am thoroughly convinced that a careful reading of the testimony and evidence herein could lead any dispassionate, discerning person to but one conclusion, namely, that the testimony of the Division's agents truthfully represents the facts while the testimony of the witnesses for defendant-licensee is largely compounded of studied and deliberate falsification.

On cross-examination of Investigators "W" and "K" an effort was made to show that the agents had operated carte blanche and entirely on their own when they visited defendant-licensee's premises, without information or cause to suspect violations therein. The agents truthfully and accurately testified that they acted under supervision and upon specific written information from their superior. As Investigator "W" stated: "I don't know the source of the information because I only get complaints stating certain alleged violations occurring on any premises. I have no way of knowing the source of the information." And, as Investigator "K" stated: "We had information in regards to what to expect but didn't know what would be in there until we went in and observed I was sent there to make observations; to make my reports to my superiors and then I would be told how to guide myself accordingly."

On cross-examination of Investigator "M" an attempt was made to show that although "M" had marked the six one-dollar bills which were found later on Lawrence Garaventi, he had not heard the price fixed for the rooms until after the bills were marked. In argument, the Attorney for defendant-licensee stated:

"... This is a very pertinent situation, whether any such conversation (concerning price of the rooms) ever took place at all. It is a very significant fact that six dollars were marked, six one-dollar bills were marked, before any conversation was had with Mr. Garaventi, allegedly, in which a determination was made that the price of the rooms was going to be three dollars apiece, or two times three, six dollars.

"I say it is a matter for the determination of the Hearer with respect to whether or not the investigators are telling the truth. It must be a real coincidence, if the Hearer please, that six dollars was marked before any arrangement was made with respect to price, because certainly these men didn't know whether there was going to be a six-dollar charge, eight-dollar charge, ten-dollar charge, or twenty-dollar charge. By a strange coincidence they had exactly the right amount of money marked out prior to the time they go in and supposedly hire rooms from Mr. Garaventi."

The Attorney must have been confused for the explanation was readily at hand. There was no strange coincidence. Investigators "W" and "K" had been told the price of the rooms by Frank Brignola who testified, on direct examination, that the agents "never discussed price" with him. "W" and "K" then told "M" to mark six one-dollar bills. That is why the six one-dollar bills were marked by "M" before price was mentioned to Lawrence Garaventi.

Lawrence Garaventi testified that he went into the licensed tavern "maybe once a week, twice every two weeks ... wouldn't stay very long, just walk in and walk out." Defendant-licensee testified that she went to the tavern practically every day or night, and on cross-examination: Question: "Did your husband spend more time at the tavern than you did?" Answer: "I wouldn't say that but most likely he did." She testified, further, that Lawrence Garaventi was at the tavern "many times" while she was there, and that at times she would go out and leave him there.

Lawrence Garaventi testified that the hotel register was kept "upstairs in the linen room" in the daytime, but defendant-licensee testified, on cross-examination: "It has always been behind the bar."

On cross-examination Lawrence Garaventi testified that his duties in connection with the hotel "was to clean the place up; do work around the place, like plumbing and so on and so forth", but defendant-licensee testified, on cross-examination: Question: "He didn't do cleaning?" Answer: "Oh, no. I had a porter." Question: "Or repair work?" Answer: "No." And Lawrence Garaventi is the witness who testified, "I made mistakes when I was a kid, but something like that (talk of renting rooms for immoral purposes) I wouldn't stand for." In 1936 when Lawrence Garaventi was convicted of unlawful operation of a still he was over 35 years of age.

From Mildred Butler's signed and sworn statement (taken on November 30, 1951 by Investigator "W" with Investigator "K" witnessing): Question: "Do you drink with male patrons at their expense?" Answer: "Not unless I know them". Question: "Do you recall drinking sloe gin and ginger ale with four male patrons and in the company of Norma Maccagnano on Wed., November 21, 1951, at the expense of the patrons?" Answer: "It probably was. I don't remember it." ... Question: "Did you drink with male patrons on this date, November 30, 1951?" Answer: "Yes, I drank with two fellows I knew. I drank scotch and water." And this is the witness who testified at the Hearing herein that she drank only with: "My brothers; my mother when she comes in; my aunt; the fellow I go with; my brother-in-law -- all in the family."

From Norma Maccagnano's signed and sworn statement (taken on November 30, 1951 by Investigator "W" with Investigator "K" witnessing): Question: "Has anyone ever told you not to drink with patrons at their expense?" Answer: "No. Usually I drink with friends." Question: "On the night, Nov. 30, 1951, did you drink with male patrons at their expense?" Answer: "Yes. I knew one and the other was a friend of Margie, a waitress." Question: "What does Babe (Lawrence Garaventi) do on the licensed premises -- as far as you know?" Answer: "He is like a Manager, I guess." This is the

witness who testified at the Hearing herein that Lawrence Garaventi never participated in any way in running the tavern; that she did have one drink with Investigators "W" and "K" but only after they insisted and against specific instructions from Mrs. Garaventi "never to drink with customers"; and that, "I drank with like Margie's relatives; they weren't relatives of mine but friends, friends I mean."

Margaret De Mesky was a remarkable witness. As pointed out, her signed and sworn statement was taken on November 30, 1951 by Investigator "K" (with Investigator "W" witnessing). On redirect examination she stated: "I didn't realize what I was doing when I signed it. I was very upset and didn't know what I was doing ... Mr. Krivit, I don't remember anything when I signed that statement ... Nervous and embarrassed for the simple reason I had in my life never gone through that sort of thing before. I was afraid it would reflect on my reputation as a mother of my children." On recross-examination she testified that she had read the statement before she signed it -- "very hazy, but it was very quickly"; that before she signed it Investigator "K" asked her to raise her right hand and swear that the matters were true; and that she signed without raising any objection, but, "I didn't read it. I couldn't read it. I wasn't even interested in the statement." But on re-redirect examination she was given the numerous questions and answers in the statement, and then she remembered with great clarity that in each instance she had insisted that the only persons she drank with were "relatives" but that Investigator "K" (after considerable discussion with her) had insisted that they were patrons and customers: "I have to write it down this way ... they are still customers."

From Frank Brignola's signed and sworn statement (taken on November 30, 1951 by Investigator "W" with Investigator "K" witnessing): Question: "Do you recall the conversation agents had with you about bringing up girl friends to get laid and that they didn't want to get into trouble with their wives?" Answer: "I told the fellows that as long as you sign the register as Mr. and Mrs., I didn't care what goes on upstairs." ... Question: "Who told you to fill the (7-Up) bottle with whiskey?" Answer: "Babe told me." This is the witness who testified on direct examination at the Hearing herein that the agents had never mentioned to him that they wanted to get rooms for themselves and girl friends for the purpose of sexual intercourse: "That is a lie; never mentioned such talk like that. We wouldn't stand for it." And this is the witness who testified on direct examination at the Hearing herein that Babe had nothing to do with the sale of the 7-Up bottle filled with whiskey.

All of the witnesses for defendant-licensee testified on direct examination (to indicate that everything was run in law-abiding fashion and that no indecencies occurred) that Hoboken policemen and their wives regularly frequented the tavern. As noted, defendant-licensee went so far as to testify: "Fifty percent of the police of Hoboken come into my place, and come in with their wives, Mr. Krivit ... Positively." But no member of the Hoboken Police Department appeared at the Hearing herein. The only Hoboken policemen to put in an appearance in this case were the four who cooperated in assistance of the Division's agents at defendant-licensee's establishment on the night of November 30, 1951.

Loretta Daly was another remarkable witness. She testified that she had been out with Investigator "K" on several occasions; had known he was an ABC man since January 1, 1947; and had tipped off defendant-licensee's employees as to his identity before the investigation in this case began. But Investigator "K", who testified that

he had never seen Loretta Daly until the day of the Hearing, did not join the Division until May 22, 1950. At the close of the Hearing herein the Attorney for defendant-licensee addressed the Hearer as follows: "He (Investigator 'K') has taken the stand and testified directly what this girl testified to is untruthful. In view of that situation we say, because we feel that he is not the one being truthful, we want the opportunity to establish his lack of credibility and the credibility of our witness. We can do it through the people in Bosco's who know whether or not this man engaged in conversation with this woman, which he denies." The Acting Director consented to a continuance with the proviso that the names of any persons to testify in the matter be submitted to the Division in advance of a continued hearing. Not a further word on the subject was received.

On the basis of the full record in the proceedings before me I am convinced that all of the violations were committed as charged herein. The testimony of the Division's agents is revealingly, albeit unintentionally, corroborated by the testimony of defendant-licensee's witnesses and by all of the attendant circumstances in this case.

With specific reference to charges 1 and 9, I am convinced from the evidence that Frank Brignola, defendant-licensee's bartender, was told by the agents that the purpose of renting rooms in the hotel was to engage in illicit sexual intercourse; that Lawrence Garaventi rented the rooms with a clear understanding of such proposed unlawful purpose; that the licensed premises were used adjunctively as the office for the hotel and the renting of rooms therein; and that Lawrence Garaventi was knowingly employed by and connected with defendant-licensee in a business capacity. It is not material that no illicit sexual intercourse actually occurred in the rooms after they were rented to the agents. The offense in Charge 1 was complete when the rooms were rented with knowledge on the part of the licensee's employees that they were, ostensibly, to be used for the illicit purpose. (Re Hartman, Bulletin 904, Item 2). As stated by Judge Jayne in Re Schneider, 12 N. J. Super. 449, 458: "The object manifestly inherent in the rule ... 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, not to withhold disciplinary action until the actual consummation of the apprehended evil."

With specific reference to Charges 2 and 3, I am convinced, from the evidence, that "Joe's" entertaining was not legitimate histrionics of a decent and acceptable character but, instead, that "Joe" was a female impersonator in the bad sense as proscribed by Rule 4 of State Regulations No. 20; and that "Joe's" performances were grossly lewd, indecent, immoral, foul, filthy and obscene.

With specific respect to Charge 4, I am convinced, from the evidence, that it was the established policy and practice of the house to have these girls accept beverages at the expense of customers and patrons -- in clear violation of Rule 22 of State Regulations No. 20.

With respect to Charge 5, it is pointed out that, as plainly shown by the testimony, defendant-licensee's tavern was not a "restaurant" within the exception set forth in Rule 4 of State Regulations No. 13. The food service was operated as a minor and marginal concession.

Charges 6, 7 and 8 call for no further comment.

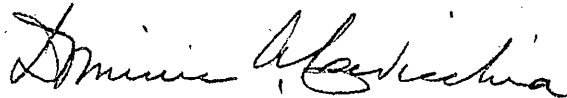
I find defendant-licensee guilty on all the charges. I believe she had very little to do with the operation of the establishment, but she is the licensee of record and a licensee cannot be excused because of non-participation in offenses or lack of personal knowledge thereof. (Rule 31, State Regulations No. 20). See Stein v. Passaic, Bulletin 451, Item 5; Essex Holding Corp. v. Hock, 136 N. J. L. 28; Re Paton, Bulletin 898, Item 3.

The only appropriate and justifiable penalty in this case is revocation.

Although these proceedings were instituted during the 1951-1952 licensing period they do not abate but remain fully effective against the license renewed for 1952-1953. (State Regulations No. 16.)

Accordingly, it is, on this 6th day of January, 1953,

ORDERED that Plenary Retail Consumption License C-74 issued by the Board of Commissioners of the City of Hoboken to Mrs. Margaret Garaventi for premises at 212 River Street, Hoboken, be and the same is hereby revoked, effective immediately.



Dominic A. Cavicchia
Director.

