

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

BULLETIN 1076

AUGUST 15, 1955.

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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 1076

AUGUST 15, 1955.

1. APPELLATE DECISIONS - TWILLEY v. WESTFIELD

PAUL W. TWILLEY, trading)
as Elm Liquor Shop,)
Appellant,)
v.) On Appeal
TOWN COUNCIL OF THE TOWN)
OF WESTFIELD,) O R D E R
Respondent.)
-----)

Matthew Grayson, Esq., Attorney for Appellant.
Robert S. Snevily, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby it suspended appellant's License D-6 for three days, effective June 23, 1955, after finding appellant guilty on a charge of selling alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20. Appellant's premises are located at 9-11 Elm Street, Westfield.

On July 12, 1955, the date fixed for the hearing of the appeal, the following stipulation of dismissal, signed by the attorney for appellant and the attorney for respondent, was filed herein:

"This matter being opened by Matthew Grayson, Esq., Attorney for the Appellant, and it appearing that the Defendant Appellant has complied with the penalties set forth by the City Council of Westfield, and that the said appeal is now merely academic in nature, and the Appellant having instructed and directed his attorney to discontinue and terminate the said appeal;

"And it being further stipulated by and between Matthew Grayson, Esq., Attorney for Appellant, and Robert S. Snevily, Esq., Attorney for the Town of Westfield, that the said appeal be withdrawn and terminated without the assessment of costs or fees, and having affixed his consent thereto, the Alcoholic Beverage Control of the State of New Jersey is hereby authorized to terminate the said proceedings."

It appearing from the stipulation that appellant has served the three-day suspension, and no cause appearing to the contrary,

It is, on this 14th day of July, 1955,

ORDERED that the appeal herein be and the same is hereby dismissed.

William Howe Davis
Director

2. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSEE ACTUALLY OR APPARENTLY INTOXICATED WORKING ON LICENSED PREMISES - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR 55 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MINNIE HOFFMAN, t/a Hiawatha Hoffman House, 62 North Beverwyck Road, Parsippany-Troy Hills Township, PO Lake Hiawatha, New Jersey,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-4 (for the 1954-55 and 1955-56 licensing years), issued by the Township Committee of Parsippany-Troy Hills Township.

Minnie Hoffman, Defendant-licensee, Pro se. 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 Friday night, May 27, 1955, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Harold ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20.
"2. On Friday night, May 27, 1955, you worked in and upon your licensed premises while actually or apparently intoxicated; in violation of Rule 24 of State Regulations No. 20.
"3. On Friday night, May 27, and early Saturday morning, May 28, 1955, while investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety were conducting an investigation, inspection and examination at your licensed premises, you failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R. S. 33:1-35."

The file herein discloses that, while two ABC agents were in defendant's licensed premises on the evening of May 27, 1955, Harold ---, 20 years of age, and an adult companion entered and took seats at the bar at about 11:20 P. M. Frederick Freudeman was tending bar and the licensee was seated in front of the cash register on the bar. The bartender served a glass of beer to the minor and a glass of beer to his companion. As these drinks

were being consumed, the bartender handed the money he received to the licensee, who rang up the sale on the cash register. The adult ordered two more glasses of beer which were served by the bartender and, while each patron was consuming his drink, the agents identified themselves at about 11:30 p. m. and seized for evidential purposes the glass of beer which had been served to the minor.

The agents report that, on the evening in question, the licensee was intoxicated; that, after they identified themselves, she became hysterical, accused them of being "phoneys" and that, later, while attempting to take the seized evidence from one of the agents, she pushed him with her hands.

Defendant has a prior record. Effective June 23, 1948, the local issuing authority suspended her license for ten days on a charge of selling alcoholic beverages to minors. The minimum penalty for a sale to a minor is ten days. Because of the prior similar violation more than five years ago, I shall suspend defendant's license for fifteen days on Charge 1 (Re Strickland, Bulletin 968, Item 6). I shall suspend defendant's license for an additional period of forty days on Charges 2 and 3 (Re Menzel, Bulletin 948, Item 2). Five days will be remitted for the plea entered herein, leaving a net suspension of fifty days.

Accordingly, it is, on this 13th day of July, 1955,

ORDERED that plenary retail consumption license C-4, for the 1955-56 licensing year, issued by the Township Committee of Parsippany-Troy Hills Township to Minnie Hoffman, t/a Hiawatha Hoffman House, for premises 62 North Beverwyck Road, Parsippany-Troy Hills Township, be and the same is hereby suspended for fifty (50) days, commencing at 3 a.m. July 25, 1955, and terminating at 3 a.m. September 13, 1955.

William Howe Davis
Director.

3. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - SALE DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

EMMET HENDERSHOT)
t/a Court House Tavern)
23 Spring Street)
Newton, New Jersey)

CONCLUSIONS

Holder of Plenary Retail Consumption License C-9 (for the 1954-55 and 1955-56 licensing years), issued by the Town Committee of the Town of Newton.)

AND

ORDER

Emmet Hendershot, Defendant-licensee, Pro se.
Dora P. Rothschild, Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to charges alleging that (1) he sold an alcoholic beverage at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulations No. 30, and (2) he sold an alcoholic beverage in an original container for off-premises consumption at about 7:30 a.m., in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that on the morning of June 1, 1955, an ABC agent entered defendant's licensed premises and at about 7:30 a.m. asked the bartender therein for a pint of "Seagram's 7 Crown Blended Whiskey." The bartender placed the bottle in a bag and charged the agent \$2.55. The agent left with the merchandise and, shortly thereafter, accompanied by a fellow agent, re-entered the premises where both agents made known their identities to the bartender who verbally admitted the sale at the time and price above set forth. The minimum resale price then in effect for the article in question was \$2.80.

Defendant has a prior adjudicated record. Effective September 15, 1953, his license was suspended for ten days by the local issuing authority for a violation of Rule 1 of State Regulations No. 38. I shall suspend defendant's license for the minimum period of ten days on charge (1). Re Weintrob, Bulletin 1070, Item 7. The minimum penalty for an "hours" violation is fifteen days. Where a second similar violation occurs within five years the penalty is doubled. Hence, I shall suspend defendant's license for an additional period of thirty days on charge (2). Re Mekis & O'Shaughnessy, Bulletin 952, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 13th day of July 1955

ORDERED that Plenary Retail Consumption License C-9 for

the 1955-56 licensing year issued by the Town Committee of the Town of Newton to Emmet Hendershot, t/a Court House Tavern, for premises 23 Spring Street, Newton, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 9:00 a.m., July 21, 1955 and terminating at 9:00 a.m., August 25, 1955.

William Howe Davis
Director

4. DISCIPLINARY PROCEEDINGS - ALLOWING PREMISES TO BE CONDUCTED AS A NUISANCE - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Fanny Marrone,)
t/a Club Melrose,)
208 Straight Street,)
Paterson, New Jersey,)

Holder of Plenary Retail Consumption License C-298 (for the 1954-55 licensing year), issued by the Board of Alcoholic Beverage Control for the City of Paterson, and transferred to and renewed (for the 1955-56 licensing year) by)

CONCLUSIONS

and

ORDER

Frank F. Cheff & Fanny Marrone,)
t/a Nu Swing Club,)

for the same premises.)
- - - - -)

Fanny Marrone, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On May 18, 19 and 27, 1955, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you permitted unescorted females frequenting your licensed premises to solicit male patrons to purchase numerous drinks of alcoholic beverages for consumption by them and by others and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulations No. 20."

The file in the instant case discloses that, while in defendant's licensed premises on the evening of May 18 and early

morning of May 19, 1955, two ABC agents were approached by two females who solicited drinks from the respective agents. These drinks were ordered by the females from a bartender called "Chucky" (Carmine Anthony Romano), who took money belonging to the agents from the bar in payment therefor. The agents left the premises about 1:15 a.m. on May 19, 1955.

The same agents again visited defendant's licensed premises at about 10 p.m. on May 27, 1955, and one of the females, called Iris, whom they had met on the prior visit, nodded to them and beckoned the agents to join her at the bar. Iris had a glass in front of her containing an orange-colored beverage which she described as gin and orange soda. Iris and the agents engaged in conversation until she invited one of them to dance with her. After the dance they returned to the bar and Iris called to "Chucky", the bartender, saying "Give me a drink. No more Gin. Scotch from now on." The bartender served her a drink from a bottle labeled "Martin's V.V.O. Scotch" and lemon soda. He took payment for this drink from money belonging to the agents on the bar. From then on, whenever Iris ordered a drink, the bartender would take the agents' money in payment without direction from the agents to do so. The agents observed other unescorted females soliciting drinks from and at the expense of male patrons.

Licensed premises cannot and will not be allowed to become havens for female "bar flies" who prey upon male patrons. To permit such activities upon licensed premises is to permit the licensed place of business to be conducted in such a way as to become a nuisance, in violation of Rule 5 of State Regulations No. 20. It is well settled that the meaning of the word "nuisance" as used in that Rule is the dictionary meaning, namely, "an offensive, annoying, unpleasant or obnoxious thing, practice or person; a cause or source of annoyance." (Webster's New International Dictionary.) Re Volino & Maheltz, Bulletin 978, Item 3; Santore v. West New York, Bulletin 958, Item 2; Alpine Village Tavern, Inc. v. Newark, Bulletin 629, Item 3; Re Jet Club, Inc., Bulletin 1027, Item 2.

Defendant has a prior adjudicated record. Effective March 28, 1955, defendant's license was suspended for five days after she pleaded non vult to a charge of serving alcoholic beverages to a minor. Re Marrone, Bulletin 1058, Item 9. Under all the circumstances, including the prior dissimilar record, I shall suspend defendant's license for twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 13th day of July, 1955,

ORDERED that plenary retail consumption license C-298 for the 1955-56 licensing year, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Frank F. Cheff & Fanny Marrone, t/a Nu Swing Club, for premises 208 Straight Street, Paterson, be and the same is hereby suspended for twenty (20) days, commencing at 3 a.m. July 20, 1955, and terminating at 3 a.m. August 9, 1955.

William Howe Davis,
Director.

5. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against SIMON GOLDSMITH t/a Harbor Inn 1972 McCarter Highway Newark 2, New Jersey

CONCLUSIONS

Holder of Plenary Retail Consumption License C-386 (for the 1954-55 and 1955-56 licensing years), issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

AND

ORDER

Simon Goldsmith, Defendant-licensee, Pro se. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on May 29, and June 3 and 4, 1955 he sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein disclosed that on June 4, 1955 at about 11:45 p.m. two ABC agents who were then in defendant's licensed premises observed two youths enter the premises and take seats at the bar. The bartender on duty served each youth with a bottle of beer which each proceeded to consume. The agents then identified themselves and ascertained the two youths were Patrick --- (age 18) and Robert --- (age 19).

Patrick --- gave the agents a signed sworn statement wherein it appears that he and Robert --- were at the defendant's licensed premises on May 29, 1955 at about 6:00 p.m., were served five or six beers by the defendant, and left at about 11:15 p.m.; that, on this visit, defendant asked proof of age and each minor showed defendant a draft card belonging to another person of full age; that both minors were again at defendant's licensed premises on June 3, 1955 at about 10:00 p.m., were served two or three beers by defendant, and left at about 11:00 p.m. and that neither he nor Robert --- were asked to sign and neither of them signed, any written statement as to their age. Robert --- gave the agents a signed sworn statement to the same effect.

Defendant has no prior record. Under all the circumstances of this case, I shall suspend defendant's license for ten days, the minimum penalty in a case involving two minors over 18 years of age. Re Soerensen, Bulletin 1058, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 13th day of July 1955

ORDERED that Plenary Retail Consumption License C-386, for the 1955-56 licensing year, issued by the Municipal Board of

Alcoholic Beverage Control of the City of Newark to Simon Goldsmith, t/a Harbor Inn, for premises 1972 McCarter Highway, Newark, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m., July 25, 1955 and terminating at 2:00 a.m., July 30, 1955.

William Howe Davis
Director

6. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT PRINTED OR WRITTEN MATTER) - SALE DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LOTTERY - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Walter Muchnicki and Joseph Wozniak,
t/a Leroy & Joe's Tavern,
201 Harrison Avenue,
Harrison, New Jersey,

Holders of Plenary Retail Consumption License C-18 (for the 1954-55 and 1955-56 licensing years), issued by the Town Council of the Town of Harrison.

CONCLUSIONS

and

ORDER

Walter Muchnicki and Joseph Wozniak, Defendant-licensees, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to charges alleging that they (1) allowed, permitted and suffered in and upon their licensed premises, and had in their possession, obscene, indecent, filthy, lewd, lascivious and disgusting printings, writings, pictures and other representations, in violation of Rule 17 of State Regulations No. 20; (2) during prohibited hours sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38, and (3) allowed, permitted and suffered a lottery, commonly known as "baseball pools", to be conducted in and upon their licensed premises and sold and offered for sale and had possession of and allowed, permitted and suffered tickets and participation rights in such aforementioned lottery in and upon the licensed premises, in violation of Rule 6 of State Regulations No. 20.

The file herein discloses that on Thursday, June 2, 1955, at about 7:30 a.m., an ABC agent entered the defendants' licensed premises to investigate alleged sales of alcoholic beverages during prohibited hours. The agent stationed himself at the bar and ordered and was served drinks of alcoholic beverages by Walter Muchnicki (one of the licensees). The agent's change, amounting to

45¢, remained on the bar. At about 7:45 a.m. the agent asked Mr. Muchnicki whether the change was sufficient to pay for two cans of beer. Mr. Muchnicki replied, "Did you want two cans of beer", to which the agent responded, "Yes, put them in a bag." Thereupon Mr. Muchnicki took two cans of Schaefer beer from the cooler, placed them in a bag with a can opener, and placed the bag on the bar in front of the agent and took 35¢ in payment. The agent left the premises with the two cans of beer and returned immediately thereafter with two other agents who had been stationed outside the premises.

The agents identified themselves to Walter Muchnicki, who admitted making the aforesaid sale. The agents then proceeded to inspect the premises and discovered, in a cabinet located in the rear of the bar, printed matter, photographs, cartoons and drawings, all in the lowest taste, depicting by word and view filthy and unspeakably vile notions of sexual behavior. The offense is aggravated by the sheer volume of the material and, more important, by its content in part of crude drawings of vulgar and disgusting aspects of sex.

Additionally, the agents discovered two pads, labeled Pool 1 and Pool 2, on top of a refrigerator in the licensed premises. Walter Muchnicki told the agents these pads were used in a baseball pool conducted by the licensees, with sixteen players in each pool, each contributing a dollar a week, with the person holding the name of the team who made fifteen runs that week winning the entire sum.

Walter Muchnicki gave the ABC agents a signed sworn statement wherein he acknowledges the sale of two cans of Schaefer beer to the agent; offers the explanation, as to the pornographic material, that some person brought it in; that he looked at it and placed it in the drawer where it has been for two months, and that he knew that it was a violation of the alcoholic beverage control regulations to keep it there, and acknowledges that he and his partner conducted the baseball pools "for a \$1.00 a week per man."

Defendants' non vult plea was accompanied by alleged mitigating circumstances -- (a) that defendants had forgotten the presence of the pornographic material and were awaiting an opportunity to return it to its owner; (b) that Walter Muchnicki assumed that it was 9 a.m. and not 7:45 a.m. when he sold the two cans of Schaefer beer, and (c) that the baseball pools were operated for the sole benefit of the patrons and not for the licensees' profit. None of the excuses presented has any merit.

Defendants have no prior adjudicated record. Because of the aggravating circumstances set forth above, I shall suspend defendants' license for fifteen days on Charge 1. I shall suspend defendants' license for an additional period of fifteen days on Charge 2 (Re Borkowski, Bulletin 1069, Item 7), and for an additional fifteen days on Charge 3 (Re Zukowski, Bulletin 1014, Item 3). Five days will be remitted for the plea entered herein, leaving a net suspension of forty days.

Accordingly, it is, on this 14th day of July, 1955,

ORDERED that plenary retail consumption license C-18, for the 1955-56 licensing year, issued by the Town Council of

Town of Harrison to Walter Muchnicki and Joseph Wozniak, t/a Leroy & Joe's Tavern, for premises 201 Harrison Avenue, Harrison, be and the same is hereby suspended for forty (40) days, commencing at 2 a.m. July 21, 1955, and terminating at 2 a.m. August 30, 1955.

William Howe Davis,
Director.

7. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - CHARGE CONCERNING UNQUALIFIED EMPLOYEE DISMISSED - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against Paul J. Bicsak, t/a Bicsak's Tavern, Hamburg Turnpike (formerly Route 23), Hamburg, New Jersey Holder of Plenary Retail Consumption License C-2 (for the 1954-55 and 1955-56 licensing years), issued by the Mayor and Common Council of the Borough of Hamburg.

CONCLUSIONS

and

ORDER

Mackerley and Friedman, Esqs., by Frank A. Dolan, Esq., Attorneys for Defendant-licensee. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to charges alleging that (1) on April 2, April 3, April 9 and April 10, 1955, he sold, served and delivered alcoholic beverages to a minor and permitted the consumption of such beverages by said minor, in violation of Rule 1 of State Regulations No. 20; (2) on the occasions aforesaid he knowingly employed on his licensed premises the aforesaid minor, who had not obtained a requisite employment permit from the Director of the Division of Alcoholic Beverage Control, in violation of Rule 3 of State Regulations No. 13, and (3) he sold, served and delivered alcoholic beverages and permitted the consumption thereof on his licensed premises during prohibited hours, in violation of a local ordinance.

ABC agents testified that they entered the defendant's licensed premises on the evening of April 2, 1955, at about 9:15 p.m. and the morning of Sunday, April 10, 1955, at 12:30 a.m. On both occasions Lewis Belcher and John Smith were tending bar, and Theodore --- (age 20) was in the barroom. When the agents entered

on April 10 they observed Theodore --- drinking a glass of beer. The minor remained until about 2:30 a.m., during which time the agents observed that either one or the other of the bartenders served him with and he consumed five or six glasses of beer.

The agents' account concerning the after-hours sales is that on Sunday, April 10, shortly before 2 a.m., Lewis came from behind the bar and extinguished all interior lights except one above and behind the bar. About eight persons remained at the bar. At 2 a.m. John served one of the agents a glass of beer. At 2:05 a.m. John served each agent with a glass of beer, and drew a glass of beer for himself, but did not accept any payment for these drinks of beer. At about 2:08 a.m. John again served each agent with a glass of beer, for which he accepted payment. At about 2:12 a.m. Lewis served two whiskey highballs to a couple. At 2:17 a.m. the couple finished their drinks and left. At 2:20 a.m. the two agents and the minor were the only patrons left. The minor was drinking a glass of beer. At 2:24 a.m. one of the agents asked John for two more glasses of beer. John at first said it was too late but, when the agents indicated that they would go elsewhere, John served each agent, as well as the minor, with a glass of beer, which they drank. John did not accept payment for this round of drinks. At 2:30 a.m. one of the agents asked John for another round of beer and, upon his refusal, the agents identified themselves. The agents then ascertained that Theodore --- was a minor.

The agents asked Lewis and John whether they had questioned Theodore --- as to his age. John said he did not question him. Lewis said he had asked and that Theodore --- told him that he was twenty-one. When Theodore heard Lewis' statement he immediately denied, in Lewis' presence, that such was the fact. John admitted that he served the minor one drink of beer after 2 a.m., and both Lewis and John admitted selling beer to the minor earlier in the evening.

Theodore --- (the minor) testified that he is twenty years of age; that on the evening of Saturday, April 2, 1955, and the early morning hours of Sunday, April 3, he drank about nine glasses of beer served to him by Lewis or John; that he did not know who paid for the beer served to him; that on April 9 he arrived at the licensed premises at about 10:45 p.m. and that he drank about sixteen glasses of beer between that time and 2:30 a.m. April 10 served either by Lewis or John -- some paid for by friends, some by himself and some "on the house;" that the last drink served to him was at 2:15 a.m., and that neither Lewis nor John ever questioned him about his age or asked him to make any written statement as to his age.

The defendant-licensee does not seriously dispute the accuracy of the facts above presented. His counsel stated that, as to the sale and service to the minor, he did not think there can be any defense -- that it was an unfortunate circumstance in that they took the minor's word that he was twenty-one; as to the after-hours sale, counsel stated that it is admitted that there was beer on the bar after 2 a.m. -- that something did occur at 2:16 a.m. (after closing hours). Counsel's admissions were undoubtedly prompted by the testimony of Lewis and John (the bartenders) that Theodore --- was served with beer on April 2-3 and April 9-10, and that the two agents and the minor were consuming

beer at 2:16 a.m. on April 10.

An ordinance of the Borough of Hamburg prohibits sale or consumption of alcoholic beverages on licensed premises on Sundays between the hours of 2 a.m. and Noon.

I, therefore, find defendant guilty of Charges 1 and 3.

The evidence presented does not establish that the minor in question was employed by the defendant within the fair meaning of Rule 3 of State Regulations No. 13 and, hence, I find defendant not guilty of Charge 2.

Defendant has no prior adjudicated record. The minimum penalty for an "hours" violation such as is herein involved is fifteen days (Re Martin, Bulletin 1068, Item 9). The penalty for a sale of alcoholic beverage to a twenty-year-old minor is ten days (Re Aldarelli, Bulletin 1031, Item 12). Consequently I shall suspend defendant's license for a period of twenty-five days.

Accordingly, it is, on this 14th day of July, 1955,

ORDERED that plenary retail consumption license C-2, for the 1955-56 licensing year, issued by the Mayor and Common Council of the Borough of Hamburg to Paul J. Bicsak, t/a Bicsak's Tavern, for premises located on Hamburg Turnpike (formerly Route 23), Hamburg, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. July 25, 1955, and terminating at 2 a.m. August 19, 1955.

William Howe Davis,
Director.

8. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MARY STELLA LA BELLA
t/a Stella's Bar and Grill
State Highway #35
Holmdel Township
PO RD 1, Box 308X
Keyport, New Jersey

CONCLUSIONS

Holder of Plenary Retail Consumption License C-4 (for the 1954-55 and 1955-56 licensing years), issued by the Township Committee of the Township of Holmdel.

AND
ORDER

Mary Stella La Bella, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR.

Defendant has pleaded non vult to a charge alleging that on

June 3, 1955 she sold, served and delivered alcoholic beverages to three minors and permitted the consumption of such beverages by said minors in and upon her licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on June 3, 1955 at about 11:30 p.m., two ABC agents entered defendant's licensed premises and observed five young men there who appeared to be minors. Saverio Joseph La Bella, husband of the licensee, was on duty as bartender. Three of the minors, later identified as George --- (age 17), William --- (age 18) and Charles --- (age 18), were drinking what appeared to be beer. At about 11:45 p.m., the bartender served another glass of beer to each of these minors. The agents then disclosed their identity and questioned the three minors who stated that they had entered the tavern about 10:00 p.m. and had not been questioned as to their ages before being served with drinks of beer. George and William stated that they had each been served that evening with three glasses of beer.

Saverio Joseph La Bella admitted the sale and service of the glass of beer to each of the three minors, as observed by the agents, but claimed that he asked the minors their ages; one said he was twenty-one years of age, while he assumed that the other two were likewise twenty-one years of age, (presumably because each shook his head when he asked if they were of full age). However, he acknowledges that he did not ask any of these minors to sign any written statement as to their age.

Defendant has no prior record. Since three minors - one of whom was seventeen years of age - were involved in this case, I shall suspend defendant's license for fifteen days. Re Greenberg, Bulletin 869, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 14th day of July, 1955

ORDERED that Plenary Retail Consumption License C-4 for the 1955-56 licensing year issued by the Township Committee of the Township of Holmdel to Mary Stella La Bella, t/a Stella's Bar and Grill, for premises State Highway #35, Holmdel Township, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m., July 19, 1955 and terminating at 2:00 a.m., July 29, 1955.

William Howe Davis
Director

76
18,

9. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - SALE TO NON-MEMBERS - PRIOR RECORD NOT CONSIDERED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against American Legion Memorial Park Association, Inc., 122 Greenwich Street, Belvidere, New Jersey, Holder of Club License CB-182 (for the 1954-55 and 1955-56 licensing years), issued by the Director of the Division of Alcoholic Beverage Control.

CONCLUSIONS and ORDER

Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control. BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On June 15, 1955, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to persons not bona fide members of your club or bona fide guests of any such members; in violation of Rule 8 of State Regulations No. 7."

The file herein discloses that on June 15, 1955, two ABC agents (non-members of defendant Association) entered its licensed premises wherein they were each served alcoholic beverages by a barmaid who made no inquiry respecting their membership. The agents identified themselves and obtained from the barmaid a signed sworn statement admitting the violation.

Defendant has a prior adjudicated record. Effective July 19, 1948, its license was suspended for ten days by the Director for Sunday sales, in violation of local regulations (see Bulletin 811, Item 2). However, since the prior dissimilar violation occurred more than five years ago, it will not be considered in fixing the penalty herein. Re Spievy, Bulletin 1054, Item 11. I shall suspend defendant's license for the minimum period of fifteen days, and remit five days for the plea entered herein, leaving a net suspension of ten days. Re Eighth Ward Progressive Republican Club, Bulletin 1038, Item 6.

Accordingly, it is, on this 18th day of July, 1955,

ORDERED that Club License CB-182 for the 1955-56 licensing year, issued by the Director of the Division of Alcoholic Beverage Control to American Legion Memorial Park Association, Inc., for premises 122 Greenwich Street, Belvidere, be and the same is

hereby suspended for ten (10) days, commencing at 7 a.m. July 25, 1955, and terminating at 7 a.m. August 4, 1955.

William Howe Davis,
Director.

10. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - CHARGE ALLEGING LEWDNESS AND IMMORAL ACTIVITIES (INDECENT PICTURES) DISMISSED - LICENSE SUSPENDED FOR 40 DAYS.

In the Matter of Disciplinary Proceedings against
HELEN GALLIPOLI & FRANK GALLIPOLI
t/a Frankie's Tavern
328 Palisade Avenue
Jersey City 7, New Jersey

Holders of Plenary Retail Consumption License C-364 (for the 1954-55 and 1955-56 licensing years), issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

CONCLUSIONS

AND

ORDER

Robert H. Wall, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to four charges alleging that (1) on February 17, March 3 and 11, 1955, they allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets in and upon their licensed premises, in violation of Rule 7 of State Regulations No. 20; (2) on February 17, March 3, 9, 11 and 16, 1955, they allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the "numbers game" to be sold and offered for sale in and upon their licensed premises, in violation of Rule 6 of State Regulations No. 20; (3) on March 16, 1955, they possessed, had custody of and allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as a "fight pool", in and upon their licensed premises, in violation of Rule 6 of State Regulations No. 20; (4) on March 16, 1955, they allowed, permitted and suffered in and upon their licensed premises and had in their possession obscene, indecent, filthy, lewd, lascivious and disgusting designs and representations, in violation of Rule 17 of State Regulations No. 20.

At the hearing herein, the Division produced two ABC agents hereinafter referred to as Agent X and Agent Y, both of whom participated in the investigation of defendants' licensed premises on the dates set forth in the above charges.

Agent X testified substantially as follows:

On February 17, 1955 he observed a man called "Paul" go to a wall phone in the rear of the licensed premises and heard him say to the party dialed, "Tea Biscuit, El Pacho, Miss Gretchen, round robin"; he checked those names in a newspaper and found that they were horse entries for that day at a race track; on March 3, 1955,

he observed Frank Gallipoli, one of the licensees herein, busily engaged in recording phone call data on slips of paper which he later placed under a mat on the shuffleboard; these slips of paper were picked up by "Paul" who took them to the rear room and upon emerging therefrom replaced them under the mat; on March 9, 1955 he observed the aforesaid licensee and "Paul" engage in activities similar to those observed on the previous date; on the same day a male referred to as "Square" entered the tavern and excitedly informed the said licensee, "They have been following me since 8 o'clock this morning," and in response to the licensee's inquiry, "Who, the Bulls?" said, "Yes"; that "Square" counted a large number of bills on the bar in front of the licensee and when (X) said, "That guy's got some load of dough," the licensee replied, "We had to pay off \$4,000.00 on 005. Everybody had something on it"; that after "Square" had paid the licensee \$1.50 on "038", he (X) paid \$1.00 to him on "909"; on March 11, 1955 he observed a patron hand two one dollar bills to the bartender named Arthur who wrapped them in a numbered slip of paper and transferred them to Paul when he arrived; that he (X) said to Arthur, "I would like to get a number bet in. Give me a buck on 909"; that Arthur wrote on a slip of paper "909 100", wrapped the dollar in the paper and put it in his pocket; that when the licensee entered, Arthur returned the money to him (X) saying, "Here's Frankie, give it to him yourself"; that the licensee took the paper and bill and put it in his pocket; that Agent Y then said, "Frankie, can you get a horse bet in for me?" "Sure, what do you want?" asked the licensee. "Two across on White Knight in the 7th at Gulf Stream" said Y handing the licensee \$6.00 and when Y asked, "Who pays?" the licensee said "Me, I'm always here"; on March 16, 1955 he observed a different bartender on the premises who refused to take a proffered bet, yet called a male named Davis and told him (X) "to see him"; that Davis took a marked dollar from him on "909" and another marked dollar from Agent Y on "606" and put them with numbered slips of paper in the cushion of the shuffleboard; that he and Agent Y left the premises and returned immediately accompanied by other ABC agents and two city detectives; that the said slips of paper and the bills in the shuffleboard cushion, together with 19 small envelopes containing numbered slips of paper on a "fight pool" and an "ink blot" design were all seized as evidential material. These exhibits were marked in evidence at the hearing and it was stipulated between the parties that if Agent Y were called, his testimony would corroborate that of Agent X.

The defense produced Frank Gallipoli and his bartender, Benjamin Badaracco, who denied the statements and actions attributed to them by the agents, but admitted knowing the several persons named by Agent X in his testimony.

After carefully considering all the evidence, I find defendants guilty as to charges (1), (2) and (3). I find, further, that the Division has not sustained the burden of proof in establishing by a preponderance of the evidence that defendants are guilty as to charge (4), therefore, said charge will be dismissed.

Defendants have no prior adjudicated record. Under the circumstances appearing in the instant case, I shall suspend their license for a period of forty days. Cf. Re D'Olivo, Bulletin 1061, Item 8.

Accordingly, it is, on this 18th day of July 1955,

ORDERED that plenary retail consumption license C-364 (for the 1955-56 licensing year), issued by the Municipal Board of

Alcoholic Beverage Control of the City of Jersey City, to Helen Gallipoli & Frank Gallipoli, t/a Frankie's Tavern, for premises 328 Palisade Avenue, Jersey City, be and the same is hereby suspended for a period of forty (40) days commencing at 2:00 a.m., July 28, 1955 and terminating 2:00 a.m., September 6, 1955.

William Howe Davis
Director

11. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against)

ROBERT E. GERTZ)
T/a VALHALLA HALL)
303-305 Palisade Avenue)
Jersey City 7, N. J.,)

ON PETITION
O R D E R

Holder of Plenary Retail Consumption License C-449 (for the 1954-55 and 1955-56 licensing years), issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

BY THE DIRECTOR:

An order having been entered herein on July 11, 1955, suspending defendant's license for a period of twenty days commencing at 2:00 a.m. July 19, 1955, and terminating at 2:00 a.m. August 8, 1955, and

It appearing from a petition filed herein that, prior to the entry of said order, defendant had completed arrangements for a wedding reception to be held on his licensed premises on July 30, 1955, and

It appearing to my satisfaction that numerous innocent persons would be inconvenienced by suspension of defendant's license on July 30, 1955,

It is, on this 27th day of July, 1955,

ORDERED that the suspension now in effect shall be lifted from 2:00 a.m. July 30, 1955, until 2:00 a.m. July 31, 1955, at which time it will be reinstated and continue in effect until 2:00 a.m. August 9, 1955.

William Howe Davis
Director.

12. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against ANGELA TABONE T/a WEST SIDE INN W/S Trenton Road Pemberton Township PO Browns Mills, N. J., Holder of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Pemberton.

CONCLUSIONS AND ORDER

Angela Tabone, Defendant-licensee, Pro Se. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on July 9, 1955, she sold, served and delivered alcoholic beverages to a minor, and permitted the consumption of such beverages by said minor in and upon her licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on Saturday, July 9, 1955, at about 9:30 p.m., two ABC agents who were then in defendant's premises observed the service of a glass of beer by the bartender to a young man who appeared to be under the age of twenty-one years. Subsequent investigation by the agents disclosed that the young man (Ronald ---) was seventeen years of age. The bartender (Jay Blackwell) admitted to the agents that he had served the beer to Ronald. In alleged mitigation defendant states that the bartender was only temporarily on duty during her absence, but this cannot be accepted as an excuse.

Defendant has a prior adjudicated record. Effective July 17, 1950, the local issuing authority suspended her license for five days for sale of alcoholic beverages during prohibited hours on May 31, 1950, in violation of State Regulations No. 38. However, since it appears that the violations were of a dissimilar character and that the first violation occurred more than five years prior to the violation herein, I shall not consider the prior record in fixing the penalty in this case. Since the minor mentioned in the charge was seventeen years of age at the time of the service of the alcoholic beverages, I shall suspend defendant's license for a period of fifteen days (Re Tumulty, Bulletin 1035, Item 12). Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 27th day of July, 1955,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Pemberton to Angela Tabone, t/a West Side Inn, for premises on W/S Trenton Road, Pemberton Township, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. August 8, 1955 and terminating at 2:00 a.m. August 18, 1955.

[Handwritten signature of William Howe Davis]

William Howe Davis Director.