

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

BULLETIN 1933

September 25, 1970

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

BULLETIN 1933

September 25, 1970

1. APPELLATE DECISIONS - OCEAN CLUB CORPORATION v. JERSEY CITY.

Ocean Club, Corporation,)
Appellant,)
v.) On Appeal
Municipal Board of Alcoholic)
Beverage Control of the City) CONCLUSIONS and ORDER
of Jersey City,)
Respondent.)

Michael Halpern, Esq., Attorney for Appellant.
James F. Ryan, Esq., by Louis P. Caroselli, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's report

Appellant (holder of a plenary retail consumption license for premises 521 Ocean Avenue, Jersey City) appeals from suspension of its license for fifteen days by resolution and order of respondent which reads as follows:

"WHEREAS a charge having been duly served on the above named licensee; the holder of Plenary Retail Consumption License C-127, charging that:-

On Tuesday, November 25th, 1969, at about 5:20 P.M., you allowed, suffered and permitted your licensed premise to be conducted in a manner so as to become a nuisance (Act of Violence and Brawl) whereby one Hamilton Watson, (M) age 30, residing at 45 Virginia Avenue, Jersey City, New Jersey received a stab wound of the back caused by you, George Goodman, President, Director and Stockholder, of the Ocean Club Corporation (M) age 35, residing at 125 Summit Avenue, Jersey City, New Jersey in and upon your licensed premise causing him to be removed to the Jersey City Medical Center in ambulance by Nurse Ciccone and treated at the Medical Center by Dr. Vassallo for stab wound of the back and released, all this in violation of Rule 5, State Regulation 20.

and at a hearing duly held thereon the testimony and statements adduced at the said hearing on January 22nd, 1970, at 10:30 A.M., at which time the decision was reserved to said charge, we herefore did establish the truth of your being in violation of Rule 5, State Regulation 20.

IT IS THEREFORE on this twenty-seventh day of February, 1970 on motion duly made and seconded

RESOLVED and ORDERED by the BOARD OF ALCOHOLIC BEVERAGE CONTROL of JERSEY CITY, that PLENARY RETAIL CONSUMPTION LICENSE C-127, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to the OCEAN CLUB CORPORATION, Mr. George Goodman:- President, for license premises at 521 Ocean Avenue, Jersey City, New Jersey, is hereby suspended for FIFTEEN (15) DAYS commencing at 2:00 A.M., Monday, March 2nd, 1970 and terminating at 2:00 A.M., Tuesday, March 17, 1970, in violation of Rule 5, State Regulation 20."

Upon the filing of the appeal the Director entered an order dated March 2, 1970 staying respondent's order of suspension until further order herein.

Appellant in its petition of appeal seeks reversal of the respondent's action for the reasons that follow:

"a. Said Board acted arbitrarily, unreasonably and capriciously, without foundation in law or in fact.

b. The action and decision of said Board are contrary to and against the weight of the evidence.

c. Appellant was deprived of due process.

d. Said Board is guilty of an abuse of discretion."

Respondent's answer denies the aforesaid allegations and sets up the following separate defenses:

"1. On February 27, 1970 the licensee appeared and stated that his counsel could not be present and that he could not produce the additional witness. No request for postponement was made by him. Since the Board called this hearing solely for the purpose of affording the licensee an opportunity to present this witness, and since all other testimony had been heard at the previous hearing, there was nothing left for the board to do except render its final verdict. This the board did. No purpose could be served by having the licensee's attorney present. This attorney had presented his summation and arguments at the previous hearing, so that a further appearance would simply result in a rehash of his previous arguments.

2. On February 27, 1970 Mr. Goodman also brought in the complaining witness, the one who was stabbed, Hamilton Watson. Watson requested that his complaint be withdrawn. He gave no reason therefor. On being questioned as to whether he wished to withdraw his complaint or recant his previous testimony, he implied that he was not stabbed. However,

the board felt that the testimony given at the previous hearing was the truth because:

- A. He gave a statement to that effect to the police.
- B. He was treated for a stab wound at the Jersey City Medical Center for such a wound.
- C. He came in with Mr. Goodman, and it was obvious he had settled his differences with Mr. Goodman and was merely trying to exculpate him with this lame attempt to change his story.

3. The licensee had more than a full opportunity to present all the evidence to the board and was represented by counsel when all the testimony and evidence was presented."

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, at which time both parties had full opportunity to produce testimony and to cross-examine witnesses.

The record in the instant case discloses that at about 5:20 p.m. on November 25, 1969, an alleged brawl occurred on appellant's licensed premises involving George Goodman (president of appellant) and one Hamilton Watson, wherein Watson suffered a stab wound in his back. As a result of the incident the aforesaid charge was preferred against appellant.

It appears that a hearing was held on January 22, 1970, whereat Watson testified that Goodman stabbed him in the back with a knife during an altercation, inflicting a wound which necessitated medical attention at a local hospital. At the conclusion of the hearing the matter was continued until February 27, 1970, to afford appellant an opportunity to produce another witness. On February 27, 1970, although the witness for appellant did not appear before respondent, Goodman and Watson appeared. At that time Watson stated to respondent that he desired to withdraw the complaint made by him against Goodman and implied that he had not been stabbed by Goodman. The respondent refused to accede to his request and, based on the testimony heard on January 22, 1970, suspended appellant's license.

At the hearing herein the attorney for respondent stated that, if called to testify, Watson intended to change his testimony from that given previously and to deny that the knife wound received by him was inflicted by Goodman. Watson did not testify at this appeal hearing.

There was no written record made of the proceedings that were heard before respondent on either January 22 or February 27, 1970.

At the hearing, sub judice, two police officers testified that they were present at the time the matter was heard before respondent and that Watson testified that on the date in question the stab wound suffered by him was caused by Goodman during a brawl in which the two were involved.

Goodman testified at the instant hearing that, at the time he was attacked by Watson, he was using the knife to clean his fingernails, and during the scuffle, "I don't know whether I stabbed him or not."

The question to be resolved is whether, under the circumstances herein, there is substantial evidence sufficient for the finding of guilt of appellant.

There is a sworn statement signed by Watson, given to the local police, wherein he claimed he had been stabbed by Goodman and also a hospital record made at the Jersey City Medical Center, plus a document in the nature of a general release signed by Watson absolving Goodman of all and any liability in so far as the incident which had allegedly occurred on November 25, 1969.

The established rule is that a statement of a witness may be used on cross examination to attack his credibility but prior contradictory statements given by witnesses are admissible solely to impeach the witness and for no other purpose. They are ineffective as direct and affirmative proof of the facts to which they relate. Goglia v. Janssen Dairy Co., 116 N.J.L. 396 (E. & A. 1936); Link v. Eastern Aircraft & General Motors Corp., 136 N.J.L. 540 (E. & A. 1948); Kulinka v. Flockhart, 9 N.J. Super. 495 (decided September 12, 1950).

In the instant hearing de novo Watson was not produced as a witness, thus there is not sufficient competent evidence in the case to support the finding of guilt of appellant. The police officers were not present when the stabbing incident occurred and therefore their testimony was merely hearsay. In order to find guilt in disciplinary proceedings it must be based upon and supported by competent and legal evidence. Cino v. Driscoll, 130 N.J.L. 535 (Sup. Ct. 1943).

Under the circumstances and for the aforesaid reasons, it is recommended that the action of respondent be reversed and the charge herein be dismissed.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record, including the testimony and argument of the attorneys for the respective parties herein, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 23d day of July, 1970,

ORDERED that the action of respondent be and the same is hereby reversed and the charge be and the same is hereby dismissed.

RICHARD C. McDONOUGH
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY - HOSTESS ACTIVITY - AGGRAVATING CIRCUMSTANCES - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 150 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Saulen, Inc. t/a Hialeah Club 1917 Atlantic Ave. and 13-15 N. Michigan Avenue Atlantic City, N. J.

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-137 for the 1969-70 licensing year and C-20 for the 1970-71 licensing year, issued by the Board of Commissioners of the City of Atlantic City.

Edwin H. Helfant, Esq., Attorney for Licensee Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on May 5-6, 1970, it permitted (1) lewdness and immoral activity (indecent entertainment) on the licensed premises, in violation of Rule 5 of State Regulation No. 20, and (2) female entertainers to accept drinks at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20.

Reports of investigation disclose with respect to the first charge that "topless" female dancers, some with "pasties" on the nipples of their breasts and others completely bare above the waist, and all otherwise attired only in micro-bikini panties or G-strings, so abbreviated as to be almost "bottomless", performed for the entertainment of the patrons, mostly males, by engaging in bumps, grinds and other bodily motions simulating sexual intercourse, with at least one of the females additionally exposing to view her pubic hair and fondling her breasts and vagina area with her hands; and with respect to the second charge that one of the female entertainers solicited the investigating agent to purchase a drink for her and, in a period of approximately fifteen minutes, was quickly served and consumed three drinks prepared by the bartender by pouring a small quantity of a domestic champagne over ice, charging a price which appeared to be out of proportion for drinks of that kind.

Licensee has a previous record of two suspensions of license by the Director for permitting female entertainers to accept drinks at the expense of male patrons, viz., fifteen days effective April 21, 1969 and fifty-five days effective June 18, 1970. Re Saulen, Inc., Bulletin 1913, Item 4.

The license will be suspended on the first charge for forty-five days (Re Lafayette Bar, Inc., Bulletin 1889, Item 3) and on the second charge, deeming the violation aggravated on the facts and further considering the prior record of two suspensions of license for similar violation occurring within the past five years, this being the licensee's third similar violation within that period, for ninety days (Re Lee Castle, Inc.,

Bulletin 1887, Item 3), to which will be added fifteen days by reason of the further aggravating circumstance of the occurrence of the instant hostess violation while the charge for similar violation for which its license was suspended effective June 18, 1970 was pending (Re Kearny Yacht Club, Bulletin 1750, Item 3), or a total of one hundred fifty days, with remission of five days for the plea entered, leaving a net suspension of one hundred forty-five days.

Accordingly, it is, on this 29th day of July 1970,

ORDERED that Plenary Retail Consumption License C-20, issued by the Board of Commissioners of the City of Atlantic City to Saulen, Inc., t/a Hialeah Club, for premises 1917 Atlantic Avenue and 13-15 N. Michigan Avenue, Atlantic City, be and the same is hereby suspended for one hundred forty-five (145) days, commencing at 7:00 a.m. Wednesday, August 12, 1970, and terminating at 7:00 a.m. Monday, January 4, 1971.

RICHARD C. McDONOUGH
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBERS - SALE DURING PROHIBITED HOURS - FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against

Brighton Memorial VFW Post 2140
255 Willow Avenue
Long Branch, N. J.

Holder of Club License CB-7, issued by the City Council of the City of Long Branch.

CONCLUSIONS
and
ORDER

Licensee, by Theodore Bartel, Judge Advocate and Past Commander Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleads not guilty to the following charges:

- "1. On Sunday, March 15, 1970, between 11:10 A.M. and 11:30 A.M., you sold alcoholic beverages at retail, and allowed the consumption of such beverages on your licensed premises; in violation of Section 5 of an Ordinance concerning alcoholic beverages adopted by the Board of Commissioners of the City of Long Branch on June 26, 1934, as amended June 30, 1948.
- "2. On Sunday, March 15, 1970, between 11:10 A.M. and 11:30 A.M., you failed to have the entire

licensed premises closed; in violation of Section 5 of an Ordinance concerning alcoholic beverages adopted by the Board of Commissioners of the City of Long Branch on June 26, 1934, as amended June 30, 1948.

- "3. On Sunday, March 15, 1970, and prior thereto, 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 Regulation No. 7."

ABC Agent B testified that at 11:07 a.m. Sunday, March 15, 1970 he and Agent R entered the licensee's premises and took seats at the bar where each ordered and was served a bottle of beer by a man tending bar, subsequently identified as James A. Palumbo. Agent B said that there were eleven males and one female in the place, "engaged in playing pool, drinking, and so forth." Agent B further stated that, after he and his fellow agent had consumed a portion of their drinks, "Agent R called Mr. Palumbo over and asked why are you open and serving these people and serving us?" Palumbo replied "This is a private club." Agent B testified he and Agent R identified themselves to Palumbo and advised him that they were not members of the association.

The ordinance in question prohibits sale and consumption of alcoholic beverages on Sundays from May 1 through October 31, between the hours of 3 a.m. and 1 p.m., during which hours the premises must be closed with the exception of restaurants and hotels.

On cross examination Agent B testified that Palumbo told him, "he was tending bar in lieu of the regular bartender."

Licensee produced no witnesses at the hearing.

I am satisfied that the testimony of Agent B was truthful in every respect as to what took place on March 15, 1970 while he and Agent R were in the licensee's premises. I find as a fact the following: the agents were sold and permitted to consume beer at the time in question; the licensed premises were open for business during prohibited hours, both being in violation of the local ordinance, and that the agents who were not members of or bona fide guests of members of the licensee association were sold alcoholic beverages on the date charged.

Under the circumstances it is recommended that the license be suspended for fifteen days on charges 1 and 2 and fifteen days on charge 3, or a total of thirty days (cf. Re The American Legion Matawan Post #176, Bulletin 1850, Item 5).

Conclusions and Order

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

Having carefully considered the entire record herein, including the transcript of the testimony and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 20th day of July 1970,

ORDERED that Club License CB-7 (as renewed for 1970-71 licensing period), issued by the City Council of the City of Long Branch, to Brighton Memorial VFW Post 2140 for premises 255 Willow Avenue, Long Branch, be and the same is hereby suspended for thirty (30) days, commencing at 3:00 a.m. Tuesday, August 4, 1970 and terminating at 3:00 a.m. Thursday, September 3, 1970.

RICHARD C. McDONOUGH
DIRECTOR

- 4. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LEWDNESS AND IMMORAL ACTIVITY (HOMOSEXUALS) - LICENSE SUSPENDED FOR 25 DAYS, SECOND CHARGE DISMISSED.

In the Matter of Disciplinary Proceedings against

Mack, Inc.
t/a Gold Nugget
69-71 Albany Street
New Brunswick, N. J.

Holder of Plenary Retail Consumption License C-4, issued by the Board of Commissioners of the City of New Brunswick.

CONCLUSIONS
and
ORDER

Irving John Zwillman, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

- "1. On June 14, 1969, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Sandra ---, age 18, and Barbara ---, age 19, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

- "2. On June 14, 1969, you allowed, permitted

and suffered female impersonators in and upon your licensed premises; in violation of Rule 4 of State Regulation No. 20."

The Division presented testimony of the minor Sandra ---, and ABC Agents M, C, N, in support of the said charges.

Sandra testified that she was born on February 21, 1951 and was eighteen years of age on June 14, 1969; that in June 1969 and prior thereto she had visited the licensed premises; that on the evening in June aforesaid, unaccompanied she visited the licensed premises; that she met Barbara in the premises; that she and Barbara took seats at the bar; that George Bland was tending bar; that a male known to her as Murphy, asked her whether she wanted a drink and she accepted his offer; that Murphy ordered two bottles of Champale beer from Bland; that Bland brought two bottles of Champale beer and glasses and placed them on the bar in front of her; that Murphy poured some of the beer in Barbara's glass; that she poured her own beer; that she and Barbara consumed some of the alcoholic beverage; that on none of her visits to the premises had Bland ever asked her to make a written representation that she was an adult; that on one occasion Bland questioned her as to her age and she displayed an identification (her sister's birth certificate) showing her to be over twenty-one years of age; that she did not hear the bartender or anyone else question Barbara with respect to her age; that shortly after they had consumed some of the alcoholic beverage, a male later identified as Agent M, approached Barbara and her and asked whether she had any identification; that she showed him the aforesaid birth certificate, following which he smelled the glass and removed both glasses from the bar.

On cross examination, Sandra testified that Murphy had obtained the two bottles of Champale from Bland who was standing a few feet from where she was seated at the bar. Murphy placed the two bottles on the bar and requested Bland to bring two glasses. Bland returned with the two glasses and placed them on the bar in front of her.

Agent M testified that on June 14, 1969 at about 9:30 p.m., he and ABC Agents C and N arrived in the vicinity of the licensed premises; that immediately upon arrival, he entered the premises alone and took a seat at the bar; that the premises consisted of two rooms, a barroom with a long straight bar, to the left of which is a sitting room with a pool table, a juke box and tables and chairs. There were about forty male and female patrons in the premises; that two bartenders were in attendance, one of whom was George Bland. About 10:25 p.m. he observed Sandra and Barbara enter the premises and take seats at the bar alongside of each other; that he immediately detected that they appeared to be under twenty-one years of age; that he observed George Bland serve each with a bottle of Champale beer and a glass; that Bland poured a portion of the contents of each bottle into each glass, and both females consumed some of the beer; Bland picked up payment thereof from monies on the bar in front of each female. At approximately 10:35 p.m. he telephoned the local Police Department for assistance following which he left the premises to notify the other two agents of his observations. Shortly thereafter he, along with the local police and the other two agents, entered the premises, identified himself to the two females

seated at the bar and seized the aforesaid two bottles of beer and gave them to Agent N. Agent N subsequently poured the contents of each bottle into two six-ounce sample bottles.

Agent M further testified that he had observed three patrons in the premises dressed in female attire who appeared to be males. He and other officers confronted the aforesaid three males in the sitting room, following which he and the other agents identified themselves to Bland and the other bartenders. Continuing, he testified that each of the three males wore a ladies wig, and carried a ladies' handbag. They had their eyelashes painted with mascara and wore ladies' shoes. Later he learned that their under garments were those commonly worn by females.

With respect to the activities of aforesaid female impersonators, Agent M, on cross examination was asked:

"Q Was there anything in your opinion that was offensive in their behavior in that tavern that night?

A Not at all."

In adjudicating the second charge I find no evidence that the female impersonators engaged in any overt acts of lewdness or immoral activity. In view thereof and by reason of a recent ruling by the Director that the mere presence of female impersonators in a licensed premises, without more, e.g. overt acts of lewdness of their engaging in immoral activity is not violative of Rule 4 of State Regulation No. 20. Under the circumstances I recommend that licensee be found not guilty of the second charge herein and that the same be dismissed. See Re Perrig, Inc., Bulletin 1907, Item 3; Cf. One Eleven Wines & Liquors, Inc. v. Division of Alcoholic Beverage Control, et al., 50 N.J. 329 (1967).

Agent C testified that Sandra admitted to him that she was eighteen years of age; that she had purchased the bottle of Champale beer taken from her from Bland, that she had paid forty-five cents for the same; that she had not produced any identification of her age nor signed any written representation with respect thereto and upon inquiring of Bland whether he had served the alcoholic beverage to Sandra and Barbara, Bland stood mute.

In behalf of the corporate licensee, George Bland testified that on June 14, 1969 he was on duty as a bartender in the licensed premises between 6:00 p.m. and 2:00 a.m.; that about four or five weeks prior thereto Sandra had visited the premises for the first time, displayed the aforesaid birth certificate to him, requested and was served a soft drink. On a subsequent visit he served her Champale beer; that on the night in question Sandra ---, and Barbara ---, were seated at the bar; that Barbara appeared to be an adult. He was asked the following:

"Q No question in your mind?

A No

Q Did they order drinks from you?

A The one time she came in those two were together, and this fellow ordered two bottles of Champale. He was in the middle

of the bar. He walks down with it to where they were. He asked for another glass. I walked down with the glass and set it down. I took my money and rang it up, and I didn't pay no more attention."

Bland further testified that the aforesaid male patron had also ordered a mixed drink. While being questioned by Agent M, Agent N started to remove the glasses, including the mixed drink, from the bar. He informed Agent N that the mixed drink was not intended for the females and pointed to the two bottles of Champale as the ones which were for the use of the two females.

On cross examination, Bland testified that he observed the two females seated at the bar; that he observed aforesaid male (Murphy) approach them and engage them in conversation; that he served two Champale bottles of beer (caps removed) and one glass to aforesaid male patron and accepted ninety cents in payment thereof; that such service was made in front of the cash register about fifteen feet from where the two females were seated following which the male patron returned and ordered a mixed drink and paid for the same with a \$5 bill; that he delivered the mixed drink to the male patron, with the change of the \$5, at which time he was requested to bring a second glass. He returned with the second glass and placed it on the bar between the two bottles of beer. The first time he saw a bottle of beer and glass in front of each female was when the agent approached them. He conceded that at no time did either of the two females make any written representation as to her age.

Mitchel C. Wichowsky, secretary-treasurer of the corporate licensee, testified that he had met Sandra ---, with her mother on a few occasions previous to June 14th aforesaid; that he had not served Sandra ---, any alcoholic beverages because "She never asked for anything." He further testified that he had instructed his bartenders not to serve any patrons who appeared to be minors unless they identified themselves as adults.

Preliminarily, it is well established that a licensee is responsible for the misconduct of his employees and is fully accountable for their activities on the licensed premises. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948); In re Schneider, 12 N.J. Super. 449 (App. Div. 1951); Rule 33 of State Regulation No. 20.

I have carefully considered the testimony adduced herein together with the exhibits with respect thereto and have had an opportunity to observe the witnesses as they appeared and testified at this hearing.

Referring to the first charge, I am of the opinion that the Division failed to establish the same in so far as it relates to Barbara ---. The Division failed to produce competent proof of Barbara's age. Although Barbara was twice subpoenaed she failed to appear. I therefore recommend that Charge 1, in so far as it refers to Barbara --- be dismissed. However, my evaluation and consideration of the testimony lead me to the conclusion that the Division has established the truth of the first charge in so far as it relates to Sandra --- by clear and

convincing evidence, and I so recommend.

Licensee has a previous record of suspension of license by the local issuing authority for fifteen days, effective April 14, 1968 for sales to minors.

It is further recommended that, the prior record of suspension of license for similar violation within the past five years considered, the license be suspended for 25 days. Re Terrell, Bulletin 1906, Item 4.

Conclusions and Order

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

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 23d day of July, 1970,

ORDERED that Plenary Retail Consumption License C-4, issued by the Board of Commissioners of the City of New Brunswick to Mack, Inc., t/a Gold Nugget, for premises 69-71 Albany Street, New Brunswick, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Thursday, August 6, 1970, and terminating at 2:00 a.m. Monday, August 31, 1970.

RICHARD C. McDONOUGH
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - PERMITTING FEMALE ENTERTAINERS TO ACCEPT DRINKS FROM PATRONS (HOSTESS ACTIVITY) - AGGRAVATING CIRCUMSTANCES - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 105 DAYS, LESS 5 FOR PLEA.

| | | |
|---|---|-------------|
| In the Matter of Disciplinary Proceedings against |) | |
| |) | |
| Thomas Bucci, Jr. |) | |
| t/a The Penguin Club |) | CONCLUSIONS |
| 933 Atlantic Avenue |) | and |
| Atlantic City, N. J. |) | ORDER |

Holder of Plenary Retail Consumption License C-187 for the 1969-70 licensing year and C-236 for the 1970-71 licensing year, issued by the Board of Commissioners of the City of Atlantic City.

 Edwin H. Helfant, Esq., Attorney for Licensee
 Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on April 13-14, 1970, he permitted female entertainers to drink at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20.

Reports of investigation disclose that on the occasion in question, female entertainers, at the expense of male patrons, drank domestic champagne in units of splits (6.4 ounces) and 4/5 quart bottles retailing for approximately 85 cents and \$3.25 respectively, at a charge of \$8 and \$40, respectively.

Licensee has a previous record of two suspensions of license by the Director for similar violation, viz., for fifteen days effective November 26, 1968 and for fifty-five days effective May 5, 1970. Re Bucci, Bulletin 1910, Item 4.

Deeming the violation aggravated on the facts and further considering the prior record of suspensions of license for two similar violations occurring within the past five years, this being the licensee's third similar violation within that period, the license will be suspended for ninety days (Re Lee Castle, Inc., Bulletin 1887, Item 3), to which will be added fifteen days by reason of the further aggravating circumstances of the occurrence of the instant violation while the charge for similar violation for which the license was suspended effective May 5, 1970 was pending (Re Kearny Yacht Club, Bulletin 1750, Item 3), or a total of one hundred five days, with remission of five days for the plea entered, leaving a net suspension of one hundred days.

Accordingly, it is, on this 29th day of July 1970,

ORDERED that Plenary Retail Consumption License C-236, issued by the Board of Commissioners of the City of Atlantic City to Thomas Bucci, Jr., t/a The Penguin Club, for premises 933 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for one hundred (100) days, commencing at 7:00 a.m. Monday, August 10, 1970, and terminating at 7:00 a.m. Wednesday, November 18, 1970.

RICHARD C. McDONOUGH
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 Joseph Macciocca)
 t/a Genova Cafe)
 304-306 Arch St. and 305)
 Federal Street connected)
 Camden, N. J.)
)
 Holder of Plenary Retail Consumption License C-35 issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)
)

CONCLUSIONS and ORDER

 Wilinski, Coruzzi & Suski, Esq., by Robert Wilinski, Esq.,
 Attorneys for Licensee
 Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 19, 1970, he possessed alcoholic beverages in two bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of three suspensions of license by the Director for sale of alcoholic beverages during prohibited hours in violation of State Regulation No. 38, viz., for ten days effective July 24, 1961, for twenty-five days effective August 3, 1964, and for forty-five days effective March 8, 1966. Re Macciocca, Bulletin 1668, Item 2.

The prior record of suspensions for dissimilar violation in 1961 and 1964 disregarded in admeasuring the penalty because occurring more than five years ago, but the record of suspension for dissimilar violation in 1966, occurring within the past five years, considered, the license will be suspended for twenty days (Re Ward, Bulletin 1898, Item 7), to which will be added fifteen days because this is the licensee's fourth violation (Re Eggimann, Bulletin 1384, Item 3), or a total of thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days.

Accordingly, it is, on this 27th day of July 1970,

ORDERED that Plenary Retail Consumption License C-35, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Joseph Macciocca, t/a Genova Cafe, for premises 304-306 Arch Street and 305 Federal Street connected, Camden, be and the same is hereby suspended for thirty (30) days, commencing at 7:00 a.m. Monday, August 3, 1970, and terminating at 7:00 a.m. Wednesday, September 2, 1970.

RICHARD C. McDONOUGH
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - FALSE STATEMENT IN APPLICATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Guy Bock)
t/a Guy's Bar & Grill)
665 Columbus Avenue)
Phillipsburg, N. J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-14, issued by the Town Council of the Town of Phillipsburg.)

Licensee, Pro se
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on April 17, 1970, he sold six one quart bottles of beer, a 4/5 pint bottle of sloe gin and a pint bottle of port wine for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38, and (2) in application for his license for the 1969-70 period, he failed fully to disclose record of prior license suspensions, in violation of R.S. 33:1-25.

Licensee has a previous record of suspension of license (1) by municipal issuing authority for three days, effective March 25, 1939, for dissimilar violation and (2) by municipal issuing authority for seven days, effective April 1, 1962, for a similar violation.

The prior record of suspension of license in 1939 for dissimilar violation occurring more than five years ago disregarded, but the prior record of suspension of license for similar violation more than five but less than ten years ago considered, the license will be suspended on the first charge for twenty days (Re Strollo, Bulletin 1828, Item 5) and on the second charge for ten days (Re Marcella Bar, Inc., Bulletin 1892, Item 4), or a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 17th day of August 1970,

ORDERED that Plenary Retail Consumption License C-14, issued by the Town Council of the Town of Phillipsburg to Guy Bock, t/a Guy's Bar & Grill, for premises 665 Columbus Avenue, Phillipsburg, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, August 31, 1970 and terminating at 2:00 a.m. Friday, September 25, 1970.

RICHARD C. McDONOUGH
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBERS - FALSE STATEMENT IN APPLICATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Scots American Athletic Club, Inc.)
40 Patterson Street)
Kearny, N. J.)

CONCLUSIONS
and
ORDER

Holder of Club License CB-5, issued by the Mayor and Council of the Town of Kearny.)

Licensee, by Hugh O'Neill, Secretary, Pro se.
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads guilty to charges alleging that (1) on May 24, 1970, it sold alcoholic beverages to non-members, in violation of Rule 8 of State Regulation No. 7, and (2) in its current application it failed to disclose its record of prior license suspension, in violation of R.S. 33:1-25.

Licensee has a previous record of suspension of license by the municipal license issuing authority for five days, effective February 20, 1950, for sale to non-members.

The prior record of suspension for similar violation in 1950 occurring more than ten years ago disregarded, the license will be suspended on the first charge for fifteen days (Re Cranbury Vikings & Sportsmen's Club, Inc., Bulletin 1893, Item 5), and on the second charge for ten days (Re Caled Corporation, Bulletin 1899, Item 5), or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 17th day of August 1970,

ORDERED that Club License CB-5, issued by the Mayor and Council of the Town of Kearny to Scots American Athletic Club, Inc., for premises 40 Patterson Street, Kearny, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, September 1, 1970, and terminating at 2:00 a.m. Monday, September 21, 1970.



Richard C. McDonough
Director