

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1422

November 21, 1961

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'BE IT RESOLVED, that the application of Freddie's Blue Room, Inc., t/a Frontier, for renewal of Plenary Retail Consumption License C-99, for premises #12.14 North Spring Street, for the license period beginning July 1, 1961 and terminating June 30, 1962, be and the same is hereby denied.'

"The said resolution denying the renewal is signed by eight of the nine members who constitute the respondent Council, the ninth member thereof having been absent from the meeting.

"It appears from the evidence adduced herein that the reasons which resulted in the respondent's action were that police officers were dispatched to appellant's licensed premises on thirteen occasions between December 31, 1960, and May 21, 1961, and, in addition thereto, that the Director entered an order, dated June 22, 1961, suspending appellant's license for eighty-five days, effective July 10, 1961 (effective July 3, 1961, by subsequent order), after appellant herein pleaded non vult in disciplinary proceedings to the following charges:

- '1. On March 4 and 12, 1961, and prior thereto, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance, viz., in that you allowed, permitted and suffered persons who appeared to be homosexuals, e.g., females impersonating males, in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene conduct by such persons and by others in and upon your licensed premises; 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 Regulation No. 20.
- '2. On April 21, 26, 28, 29, May 5, 6 and 13, 1961, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance, viz., in that you allowed, permitted and suffered persons who appeared to be homosexuals, e.g., females impersonating males and males impersonating females in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; 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 Regulation No. 20.' See Bulletin 1403, Item 3.

"At the hearing held herein, Danny Stiles testified that he is a radio announcer and that his correct name is Daniel Silberg, but for the past fifteen or sixteen years he has used the name of Danny Stiles in his profession; that he is a stockholder and director of appellant corporate-licensee since August 1960; that because he 'didn't like the type of clientele too much, actually', he 'bought out' Carl Sulzman so that he and Doris Cutler are the sole owners of the capital stock; that he hired Harry Wiener as the 'new manager' and from March 1961 he (Stiles) took an active interest in the operation of the business; that, on the advice of an attorney (not the attorney representing appellant herein), he pleaded non vult to the charges preferred by the State Director (hereinabove set forth), as a result of which appellant's license was suspended as aforementioned; that he either telephoned or was aware that calls were made to the Police Department when trouble had begun or

might begin in the licensed premises; that, after the agents spoke to him with reference to the type of patrons who patronized the licensed premises, he forbid persons who were not dressed properly to enter the establishment, with the result that the business decreased considerably.

"Harry Wiener testified that he is employed by appellant and ABC agents spoke to him about lesbians congregating in the premises and he said, 'Well, if they are lesbians, they must be sick people;' that he could not distinguish what a lesbian was and 'as long as they used to come in and behave themselves, no trouble, we used to serve them'; that he could not remember any fights taking place in the premises.

"There is no doubt from the evidence presented herein that the manner in which appellant's licensed premises were permitted to be operated constituted a trouble-spot which was detrimental to the community. The ignorance claimed by the persons responsible for and in charge of the licensed premises with reference to the type of patrons to which the establishment catered strains credulity.

"The principles applicable to and dispositive of the issues raised by appellant were enunciated by Justice Oliphant in Zicherman v. Driscoll, 133 N.J.L. 586, wherein he said:

'The question of a forfeiture of any property right is not involved. R.S. 33:1-26. A liquor license is a privilege. A renewal license is in the same category as an original license. There is no inherent right in a citizen to sell intoxicating liquor by retail, Crowley v. Christensen, 137 U.S. 86, and no person is entitled as a matter of law to a liquor license. Bumball v. Burnett, 115 N.J.L. 254; Paul v. Gloucester, 50 Id. 585; Voight v. Board of Excise, 59 Id. 358; Meehan v. Excise Commissioners, 73 Id. 382; affirmed, 75 Id. 557. No licensee has vested right to the renewal of a license. Whether an original license should issue or a license be renewed rests in the sound discretion of the issuing authority. Unless there has been a clear abuse of discretion this court should not interfere with the actions of the constituted authorities. Allen v. City of Paterson, 98 Id. 661; Fornarotto v. Public Utility Commissioners, 105 Id. 28. We find no such abuse. The liquor business is one that must be carefully supervised and it should be conducted by reputable people in a reputable manner. The common interest of the general public should be the guide post in the issuing and renewing of licenses.'

"After careful consideration of all of the evidence presented, I am satisfied that the respondent Council did not exceed its power or act arbitrarily or unreasonably in refusing to renew appellant's license for the current licensing period. In the absence of any evidence tending to show that the members of respondent Council were improperly motivated, I recommend that respondent's action in denying appellant's application for renewal of its license be affirmed, and that the appeal herein be dismissed."

No exceptions were taken to the Hearer's Report within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered all the facts and circumstances herein, I concur in the Hearer's findings and conclusions and adopt his recommendation.

Accordingly, it is, on this 10th day of October, 1961,

ORDERED that the action of respondent Board be and the same is hereby affirmed, and that the appeal be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - PERMITTING INDECENT ENTERTAINMENT ON LICENSED PREMISES (TWO SEPARATE CHARGES) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JEANNE'S ENTERPRISES, INC.)
t/a LE BISTRO)
2201 Pacific Avenue)
Atlantic City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-203, issued by the Board of Commissioners of the City of Atlantic City.)

Defendant-licensee, by Irwin Van Houten, Vice-President and Secretary. Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Two separate proceedings were instituted against defendant herein.

In the first proceedings, defendant pleaded non vult to the following charge:

"On July 15, 1961, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises in that a female performed for the entertainment of your customers and patrons in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulation No. 20."

While the first proceedings were pending, the following additional charge was served upon defendant and it subsequently pleaded non vult thereto;

"On the early morning of August 5, 1961, and again on the night of August 11 and early morning of August 12, 1961, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises in that a female performed for the entertainment of your customers and patrons in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulation No. 20."

The file in the first proceedings shows that on July 14, 1961, at about 11:00 p.m., two ABC agents entered the above premises. At about 12:05 a.m. on July 15, 1961, the floor show commenced, in the presence of approximately 150 male and female patrons. The show consisted of two singers of popular songs, who were then followed by a female entertainer, whose act consisted mostly of dialogue, interspersed with songs where she accompanied herself at the piano. Her act, which was

about an hour and a half in duration, consisted of unquestionably obscene, vulgar and disgusting references to sex and sexual behavior. This act was repeated at a later show commencing at 3:00 a.m. No purpose would be served in repeating herein the language, expressions and comments which punctuated her performance, except to state that she used indecorous language to impart indecorous concepts, and her act was geared on a pornographic level with "dirt for dirt's sake". Cf. McFadden's Lounge v. Division of Alcoholic Beverage Control, 33 N.J. Super. 62, 67. It should be observed, also, that at least four females and two males left the premises in disgust shortly after she began her performance.

The file in the second proceedings shows that this charge resulted from subsequent visits made to the defendant's licensed premises by ABC agents on August 5, 1961 and August 11, 1961.

On August 5, 1961, said agents entered the premises at about 12:40 a.m., and observed the performance of the same female entertainer who had performed on the previous occasion. She proceeded with her act which consisted mostly of dialogue, interspersed with songs where she accompanied herself at the piano. The act followed the same pattern as heretofore, consisting of unquestionably obscene, vulgar and disgusting references to sex and sexual behavior. No purpose would be served in repeating herein the language, expressions and comments which punctuated her performance, except to state that on this occasion she also used indecorous language to impart indecorous concepts, and her act was geared on a pornographic level. The agents did not disclose their identity on this occasion. They returned to the premises on August 11, 1961, at about 11:00 p.m., and again observed the same female entertainer perform in the manner hereinabove described. After the second similar performance, at about 2:55 a.m., the agents identified themselves to Irving Kolker, the manager.

Defendant has no adjudicated record prior to the first violation described herein. By way of attempted mitigation, defendant has submitted a statement to the effect that it had entered into a six-week contract with this entertainer which it was unable to cancel without liability on the full contract price. Defendant states that such action would have resulted in an unbearable financial burden. I do not, however, find any circumstance in mitigation of the penalty to be imposed. It is elementary that concern for the licensee's own financial misfortune will not be elevated above the public interest. Cf. Hudson-Bergen County RLS Assn. v. Hoboken, 136 N.J.L. 502, 510 (E. & A. 1947). I shall suspend defendant's license for a total of sixty days on all pending charges against this licensee. Five days will be remitted for the plea entered herein, leaving a net suspension of fifty-five days. Defendant has requested that the commencement date of such suspension shall begin on December 1, 1961. I see no reason for this delay and shall, therefore, deny the said request.

Accordingly, it is, on this 11th day of October 1961,

ORDERED that Plenary Retail Consumption License C-203, issued by the Board of Commissioners of the City of Atlantic City to Jeanne's Enterprises, Inc., t/a Le Bistro, for premises 2201 Pacific Avenue, Atlantic City, be and the same is hereby suspended for fifty-five (55) days, commencing at 7:00 a.m., Wednesday, October 18, 1961, and terminating at 7:00 a.m., Tuesday, December 12, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

RECAPITULATION OF ACTIVITY FOR QUARTERLY PERIOD FROM JULY 1, 1961 THROUGH SEPTEMBER 30, 1961

| | JULY | AUG. | SEPT. | TOTAL |
|--------------------------------------------------------------|--------|--------|----------|----------|
| ARRESTS: | | | | |
| Total number of persons arrested | 20 | 29 | 19 | 67 |
| Licensees and employees | 9 | 13 | 6 | 28 |
| Bootleggers | 10 | 16 | 12 | 38 |
| ABC agent impersonator | 1 | - | - | 1 |
| SEIZURES: | | | | |
| Motor vehicles - cars | - | 1 | 1 | 2 |
| Stills - over 50 gallons | 1 | - | 1 | 2 |
| - 50 gallons or under | - | 2 | - | 2 |
| Mash - gallons | 350.00 | 495.00 | 1,750.00 | 2,595.00 |
| Distilled alcoholic beverages - gallons | 1.67 | 11.62 | 85.12 | 98.41 |
| Wine - gallons | - | 19.37 | 20.67 | 40.04 |
| Brewed malt alcoholic beverages - gallons | 17.03 | 140.43 | 62.06 | 219.52 |
| RETAIL LICENSEES: | | | | |
| Premises inspected | 454 | 451 | 537 | 1,442 |
| Premises where alcoholic beverages were gauged | 443 | 547 | 571 | 1,561 |
| Bottles gauged | 7,231 | 9,702 | 9,350 | 26,283 |
| Premises where violations were found | 50 | 42 | 63 | 155 |
| Violations found | 74 | 47 | 78 | 199 |
| Unqualified employees | 25 | 16 | 27 | 68 |
| Reg. #38 sign not posted | 15 | 10 | 26 | 51 |
| Application copy not available | 3 | 13 | 15 | 31 |
| Other mercantile business | 7 | 1 | 3 | 11 |
| Prohibited signs | 6 | - | 2 | 8 |
| Disposal permit necessary | 6 | - | 1 | 7 |
| Improper beer taps | 1 | 1 | - | 2 |
| Other violations | 11 | 6 | 4 | 21 |
| STATE LICENSEES: | | | | |
| Premises inspected | 30 | 28 | 49 | 107 |
| License applications investigated | 8 | 6 | 11 | 25 |
| COMPLAINTS: | | | | |
| Complaints assigned for investigation | 306 | 448 | 404 | 1,158 |
| Investigations completed | 361 | 458 | 368 | 1,187 |
| Investigations pending | (175) | (138) | 147 | 147 |
| LABORATORY: | | | | |
| Analyses made | 210 | 290 | 260 | 760 |
| Refills from licensed premises - bottles | 30 | 60 | 40 | 130 |
| Bottles from unlicensed premises | 30 | 70 | 60 | 160 |
| IDENTIFICATION: | | | | |
| Criminal fingerprint identifications made | 7 | 12 | 6 | 25 |
| Persons fingerprinted for non-criminal purposes | 438 | 310 | 279 | 1,027 |
| Identification contacts made with other enforcement agencies | 298 | 197 | 220 | 715 |
| DISCIPLINARY PROCEEDINGS: | | | | |
| Cases transmitted to municipalities | 10 | 23 | 9 | 42 |
| Violations involved | 10 | 25 | 11 | 46 |
| Sale to minors | 5 | 4 | 4 | 13 |
| Sale during prohibited hours | 4 | 16 | 5 | 25 |
| Failure to close premises during prohibited hours | - | 1 | 2 | 3 |
| Possessing chilled beer (DL licensee) | - | 2 | - | 2 |
| Service to women at the bar (local reg.) | 1 | - | - | 1 |
| Permitting hostesses on premises | - | 1 | - | 1 |
| Employing female bartender (local reg.) | - | 1 | - | 1 |
| Cases instituted at Division | 27 | 44 | 29* | 100 |
| Violations involved | 34 | 46 | 50 | 130 |
| Sale to minors | 11 | 7 | 3 | 21 |
| Beverage Tax Law non-compliance | 1 | 12 | 4 | 17 |
| Sale during prohibited hours | 8 | 4 | 4 | 16 |
| Possessing liquor not truly labeled | 2 | 10 | 3 | 15 |
| Permitting lottery activity on premises | 2 | 5 | 2 | 9 |
| Permitting immoral activity on premises | 1 | 1 | 4 | 6 |
| Permitting hostesses on premises | - | 1 | 5 | 6 |
| Failure to close premises during prohibited hours | 2 | - | 2 | 4 |
| Conducting business as a nuisance | 2 | - | 2 | 4 |
| Possessing contraceptives on premises | 1 | - | 2 | 3 |
| Fraud and front | 1 | - | 2 | 3 |
| Permitting bookmaking on premises | 1 | 1 | 1 | 3 |
| Sale below filed price | - | 2 | 1 | 3 |
| Hindering investigation | - | 1 | 2 | 3 |
| Substituting drink other than ordered | 1 | - | 1 | 2 |
| Unqualified employees | 1 | - | 1 | 2 |
| Delivery without bona fide invoice | - | - | 2 | 2 |
| Unauthorized transportation | - | - | 2 | 2 |
| Peddling from vehicle | - | 1 | - | 1 |
| Employing police officer on premises | - | 1 | - | 1 |
| Permitting gambling on premises | - | - | 1 | 1 |
| Application copy not on premises | - | - | 1 | 1 |
| Service to women at the bar (local reg.) | - | - | 1 | 1 |
| Permitting foul language on premises | - | - | 1 | 1 |
| Act of violence on premises | - | - | 1 | 1 |
| Sale to intoxicated persons | - | - | 1 | 1 |
| Sale outside scope of license | - | - | 1 | 1 |

*Includes one cancellation proceeding--license improvidently issued in violation of State Limitation Law

| | <u>JULY</u> | <u>AUG.</u> | <u>SEPT.</u> | <u>TOTAL</u> |
|----------------------------------------------------------------------------|-------------|-------------|--------------|--------------|
| DISCIPLINARY PROCEEDINGS (Continued) | | | | |
| Cases brought by municipalities on own initiative and reported to Division | 4 | 19 | 14 | 37 |
| Violations involved | 4 | 22 | 16 | 42 |
| Sale to minors | 3 | 10 | 7 | 20 |
| Permitting brawl on premises | - | 4 | 1 | 5 |
| Failure to close premises during prohibited hours | 1 | 3 | - | 4 |
| Failure to afford view into premises during prohibited hours | - | 3 | - | 3 |
| Conducting business as a nuisance | - | 1 | 2 | 3 |
| Sale during prohibited hours | - | - | 2 | 2 |
| Hindering investigation | - | 1 | 1 | 2 |
| Permitting lottery activity | - | - | 2 | 2 |
| Unqualified employees | - | - | 1 | 1 |
| HEARINGS HELD AT DIVISION: | | | | |
| Total number of hearings held | 42 | 46 | 43 | 131 |
| Appeals | 7 | 7 | 6 | 20 |
| Disciplinary proceedings | 26 | 30 | 21 | 77 |
| Eligibility | 5 | 3 | 6 | 14 |
| Seizures | 4 | 2 | 1 | 7 |
| Tax revocations | - | 4 | 9 | 13 |
| STATE LICENSES AND PERMITS ISSUED: | | | | |
| Total number issued | 2,033 | 1,319 | 1,173 | 4,525 |
| Licenses | 588 | 4 | 5 | 597 |
| Solicitors' permits | 50 | 52 | 41 | 143 |
| Employment " | 410 | 351 | 219 | 980 |
| Disposal " | 101 | 82 | 8 | 267 |
| Social affair " | 358 | 475 | 46 | 1,329 |
| Wine " | - | 2 | - | 2 |
| Miscellaneous " | 256 | 116 | 140 | 512 |
| Transit insignia | 254 | 224 | 172 | 650 |
| Transit certificates | 16 | 13 | 16 | 45 |
| OFFICE OF AMUSEMENT GAMES CONTROL: | | | | |
| Licenses issued | 7 | 3 | - | 10 |
| Premises inspected | 653 | 636 | 2 | 1,291 |
| Premises where violations were found | 13 | 6 | - | 19 |
| Violations found | 15 | 6 | - | 21 |
| Enforcement files established | 53 | 34 | 56 | 143 |
| Disciplinary proceedings instituted at Division | - | 4 | 2 | 6 |
| Violations involved | - | 5 | 4 | 9 |
| Redemption of prize for money | - | 3 | 1 | 4 |
| Hindering investigation | - | - | 2 | 2 |
| Operating controlled game | - | 1 | - | 1 |
| Operating game not within certification | - | 1 | - | 1 |
| Charge in excess of 25¢ per entry | - | - | 1 | 1 |
| Hearings held at Division | - | 0 | 2 | 3 |

WILLIAM HOWE DAVIS

Director of Alcoholic Beverage Control
Commissioner of Amusement Games Control

Dated: October 10, 1961

4. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1961 TO SEPTEMBER 30, 1961 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19

CLASSIFICATION OF LICENSES

| County | Plenary Retail Consumption | | Plenary Retail Distribution | | Club | | Limited Retail Distribution | | Seasonal Retail Consumption | | Number Surrendered Expired | Number Licenses in Effect | Total Fees Paid |
|------------|----------------------------|----------------|-----------------------------|--------------|------------|--------------|-----------------------------|-------------|-----------------------------|-------------|----------------------------|---------------------------|-----------------|
| | No. Issued | Fees Paid | No. Issued | Fees Paid | No. Issued | Fees Paid | No. Issued | Fees Paid | No. Issued | Fees Paid | | | |
| Atlantic | 485 | \$ 207,410.00 | 72 | \$ 27,225.00 | 28 | \$ 2,495.00 | | | | | | 585 | \$ 237,130.00 |
| Bergen | 813 | 313,165.00 | 301 | 89,386.00 | 128 | 12,015.00 | 52 | \$ 2,451.50 | 5 | \$ 1,398.75 | | 1299 | 418,416.25 |
| Burlington | 190 | 85,450.00 | 41 | 13,450.00 | 47 | 6,700.00 | 1 | 50.00 | | | | 279 | 105,650.00 |
| Camden | 453 | 222,350.00 | 83 | 35,566.71 | 77 | 7,506.02 | | | 1 | 375.00 | | 614 | 265,797.73 |
| Cape May | 136 | 77,200.00 | 12 | 4,500.00 | 18 | 2,150.00 | | | | | | 166 | 83,850.00 |
| Cumberland | 79 | 40,250.00 | 15 | 4,200.00 | 30 | 4,060.00 | | | | | | 124 | 48,510.00 |
| Essex | 1335 | 755,960.00 | 350 | 210,220.00 | 106 | 14,575.00 | 28 | 1,400.00 | 1 | 750.00 | | 1820 | 982,905.00 |
| Gloucester | 108 | 38,610.00 | 15 | 3,820.00 | 23 | 2,050.00 | | | | | | 146 | 44,480.00 |
| Hudson | 1508 | 684,890.00 | 298 | 122,400.00 | 83 | 9,965.20 | 63 | 2,700.00 | | | | 1952 | 819,955.20 |
| Hunterdon | 79 | 28,100.00 | 11 | 3,810.00 | 10 | 1,100.00 | | | | | | 100 | 33,010.00 |
| Mercer | 420 | 261,466.16 | 51 | 22,510.00 | 57 | 8,400.00 | | | 1 | 114.21 | | 529 | 292,490.37 |
| Middlesex | 630 | 312,205.00 | 80 | 26,195.00 | 108 | 9,360.00 | 4 | 200.00 | | | | 822 | 347,960.00 |
| Monmouth | 555 | 292,855.00 | 124 | 43,931.66 | 50 | 5,741.25 | 10 | 435.00 | 24 | 11,594.45 | | 763 | 354,557.36 |
| Morris | 354 | 137,415.00 | 103 | 36,916.17 | 60 | 5,637.50 | 15 | 750.00 | 5 | 1,350.06 | | 537 | 182,068.73 |
| Ocean | 187 | 101,256.47 | 49 | 21,180.00 | 30 | 3,500.00 | | | | | | 266 | 125,936.47 |
| Passaic | 856 | 350,955.00 | 170 | 52,420.00 | 41 | 5,115.00 | 7 | 350.00 | | | | 1074 | 408,840.00 |
| Salem | 50 | 19,560.00 | 8 | 1,640.00 | 19 | 1,600.00 | | | | | | 77 | 22,800.00 |
| Somerset | 189 | 86,125.00 | 40 | 12,225.00 | 32 | 3,775.00 | | | | | | 261 | 102,125.00 |
| Sussex | 166 | 46,705.00 | 21 | 4,215.00 | 11 | 645.00 | 1 | 50.00 | 1 | 225.00 | | 200 | 51,840.00 |
| Union | 548 | 311,006.00 | 144 | 69,388.00 | 78 | 8,750.00 | 29 | 1,425.00 | | | | 799 | 390,569.00 |
| Warren | 149 | 44,730.00 | 21 | 5,270.00 | 27 | 2,950.00 | | | 2 | 375.00 | | 199 | 53,325.00 |
| Total | 9290 | \$4,417,663.63 | 2009 | \$810,468.54 | 1063 | \$118,089.97 | 210 | \$9,811.50 | 40 | \$16,182.47 | | 12612 | \$ 5,372,216.11 |

William Howe Davis
Director

October 24, 1961

5. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA. EFFECTIVE DATES TO BE FIXED BY FURTHER ORDER.

In the Matter of Disciplinary Proceedings against MAEBEL M. KELLNER t/a "THE TIDES" State Highway #35-Shark River Island Neptune Township, PO 112 Brighton Ave. Neptune, N. J. Holder of Plenary Retail Consumption License C-14, issued by the Township Committee of Neptune Township.

CONCLUSIONS AND ORDER

Braun and Hoey, Esqs., by Henry F. Hoey, Jr., Esq., Attorneys for Defendant-licensee. David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On August 13, 1961, 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., Kathryn ---, age 19, Patricia ---, age 20 and Alan ---, age 20, and you 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."

On Sunday, August 13, 1961 at about 1:30 a.m., ABC agents entered the defendant's licensed premises after purchasing, at the door, tickets which were redeemable either in food or drink. They observed an employee of the defendant checking the ages of young persons desiring to enter the premises. The agents took seats at the bar and at about 2:30 a.m. they observed Lois Phelan, one of the bartenders, serve Alan --- and Patricia ---, two minors, a bottle of beer each, which were paid for with one-dollar tickets purchased at the door. They also observed Betty Furman, another bartender, serve Kathryn ---, a minor, a rum collins. The bartender accepted one of the one-dollar tickets in payment for the said drink. The agents thereupon made their identities known and interrogated these minors.

Kathryn admitted that she was 19 years of age and stated that she had misrepresented herself as being over twenty-one years, and had displayed a false automobile driver's license and learner's permit, purporting to identify her as being twenty-one years of age.

Alan also admitted that he had displayed a fictitious license which purported to show his age as twenty-one years.

Patricia admitted that she was 20 years of age and that Alan was her twin brother.

The three minors stated that they had not been asked to sign any written representation as to their ages.

Counsel for the licensee submitted a statement in alleged mitigation wherein he stated that his client relied upon the fraudulent driver's license and other identification which showed these minors to be over twenty-one. He further stated that these minors had been checked by three employees, one on the outside and two on the inside of the premises, and these employees were hired, as their sole purpose, to keep minors from entering the premises. He admitted that while, technically, defendant is guilty because of her failure to obtain a written representation, that, nevertheless, the mitigating circumstances should be taken into account in imposing penalty.

The defendant has not established a complete defense under R.S. 33:1-77 because no written representation as to their ages was obtained from the minors. However, the mitigating circumstances will be taken into consideration in the imposition of penalty in this case. It may be well to repeat what I said in Re Wedemeyer, Bulletin 1050, Item 8:

"Experience in cases similar to this indicates that for some reason licensees or their agents are reluctant to "embarrass" a minor by requiring him to reduce to writing his name, age and address. If licensees are willing to use their own methods of determining the age of a minor, rather than follow the statute, they do so at their peril and must accept the consequences of their own neglect. It would appear no more difficult for the licensee to follow the statutory requirement of having the patron sign a representation of his age than asking him to produce a draft card, driver's license or similar document for the licensee's purported examination. Where the licensee follows the statutory method, there is always the desirable and substantial possibility that the patron, if a minor, will refuse to commit himself to writing and will leave the establishment."

This language was quoted in Sportman 300 v. Bd. of Com'rs. of Town of Nutley, 42 N.J. Super. 488 (App. Div. 1956) wherein the court apparently approved of the view of the Division that it did not consider that "a false representation in writing by the minor" was intended to embrace such writings as a driver's license, a draft card, or a social security card. Cf. Re Point Inn, Inc., Bulletin 1355, Item 5.

Defendant has a prior adjudicated record. Effective October 29, 1951, her license was suspended for ten days by the local issuing authority for an "hours" violation; effective October 13, 1953, her license was suspended by the Director of this Division for twenty-five days for sale of alcoholic beverages to a minor (Bulletin 988, Item 1); effective January 4, 1955, her license was suspended by the local issuing authority for ten days for an "hours" violation; effective January 14, 1956, her license was suspended for forty-five days by the local issuing authority for an "hours" violation and on December 9, 1957, her license was suspended for sixty days by the local issuing authority for an "hours" violation.

Since three of the dissimilar violations occurred more than five years prior to the date hereof, they will not be considered in fixing the penalty herein. The minimum penalty imposed for an unaggravated sale of alcoholic beverages to a 19-year-old minor and a 20-year-old minor is fifteen days. Re Lagowitz, Bulletin 1350, Item 7; Cf. Re Schwartz, Bulletin 1283, Item 3. Because of the mitigating circumstances in this case, I shall suspend the defendant's license for a period of ten days, to which will be added five days for a similar violation which occurred within the past ten years (1953),

and an additional five days for the dissimilar violation which occurred within the past five years (1957). Re Hafner, Bulletin 1378, Item 3. As this is the sixth offense within ten years, I shall impose an additional penalty of five days, or a total of twenty-five days. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Investigation discloses that defendant's licensed business is now being conducted on a limited basis. Thus, no effective penalty can be imposed at this time. The effective date of the suspension will be fixed by subsequent order which will be entered after the licensed business shall have been resumed on a full-time basis for the 1962 season.

Accordingly, it is, on this 10th day of October 1961,

ORDERED that Plenary Retail Consumption License C-14, issued by the Township Committee of Neptune Township to Maebel M. Kellner, t/a "The Tides", for premises on State Highway #35-Shark River Island, Neptune Township, be and the same is hereby suspended for twenty (20) days, the effective dates to be fixed by subsequent order as aforesaid.

WILLIAM HOWE DAVIS
DIRECTOR

6. SEIZURE - FORFEITURE PROCEEDINGS - SUPPLEMENTAL ORDER FORFEITING MOTOR VEHICLE, FOR CLAIMANT'S FAILURE TO PAY COSTS OF SEIZURE AND STORAGE.

In the Matter of the Seizure on) Case No. 10,526
March 5, 1961 of a two-quart "Mason")
jar of alcohol and a Mercury sedan on) SUPPLEMENTAL ORDER
a public highway, Route 40 in the)
Township of Pilesgrove, County of)
Salem and State of New Jersey.)

Gerard J. DiNicola, Esq., Attorney for claimant.
I. Edward Amada, Esq., appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

On August 23, 1961 an Order was entered in this case wherein, among other matters, it was directed that a Mercury sedan be returned to Lloyd Wayne Hartsell, if, on or before September 5, 1961, he paid the costs of seizure and storage of the said motor vehicle.

On August 23, 1961, a copy of such Order was mailed to Gerard J. DiNicola, attorney for Lloyd Wayne Hartsell. On September 11, 1961 the said attorney was advised by certified mail of the exact amount of the costs and was further advised that if said costs were not received by this Division by Friday, September 15, 1961, a Supplemental Order forfeiting the said Mercury sedan would be entered. To date the costs have not been paid.

Accordingly, so much of my previous Order as directs the return of the Mercury sedan shall be and is hereby rescinded and instead it is

DETERMINED and ORDERED that the said Mercury sedan, Serial No. 54WA5667, New Jersey Registration HKN-127 be and the same is hereby forfeited in accordance with the provisions of R.S. 33:1-66 and shall be sold at public sale for the use of the State in

accordance with State Regulation No. 29 or retained for the use of hospitals and state, county and municipal institutions at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
DIRECTOR

Dated: October 4, 1961

7. DISCIPLINARY PROCEEDINGS - EMPLOYING POLICE OFFICER ON LICENSED PREMISES - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ANN KVILESZ
t/a HORVATH'S
9027 Riverside Place
North Bergen, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen.

Defendant-licensee, Pro se.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On August 8, 1961 and on divers occasions prior thereto, you employed and had connected with you in a business capacity John Kvilesz and John Inglese, regular police officers of the North Bergen Police Department; in violation of Rule 30 of State Regulation No. 20."

The aforesaid rule prohibits among other things, any liquor licensee from employing any regular police officer or having a police officer connected with him in any business capacity whatsoever. Despite the said rule and a warning letter dated August 22, 1958 from this Division, the defendant employed, as part-time bartenders, her husband who is a police captain, and John Inglese, a police sergeant, both of whom are members of the police department of the municipality wherein the licensed premises are located.

I have examined the letter from defendant in attempted mitigation of penalty, but find no extenuating circumstances which would impel me to impose less than the usual suspension for cases of the type now under consideration. I might point out that in the event of a similar violation in the future, a greater penalty of defendant's license will be warranted.

Defendant has no prior adjudicated record. The minimum suspension of a license for employing a regular police officer where no previous warning had been given by the Division is ten days. Re Club Harlem, Inc., Bulletin 1327, Item 5. However, where, as here, in response to a warning, a licensee had given written assurance that she would adhere strictly to the rule in question, but nevertheless violated her promise, the circumstances must be considered as aggravated.

I shall suspend defendant's license for a period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 5th day of October 1961,

ORDERED that Plenary Retail Consumption License C-11, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen to Ann Kvilez, t/a Horvath's, for premises 9027 Riverside Place, North Bergen, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m., Monday, October 16, 1961 and terminating at 3:00 a.m., Thursday, October 26, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - HOSTESSES - PERMITTING OBSCENE LANGUAGE AND CONDUCT - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MARIE D. DI NATALE
t/a "ATLANTIC BAR"
e/s Black Horse Pike
Hamilton Township (Atlantic County)
PO Mays Landing RD #1, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-38, issued by the Township Committee of the Township of Hamilton.

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On August 11, 12, 26, 27 and September 2, 1961, you allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of or as a gift from customers and patrons; in violation of Rule 22 of State Regulation No. 20.
- "2. On August 26, 27 and September 2, 1961, you allowed, permitted and suffered foul, filthy and obscene language and conduct in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20."

On Friday, August 11, 1961, at 11:15 p.m., two ABC agents visited defendant's licensed premises and remained there until 1:55 a.m. Saturday. The agents observed two barmaids, one of whom was called "Betty", accept a drink of wine at the expense of a male patron and, subsequent thereto, she accepted several drinks of wine from and at the expense of the two agents.

At 10:30 p.m. on Saturday August 26, 1961, one of the agents who had made the aforementioned visit and another agent, entered the defendant's premises. Betty greeted the agent who had been

there on a prior visit and he introduced her to his fellow-agent. During the time the agents were in the premises, they observed another barmaid drinking at the expense of male patrons and saw Betty accept six or seven drinks from various male patrons. She also accepted a drink of whiskey from one of the agents and, while engaged in conversation with them, Betty used indecent expressions, the repetition of which would serve no useful purpose. The agents left defendant's premises at 12:10 a.m. on August 27th.

The two agents who had visited the defendant's premises on August 26th made another visit to the place on September 2, 1961, entering the establishment at 2:00 a.m. The agents observed Betty and two other females (subsequently identified as employees of defendant) accept drinks from various male patrons. The agents treated Betty and Florence to drinks during the evening and, at one time, Betty kissed one of the agents and departed herself in an offensive manner by her conduct and language. Shortly after 3:45 a.m., the agents seized the drinks of Berry and a girl called Mary who went to a rear room to summon James Di Natale, the manager of the establishment and father of defendant. A few minutes thereafter, he appeared and, when apprised of the violation, admitted that, with the exception of Mary, the three other females, namely, Betty, Florence and Ruth, were in defendant's employ. All of the said employees denied that they had ever received instructions from James Di Natale to accept drinks from male patrons.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days on Charge 1 (Re Tropeano, Bulletin 1410, Item 6) and an additional ten days on Charge 2 (Re Spillane, Bulletin 1259, Item 7), making a total suspension of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 18th day of October 1961,

ORDERED that Plenary Retail Consumption License C-38, issued by the Township Committee of the Township of Hamilton to Marie D. Di Natale, t/a "Atlantic Bar", for premises on e/s Black Horse Pike, Hamilton Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 4:00 a.m., Thursday, October 26, 1961, and terminating at 4:00 a.m., Monday, November 20, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE
SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

| | | |
|--------------------------------------|---|-------------|
| In the Matter of Disciplinary |) | |
| Proceedings against |) | |
| VENEZIA'S SNUG HARBOR TAVERN, INC. |) | |
| t/a VENEZIA'S SNUG HARBOR TAVERN |) | CONCLUSIONS |
| 513 Elm Street |) | AND ORDER |
| Kearny, N. J. |) | |
| Holder of Plenary Retail Consumption |) | |
| License C-36, issued by the Mayor |) | |
| and Council of the Town of Kearny. |) | |

Defendant-licensee, by Frank Venezia, Secretary-Treasurer
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On September 13 and 14, 1961, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery, commonly known as the 'numbers game'; in violation of Rule 7 of State Regulation No. 20.
- "2. On September 13 and 14, 1961, you 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 your licensed premises; in violation of Rule 6 of State Regulation No. 20."

On the morning of September 13, 1961, an ABC agent entered defendant's premises and took a seat at the bar. About an hour later Anthony Mariano entered and sat next to the agent. Shortly thereafter Frank Venezia (secretary-treasurer of defendant corporation) came from the kitchen and sat next to Mariano. They conversed about numbers and then Mariano pulled a sheet of paper from his pocket, wrote something on the slip and accepted some change from Venezia. Two other patrons later came to Mariano and handed him slips and money. Later the ABC agent gave Mariano the sum of two dollars on a number, at the door of the premises as both were leaving.

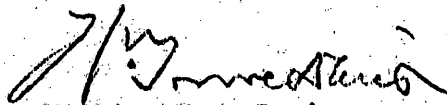
The same ABC agent returned to the premises on the morning of September 14, 1961. Mariano entered, sat at the bar and, while seated there, accepted money from another patron and from Anna Venezia (a waitress), and made notations on a slip of paper. The ABC agent then went to Mariano and gave him two dollars on a number. Later, Frank Venezia, who had relieved the bartender then on duty, also gave money to Mariano who made notations on a slip of paper.

By pre-arrangement other ABC agents and local police officers entered. Forty-one slips containing number bets and more than \$53 (including the two one-dollar bills given to him by the ABC agent) were found in the possession of Mariano who was arrested by the local police.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty-five days, the minimum suspension imposed in commercialized gambling cases when a licensee or his agent or employee is involved. Re Johnson, Bulletin 1407, Item 7. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 19th day of October 1961,

ORDERED that Plenary Retail Consumption License C-36, issued by the Mayor and Council of the Town of Kearny to Venezia's Snug Harbor Tavern, Inc., t/a Venezia's Snug Harbor Tavern, for premises 513 Elm Street, Kearny, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, October 31, 1961, and terminating at 2 a.m. Monday, November 20, 1961.



William Howe Davis
Director