

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

Mr. Gossweiler

BULLETIN 1388

May 22, 1961

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May 22, 1961

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES  
(PROCURING FEMALES TO ENGAGE IN ACTS OF ILLICIT SEXUAL INTER-  
COURSE; PERMITTING OBSCENE LANGUAGE AND CONDUCT) - LICENSE REVOKED.

In the Matter of Disciplinary )  
Proceedings against )

NICK'S CLUB 21, Inc. )  
t/a CLUB 21 )  
593 River Street )  
Paterson 4, New Jersey )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-325, issued by the Board of )  
Alcoholic Beverage Control for the )  
City of Paterson. )

-----  
Defendant-licensee, by Nicholas Luchycky, President.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On January 12, 13, 17 and 18, 1961, and on divers days prior thereto, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene lanugage and conduct in and upon your licensed premises, viz., in that on the afore-mentioned specific dates you, through Nicholas Luchycky, your president and holder of ninety-nine per cent (99%) of your corporate shares, made offers to male patrons and customers on your licensed premises to procure and did procure females to engage in acts of illicit sexual intercourse and/or perverted sexual relations with said male patrons and customers, and in that on all of the afore-mentioned dates and occasions said Nicholas Luchycky engaged in and allowed, permitted and suffered patrons and customers to engage in foul, filthy and obscene language and conduct in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20."

On January 12, 1961, at 11:55 a.m., during a conversation involving three ABC agents and Nicholas Luchycky, president of defendant corporate-licensee, Luchycky stated that he could obtain females for the agents to engage in illicit sexual intercourse. The agents agreed to accept his offer at a future date.

On January 13, 1961 at 9:20 p.m., the same three agents visited the defendant's premises and conversed with Luchycky who told them that a few weeks ago two "queers" dressed as females came into the premises and, while there, engaged in unnatural sexual relations with six males. He further related that a short time ago three females engaged in perverted sexual relations with the male patrons in the premises which he permitted to be kept open "around the clock" on the date in question. The agents expressed a desire to meet the females but stated that due to lack of money they would return after receiving their employment checks on the following Tuesday.

On Tuesday, January 17, 1961, at 10:20 p.m., five agents arrived in the vicinity of defendant's premises, one of whom entered first, followed shortly thereafter by the three who had visited the place on the prior occasions, while the other agent remained outside. After ordering drinks from Luchycky, the conversation again concerned females and, when the agents said that they would like to meet some females for the purpose of engaging in sexual intercourse, Luchycky took a dime from the money on the bar belonging to one of the agents and went to the telephone booth. He returned shortly thereafter and stated that the girls he had called were not at home and that he would call again. Luchycky then told the agents about an experience he had with a red headed girl in the kitchen as they were engaged in perverted sexual relations which story was verified by a male customer seated at the bar. Luchycky boasted about his prowess as a pool player and said that when he defeated the females at that game he described a sordid penalty that he exacted from them as a result of his victory. At 12:25 a.m. the following morning (January 18, 1961) Luchycky took a dime belonging to another of the agents and, when he returned from the telephone booth stated that, "The girls will be here in fifteen or twenty minutes by cab. You'll have to pay \$1.00 for the cab". At 3:00 a.m. when the girls failed to appear as scheduled, Luchycky told the agents that he would accompany them to the girls' home. Luchycky and the three agents got into a car of one of the agents and Luchycky directed the driver to a residence on one of the main streets. Shortly after Luchycky rang the door bell, a woman identified as Joan, appeared and directed the four to follow her to a downstairs apartment where another female (Barbara) was waiting. Two of the agents and Luchycky remained in the parlor as Barbara invited one of the agents into a bedroom where she immediately removed her slacks. Complying with her request, the agent gave her a five-dollar bill (the serial number of which had been previously recorded) and, after receipt of same, she completely disrobed. Shortly thereafter, two local detectives and two agents who had gained entrance came into the bedroom and found Barbara in the nude. After questioning her, the five-dollar bill was recovered from the pocket of Barbara's slacks and thereafter the agents, the females, Luchycky and the police officers proceeded to police headquarters.

The contention by Luchycky on behalf of the defendant that the girls charged with prostitution were not in the licensed premises at the time, that he did not receive any money from them or that he had not gone to the girls' home for the purpose of personally engaging in illicit sexual intercourse should entitle defendant to consideration cannot be accepted in mitigation of penalty.

It has long been established that solicitation for immoral purposes and the making of arrangements for illicit or perverted sexual intercourse cannot and will not be tolerated on licensed premises. The public is entitled to protection from these sordid and dangerous practices (Re 17 Club, Inc., Bulletin 949, Item 2; In Re 17 Club, Inc., 26 N. J. Super 43 (App.Div. 1953)).

In the instant case the president and major stockholder of defendant corporate-licensee not only permitted the arrangement to be made on the licensed premises, but actually directed and accompanied the agents to the home of the females in question for the purpose of engaging in illicit sexual intercourse with the agents. Although defendant has no prior adjudicated record, a consideration of the facts and circumstances appearing herein make it imperative that the only proper and justifiable penalty is revocation of defendant's license. Re Merjack Corporation, Bulletin 998, Item 1; Re Club Hi Li, Inc., Bulletin 1198, Item 3.

Accordingly, it is on this 3rd day of April 1961,

ORDERED that Plenary Retail Consumption License C-325, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Nick's Club 21, Inc., t/a Club 21, for premises 593 River Street, Paterson, be and the same is hereby revoked, effective immediately.

WILLIAM HOWE DAVIS  
DIRECTOR

2. APPELLATE DECISIONS - NEW BROAD STREET BAR v. NEWARK.

NEW BROAD STREET BAR, A CORP., )  
Appellant, )  
v. )  
MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY )  
OF NEWARK, )  
Respondent. )

ON APPEAL  
CONCLUSIONS  
AND ORDER

-----  
Saul C. Schutzman, Esq., Attorney for Appellant.  
Vincent P. Torppey, Esq., by Richard Walsh, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby on November 29, 1960 it suspended appellant's license for a period of twenty-five days, effective Monday, December 12, 1960, after finding appellant guilty on a charge alleging that it sold, served and delivered an alcoholic beverage to a 16-year-old minor and permitted the consumption of such beverage by said minor in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20.

"Upon the filing of the appeal, an order was entered by the Director on December 5, 1960 staying respondent's order of suspension until further order herein.

"Appellant, in its petition of appeal, alleges that respondent's action was erroneous in that:

- 'A. Its findings were against the weight of evidence.
- B. There was no competent evidence before the Respondent Board upon which its findings could be properly bases.
- C. The decision of the Respondent Board is in contravention of the regulations, statutes and common law pertinent to the issues.
- D. The action of the Respondent Board is without proper legal basis.
- E. The Respondent Board committed legal error in many instances in the acceptance and rejection of testimony at the Hearings held before it.

F. The testimony (sic) of the Respondent Board was contrary to previous decisions of this Department and decisions of other Courts of the State of New Jersey.'

"Respondent in its answer denies appellant's allegations and contends that the 'grounds upon which the issuing authority made its decision were based upon the factual testimony before the Board from which it, in its sound discretion, concluded that the penalty imposed substantiated such action'.

"The appeal was heard de novo and the parties hereto agreed to present the case upon the stenographic transcript of the proceedings before respondent Board pursuant to Rules 6 and 8 of State Regulation No. 15.

"It appears from the transcript that respondent produced Marsha ---, the minor in question, and Detective Walter Asguiry to substantiate the charge preferred against appellant and that Eugene Ferdinand, stockholder of the corporate-licensee and manager of the licensed premises, appeared on appellant's behalf.

"Succinctly stated, the testimony of Marsha shows that on the date alleged in the charge she was 16 years of age; that she visited appellant's tavern on one or two occasions prior to June 21, 1960 and requested an alcoholic beverage which Ferdinand, the bartender, refused to serve her; that on June 21, 1960 she again requested service stating that she was married and the mother of two children whom she names and that Ferdinand then prepared a statement which she signed that reads as follows:

'6/21/60

In order to induce the sale of alcoholic beverage by New Broad Street Bar to me, I swear I'm 22 yrs of age and tender my Birth Certificate to prove my age.

Kathleen Tredwell female Born July 29, 1938.  
Certificate #22151

(sd) Kathleen Tredwell'

Marsha's testimony further shows that the name she signed was that of a 22-year-old female described in a birth certificate she had found; that after she signed the statement and showed Ferdinand the certificate, he served her a beer; that thereafter she worked for Mrs. Ferdinand as a domestic under her assumed name; that at 12:35 a.m., Friday, June 24, 1960, while she was seated at the bar in appellant's tavern consuming a glass of beer served to her by Ferdinand, she was questioned as to her name by detectives who were in the tavern; that she steadfastly insisted that she was Kathleen Tredwell and that one of the detectives said that he would make a check of it.

"Detective Asguiry testified in substance that he and his partner were in appellant's licensed premises during the early hours of Friday, June 24, 1960; that he observed Marsha consuming a glass of beer at the bar; that he knew her as a juvenile delinquent, having seen her in a police station on a previous occasion; that he and his partner approached her and inquired as to her name; that she denied she was Marsha ---, insisting that she was Kathleen Tredwell; that he asked Ferdinand if he knew the girl's name and was shown the

statement she had signed; that he and his partner brought the girl to her mother who identified her as her child and stated that she was 16 years of age and that thereafter they took the minor into custody.

"It was stipulated that if the other detective were called, his testimony would corroborate that of Detective Asguiry. Respondent then rested and appellant's attorney moved to dismiss the charge. After hearing argument in support of the motion, Commissioner Clement said: 'I think there has been insufficient evidence presented here to show complicity. Almost a willful effort. Certainly there has been a willful misrepresentation. I don't see why our time be consumed with such a presentation'. Commissioner Cerefice differed with his colleague, stating that he thought 'the city had made out a good case'. After some further discussion Commissioner Walsack, who was presiding as chairman, announced that appellant's motion was denied.

"Eugene Ferdinand testified that on June 24, 1960, when he served the glass of beer to Marsha, whom he knew as Kathleen Tredwell because of the name she signed to the statement on June 21; that 'she was dressed in high heels, her hair was down, she had on black horn glasses', and that on one or two occasions prior to June 21, 1960 he had refused to serve her alcoholic beverages. He further testified that after June 21 she worked for two days as a domestic for Mrs. Ferdinand and that on June 25, when it became known that she had falsified her age, her employment was terminated.

"Upon completion of the testimony, decision in the matter was reserved and on November 29, 1960 respondent, in a formal decision, adjudged appellant guilty by a vote of two to one, the majority believing that an ordinary prudent person would discern from the appearance of the girl that she was very young.

"In its decision the Board said, 'We have adopted a policy wherein we give licensees in this type of situation "two bites of the apple"'. Before formal charges are preferred, we schedule what is known before the Board as an 'appearance' wherein the Board looks over the minor and where there is any doubt as to the age whether the minor looks to be 21 or more, the Board usually resolves that doubt in favor of the licensee. The Board scheduled such an appearance in this matter on October 18, 1960, at which time it was unanimously agreed by the Board to prefer charges 'because the minor looked exceptionally young and fell under the age of twenty-one'.

"It has been repeatedly held that the only defense provided by the Alcoholic Beverage Law in the case of sale or service of an alcoholic beverage to a minor or consumption of an alcoholic beverage by a minor on licensed premises is that wherein all the following facts affirmatively appear: (a) that the minor falsely represented himself in writing to be of age, (b) that the minor's appearance was such that an ordinary prudent person would believe him to be of age, and (c) that the sale was made in reliance upon such written representation and appearance and in the reasonable belief that the minor was of age. See R.S. 33:1-77; Re Butera, Bulletin 606, Item 4; Re Roey, Bulletin 747, Item 3 (certiorari denied by N.J. Sup. Ct. in Roey v. Hock, reprinted in Bulletin 758, Item 2).

"The question to be determined herein is whether or not Ferdinand made the sale in reliance upon the written representation and appearance of Marsha and in the reasonable belief that she was of age.

"Considering the evidence adduced herein, I find it unlikely that Ferdinand had a reasonable belief that Marsha was of age at the

time she signed the statement for on at least two occasions prior thereto, as appears from his and her testimony, he had refused to serve her an alcoholic beverage, presumably because she looked too young. I find further that when the police officers questioned Marsha in appellant's tavern she, according to their testimony, looked young to them and that when she first appeared before respondent Board she 'looked especially young' and that her appearance induced the Commissioners to agree unanimously to prefer the charge against appellant.

"In view of the aforesaid, it is my considered opinion that notwithstanding the false statement and certificate presented to Ferdinand by Marsha, a reasonably prudent person would have discerned that the girl was in her early teens. Hence, I conclude that appellant has failed to establish all of the facts necessary to constitute a defense to the charge alleged herein. I recommend, therefore, that an order be entered affirming respondent's action and dismissing the appeal and that said order provide that the twenty-five days suspension heretofore imposed by respondent and stayed during the pendency of these proceedings be reimposed and reinstated against appellant's license."

Written exceptions and written argument thereto were filed with me by appellant's attorney. At the same time, said attorney made a request for oral argument on the exceptions, which request I denied and so notified the attorneys for appellant and respondent. See Rule 14 of State Regulation No. 15.

Having carefully considered the evidence, exhibits, Hearer's Report, written exceptions and written argument thereto, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 29th day of March 1961,

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

ORDERED that the twenty-five-day suspension heretofore imposed by respondent, and stayed during the pendency of this appeal, be restored and reinstated against the license held by appellant for premises 1140 $\frac{1}{2}$  Broad Street, Newark, to commence at 7 a.m. Monday, April 10, 1961, and to terminate at 7 a.m. Friday, May 5, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

3. APPELLATE DECISIONS - FICHERA v. TOWNSHIP OF MIDDLE AND R.B.L. CORPORATION.

Case No. 2  
JAMES FICHERA,

Appellant,

v.

TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF MIDDLE, and R.B.L.  
CORPORATION,

Respondents.

)  
)  
) ON APPEAL  
) CONCLUSIONS  
) AND ORDER  
)  
)  
)

-----  
William J. Peters, Esq., Attorney for Appellant.  
Donald A. Gaver, Esq., Attorney for Respondent Township Committee.  
Louis J. Mattera, Esq., Attorney for Respondent R.B.L. Corporation.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This appeal seeks the rescision of an action of respondent Township Committee, taken on November 3, 1960, and hereinafter more fully explained. The petition of appeal recites that this relief is sought in order that 'the matter be reopened so that new applications may be filed and a public hearing had thereon.'

"In order to understand the issue herein it is necessary to refer to the previous appeal between the same parties. Therein the present appellant appealed from an action of the Township Committee, taken on February 4, 1960, whereby it denied his application for a new plenary retail consumption license and granted an application filed by respondent R.B.L. Corporation for a similar license, subject to a condition that the license would be issued when the building is completed in accordance with plans and specifications filed with its application. In said appeal the action of the Township Committee was affirmed. Bulletin 1350, Item 1.

"While the previous appeal was pending, and prior to the time conclusions and order were entered therein on July 12, 1960, R.B.L. Corporation applied to the Township Committee for a renewal of its license for the 1960-61 licensing year. On June 30, 1960, the Township Committee granted the renewal, subject to the same condition above set forth. No appeal was filed from said action.

"On October 4, 1960, R.B.L. Corporation filed with the Township Committee a request for an amendment to its application for renewal and, on October 19, filed in connection with said request amended plans and specifications. Notice of said request was advertised in the Cape May County Gazette on October 20 and October 27. On October 28 appellant called at the office of the Township Clerk and 'left a little note' which, for the purposes of this appeal, will be considered a written objection to the request of R.B.L. Corporation. The Township Clerk testified that he then told appellant that he would not accept any other objections after the following Monday. The Clerk further testified that he received no other objections. Appellant admits that he had knowledge that the Committee scheduled a public hearing upon the pending request.

"At the public hearing held by the Township Committee on November 3, 1960, appellant was the only person who objected to the

pending request. He was given a full opportunity to be heard. I find no merit to appellant's contention that he was prevented from producing other objectors at the hearing because of the statement made to him by the Township Clerk. No other objectors appeared below or at the hearing of this appeal.

"It is clear from the testimony of Mayor Daniels which was given at the hearing herein that the members of the Township Committee were aware of the fact that R.B.L. Corporation was unable to obtain the necessary financing for the plans and specifications originally filed, and that the members of the Township Committee were satisfied to issue a license, when and if the building is completed in accordance with the amended plans and specifications. After examining both the original and amended plans introduced into evidence, I find that the amended set-up of the premises will be substantially the same as the original set-up, but on a smaller scale. It appears that the building will be approximately 80 feet by 70 feet, instead of 110 feet by 100 feet, and, of course, will cost much less. Primarily it is the duty of the local issuing authority to pass upon the adequacy of licensed premises and I find no evidence that the members of the Township Committee abused their discretion in granting the request to amend the application for renewal.

"Appellant also contends that the action of respondent should be reversed because R.B.L. Corporation had not started erection of its building up to the date of hearing (December 28, 1960). However, the delay does not seem unreasonable under the circumstances of this case. In any event, the license may not be issued until the building is completed in accordance with the amended plans and specifications. Whether any future application for renewal of the license should be granted if the building is not erected is a matter to be decided by respondent Township Committee at the proper time.

"While not material to this appeal, it may be noted that, because of the provisions of P.L. 1960, ch. 72, no new license may now be issued in the Township of Middle to appellant or to any other person.

"For the reasons aforesaid, it is recommended that an order be entered herein affirming the action of respondent Township Committee and dismissing the appeal."

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

After carefully considering the evidence and exhibits herein, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 28th day of March 1961,

ORDERED that the action of respondent Township Committee of the Township of Middle be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS  
DIRECTOR

4. APPELLATE DECISIONS - ZELKO v. HILLSIDE AND SUNSET LANES, INC.

Case #3 )  
STEVEN ZELKO and JOHN ZELKO, JR. )  
t/a ELMER'S TAVERN, )

Appellants, )

ON APPEAL  
ORDER

v. )

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE )  
CONTROL OF THE TOWNSHIP OF HILLSIDE, )  
AND SUNSET LANES, INC., )

Respondents. )

-----  
Meth & Wood, Esqs., by Robert M. Wood, Esq., and Frederick W. Hock,  
Esq., Attorneys for Appellants.  
Robert Diamond, Esq., Attorney for Respondent Municipal Board.  
Budd, Larner & Kent, Esqs., by Samuel A. Larner, Esq., Attorneys  
for Respondent Sunset Lanes, Inc.

BY THE DIRECTOR:

This is an appeal from the action of respondent Municipal Board whereby it granted a renewal for the 1960-61 licensing year of a plenary retail consumption license held by respondent Sunset Lanes, Inc. The premises are located at 399 Route #22, Hillside.

Subsequent to the hearing held herein and prior to the filing of a Hearer's Report, there was filed with me a written notice, signed by the attorneys for appellants and by both appellants, requesting leave to withdraw the appeal. The prior appeal cases between the same parties were decided by order dated November 10, 1959. See Bulletin 1315, Item 1, and Bulletin 1343, Item 1. No reason appearing to the contrary,

It is, on this 28th day of March 1961,

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

WILLIAM HOWE DAVIS  
DIRECTOR

## 5. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1960 THROUGH MARCH 30, 1961.

	1st Quarter July, Aug., Sept.		2d Quarter Oct., Nov., Dec.		3d Quarter Jan., Feb., Mar.		Total
<b>ARRESTS:</b>							
Total number of persons arrested		93		76		67	236
Licensees		47		30		35	112
Bootleggers		46		46		32	124
<b>SEIZURES:</b>							
Motor vehicles - cars		11		8		2	21
- trucks		1		2		1	4
- trailers		1		-		-	1
Stills - over 50 gallons		1		2		2	5
- 50 gallons or under		3		1		3	7
Mash - gallons		6,275.00		4,775.00		2,550.00	13,600.00
Distilled alcoholic beverages - gallons		120.94		343.30		49.72	513.96
Wine - gallons		352.09		488.62		325.93	1,146.64
Brewed malt alcoholic beverages - gallons		213.81		65.96		13.86	293.63
<b>RETAIL LICENSEES:</b>							
Premises inspected		1,503		1,276		1,809	4,579
Premises where alcoholic beverages were gauged		1,392		1,793		1,751	4,936
Bottles gauged		23,681		29,348		28,120	81,149
Premises where violations were found		139		107		167	413
Violations found		189		134		277	600
Unqualified employees		89		40		118	247
Application copy not available		31		17		32	80
Prohibited signs		7		28		40	75
Reg. #38 sign not posted		23		13		28	64
Disposal permit necessary		8		6		5	19
Other mercantile business		3		3		11	17
Improper beer taps		2		1		1	4
Other violations		28		26		42	94
<b>STATE LICENSEES:</b>							
Premises inspected		62		61		119	242
License applications investigated		35		32		22	89
<b>COMPLAINTS:</b>							
Complaints assigned for investigation		1,285		960		986	3,231
Investigations completed		1,212		979		976	3,167
Investigations pending		(180)		(145)		129	129
<b>LABORATORY:</b>							
Analyses made		565		537		485	1,587
Refills from licensed premises - bottles		92		63		50	205
Bottles from unlicensed premises		161		111		87	359
<b>IDENTIFICATION:</b>							
Criminal fingerprint identifications made		45		33		52	130
Persons fingerprinted for non-criminal purposes		921		586		622	2,129
Identification contacts made with other enforcement agencies		666		415		490	1,571
Motor vehicle identifications via N.J. State Police teletype		6		13		3	22
<b>DISCIPLINARY PROCEEDINGS:</b>							
Cases transmitted to municipalities		59		45		29	133
Violations involved		66		49		30	145
Sale during prohibited hours		35		29		24	88
Sale to minors		15		12		5	32
Failure to close premises during prohibited hours		5		4		1	10
Sale to non-members by club		6		-		-	6
Service to women at the bar (local reg.)		4		1		-	5
Possessing contraceptives on premises		1		-		-	1
Possessing chilled beer (DL licensee)		-		1		-	1
Employing female bartender (local reg.)		-		1		-	1
Permitting brawl on premises		-		1		-	1
Cases instituted at Division		65		51		57*	173
Violations involved		85		68		77	230
Sale during prohibited hours		20		12		9	41
Possessing liquor not truly labeled		10		12		14	36
Sale to minors		12		10		10	32
Permitting immoral activity on premises		4		2		7	13
Permitting lottery activity on premises		5		5		1	11
Conducting business as a nuisance		4		4		3	11
Sale below filed price		3		2		6	11
Permitting foul language on premises		5		1		4	10
Sale to intoxicated persons		5		2		2	9
Permitting bookmaking on premises		1		4		3	8
Hindering investigation		1		2		4	7
Failure to close premises during prohibited hours		3		2		1	6
Purchase from improper source		3		-		-	3
Possessing contraceptives on premises		1		1		1	3
Unqualified employees		-		1		2	3
Sale outside scope of license		2		-		-	2
Service to women at the bar (local reg.)		1		1		-	2
Aiding and abetting unauthorized sale		-		1		1	2
Unauthorized transportation		-		1		1	2
Unlicensed sale by solicitor		-		1		1	2

\*Includes one cancellation proceeding--license improvidently issued to club not bona fide

DISCIPLINARY PROCEEDINGS (Continued)	1st Quarter			2d Quarter			3d Quarter			Total
	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	
Cases Instituted at Division (Continued)										
Fraud in application								2		2
Permitting hostess activity on premises	1									1
Sale to non-members by club	1									1
Failure to file tax reports within time	1									1
Permitting gambling (cards) on premises	1									1
Filing false tax reports	1									1
Failure to file notice of change in application				1						1
Act or happening				1						1
Sale during license suspension				1						1
Possessing indecent matter				1						1
Permitting female impersonators on premises							1			1
Employing female bartender							1			1
Failure to afford view into premises during prohibited hours							1			1
Permitting brawl on premises							1			1
Failure to keep true books of account							1			1
Cases brought by municipalities on own initiative and reported to Division	37			51			61			149
Violations involved	44			58			78			180
Sale to minors	21			34			32			87
Permitting brawl on premises	7			3			10			20
Sale during prohibited hours	3			6			10			19
Failure to close premises during prohibited hours	3			1			6			10
Hindering investigation	1			2			6			9
Permitting bookmaking on premises	1			3			1			5
Failure to afford view into premises during prohibited hours	1			2			2			5
Conducting business as a nuisance	1						4			5
Permitting gambling on premises				2			1			3
Permitting lottery activity on premises				2						2
Permitting persons of ill repute on premises							1			2
Sale to non-members by club				1			1			2
Unqualified employees				1			1			2
Possessing slot machines on premises	1									1
False statement in license application	1									1
Employee w/o requisite identification card (local reg.)	1									1
Failure to provide constable to maintain law and order in violation of special condition	1									1
Sale to intoxicated persons	1									1
Failure to have copy of license application on premises				1						1
Sale outside scope of license							1			1
Employee working while intoxicated							1			1
Purchase from improper source							1			1
HEARINGS HELD AT DIVISION:										
Total number of hearings held	118			125			104			345
Appeals	29			25			21			75
Disciplinary proceedings	49			68			54			171
Eligibility	19			11			18			48
Seizures	13			16			9			38
Tax revocations	7			3			1			11
Applications for license	1						1			2
STATE LICENSES AND PERMITS ISSUED:										
Total number issued	4,870			4,369			2,774			12,013
Licenses	673			11			12			696
Solicitors' permits	150			155			144			449
Employment "	996			556			549			2,101
Disposal "	226			214			177			617
Social affair "	1,354			1,330			951			3,635
Wine "	60			909			8			977
Miscellaneous "	614			509			434			1,557
Transit insignia	719			653			466			1,838
Transit certificates	78			32			33			143
OFFICE OF AMUSEMENT GAMES CONTROL:										
Licenses issued	24			67			291			382
Premises inspected	626									626
Premises where violations were found	20									20
Number of violations found	22									22
Enforcement files established	196			70			23			289
Disciplinary proceedings instituted	1									1
Violations involved: fraud and front	1									1

WILLIAM HOWE DAVIS  
 Director of Alcoholic Beverage Control  
 Commissioner of Amusement Games Control

Dated: April 12, 1961

6. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - HEARER'S REPORT WAIVED - ALCOHOL ORDERED FORFEITED - LIEN CLAIM OF INNOCENT LIENOR ON MOTOR VEHICLE RECOGNIZED.

In the Matter of the Seizure	)	
on September 27, 1960 of a	)	CASE NO. 10,410
quantity of alcohol and a Pontiac	)	ON HEARING
sedan on the New Jersey Turnpike,	)	CONCLUSIONS
13 Mile Post, in the Township of	)	AND ORDER
Woolwich, County of Gloucester and	)	
State of New Jersey.	)	

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 Greenstone and Greenstone, Esqs., by Herbert E. Greenstone, Esq.,  
 Attorneys for claimant, Herb and Del Auto Sales.  
 I. Edward Amada, Esq., appearing for the Division of Alcoholic  
 Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether five two-quart "Mason" jars of alcohol, and a Pontiac sedan, described in an inventory hereinafter referred to, seized on September 27, 1960 on the New Jersey Turnpike, 13 Mile Post, Woolwich Township, New Jersey, constitute unlawful property, and should be forfeited.

When the matter came up for hearing, pursuant to R.S. 33:1-66, an appearance was entered on behalf of Herb and Del Auto Sales, Inc., a corporation, which sought recognition of its alleged lien on the said motor vehicle. No one opposed forfeiture of the alcohol.

Since the matter was heard, the Hearer retired from the Division before preparing a Hearer's Report. It was, thereupon, stipulated by the attorney for the claimant, that he will consent, on behalf of claimant, to a decision by the Director, based upon the pleadings, transcript of testimony and exhibits previously presented, and will waive a Hearer's Report. This decision is, accordingly, based upon the stipulation with regard thereto.

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

At the time and place above stated, a New Jersey State Trooper stopped the motor vehicle in question, and ascertained that the car bore fictitious New Jersey license plates for a 1948 Dodge, and was being operated by Charles W. Kenan, who was accompanied by some passengers. The trooper discovered the alcoholic beverages in the trunk and front seat of the car. None of the jars had affixed to them any stamps indicating payment of tax on alcoholic beverages. The trooper took into custody the alcohol, the motor vehicle and its occupants. Later, the alcohol and car were turned over to ABC agents.

Kenan gave a signed, sworn, written statement to the trooper wherein he stated that he was in Maysville, North Carolina, to attend a funeral, and met a friend who invited him to his home to drink some "moonshine". At his request, his friend gave him six two-quart jars of the "moonshine", which were placed in the Pontiac motor vehicle. He consumed one jar of the alcoholic beverages on the way to New Jersey, and the remaining five quarts were in the car at the time of his arrest.

The record discloses that the said Charles Kenan was arrested on September 28, 1958 for transportation and possession of illegal alcohol, and on September 30, 1958, for possession of illegal alcohol;

he was fined \$350.00 and placed on probation for two years. The said Charles Kenan was arraigned on the present charge of possession and transportation of untaxed alcohol and upon his plea of guilty, the magistrate of the Woolwich Township Municipal Court, Swedesboro, referred this matter to the Gloucester County Grand Jury.

The contents of one of the jars was analyzed by the Division chemist, who reports that it is alcohol and water fit for beverage purposes, with an alcoholic content by volume of 51.0 percent.

The seized alcohol is illicit because of the absence of a tax stamp on any of the jars and the circumstances under which such alcohol was obtained. R.S. 33:1-1(i), R.S. 33:1-88. Such illicit alcohol, and the Pontiac sedan in which it was transported and found, constitute unlawful property, and are subject to forfeiture R.S. 33:1-1(i), R.S. 33:1-2, R.S. 33:1-66.

Claimant offered in evidence (C-1) a conditional sales contract dated March 16, 1960, signed by "Charles Williams" which evidences the purchase of the Pontiac convertible automobile in question, at a sale price of \$2795.00. \$300.00 was paid at the time of purchase, and the balance of \$2495.00, due thereon, was financed by the Equitable Trust Company, through assignment of the conditional sales agreement. Temporary license plates were issued to the said "Charles Williams" and when he failed to make his first installment payment, investigation was made by an agency of the Equitable Trust Company. Thereafter the motor vehicle was repurchased by the Herb and Del's Auto Sales, Inc. under its recourse finance arrangement with the Equitable Trust Company, and \$2300.00 actually advanced by the Equitable Trust Company (which was a sum minus \$195.00 which claimant was required to hold back) was paid by claimant to the Equitable Trust Company.

A credit investigation was made by the claimant of the said Charles Williams based on the information given by him. In his application (C-1 evidence) he set forth his age as 32 years, married, presently employed at the Crown Cork and Seal Co., Baltimore, Maryland as a laborer at a salary of \$60.00 per week. The investigation also disclosed that Charles Williams was actually employed, for less than one month prior to the credit application, by the Crown Industrial Park Company, but his application for credit was nevertheless accepted because of the binding recourse agreement with the claimant dealer. Mr. James Barnett, of the Equitable Trust Company, testified on behalf of claimant, that this credit investigation did not indicate any criminal record in this applicant; that no credit would have been approved if such information had been obtained.

I am satisfied from the evidence presented that the Herb and Del Auto Sales, Inc. acted in good faith, and did not know, or have reason to suspect that the Pontiac sedan would be used to transport illicit alcoholic beverages. I shall therefore recognize its lien against the said motor vehicle to the extent of \$2495.00.

It appears that the appraised value of the Pontiac sedan does not exceed the amount of the lien claim and the costs of its seizure and storage. Such motor vehicle will therefore be returned to Herb and Del Auto Sales, Inc., upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 5th day of April, 1961, the Herb and Del Auto Sales, Inc. pays the costs incurred in the seizure and storage of the Pontiac sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to it; and it is further

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

WILLIAM HOWE DAVIS  
DIRECTOR

Dated: March 29, 1961

SCHEDULE "A"

- 5 - two-quart "Mason" jars of alcohol.
- 1 - Pontiac sedan, Serial No. 159 P 48374,  
New Jersey Registration BDC-982,

7. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - SALE IN VIOLATION OF STATE REGULATION NO. 38 - CONTRACEPTIVES - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

MORRIS BARRY )  
t/a BARRY'S BAR )  
336 Fourth Street )  
Lakewood, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by Township Committee of the Township of Lakewood. )

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Novins, Novins & O'Connor, Esqs., by Robert J. Novins, Esq., Attorneys for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On Thursday, December 22, 1960, between 2:00 a.m. and 2:25 a.m. and on Saturday, December 31, 1960, between 2:00 a.m. and 2:25 a.m., you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and allowed the consumption of alcoholic beverages on your licensed premises; in violation of Section 2 of an Ordinance adopted by the Township Committee of the Township of Lakewood on June 20, 1940.
- "2. On Thursday, December 22, 1960, at about 2:10 a.m. and again on Saturday, December 31, 1960, at about 2:24 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage in its original container for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverage in its original container from your licensed premises; in violation of Rule 1 of State Regulation No. 38.
- "3. On December 22, 1960, and prior thereto, you distributed and allowed, permitted and suffered

the distribution of prophylactics against venereal disease and contraceptives and contraceptive devices in and upon your licensed premises; in violation of Rule 9 of State Regulation No. 20."

On Wednesday, December 21, 1960, ABC agents entered defendant's licensed premises about 10:50 p.m. and remained therein for several hours. During their stay Morris Barry (the licensee) was behind the bar serving some twelve or more patrons. At 2 a.m. Thursday, the closing hour, Barry extinguished the interior lights but the majority of the patrons and the agents were permitted to remain at the bar consuming their drinks. At 2:10 a.m. one of the agents asked for and received from Barry a pint of Blackberry Brandy which he paid for and took with him when he, the other agents and the patrons left the premises around 2:25 a.m.

At about 12:05 a.m. Saturday, December 31, 1960, the same agents returned to defendant's licensed premises and remained therein until 2:25 a.m. Barry was in charge and his son (Arthur) and a man called "Brownie" were behind the bar serving some twenty-four patrons. No drinks were served after the closing hour, but the patrons were permitted to remain on the premises to consume their drinks until 2:20 a.m. when all but one female and the agents left. At 2:22 a.m. the same agent, who had on the prior visit purchased a pint of Blackberry Brandy, asked for and received from Barry another pint of the same brand of liquor and jokingly asked Barry to give him a half-dozen "rubbers." Barry laughed, saying "I'll have to check my stock" and went into his office. When he returned he gave the agent a prophylactic in an envelope, saying "That's one of my own I had in the back." At 2:25 a.m. the agents left the premises and, within seconds, returned thereto, identified themselves to Barry and "Brownie" and informed them of the violations. Barry admitted the after-hours sales and stated that he doesn't sell prophylactics but gives them to his friends if they need them.

I have read the letter submitted to me by defendant's attorneys in attempted mitigation, but find nothing therein which would lead me to impose less than the minimum penalty imposed in similar cases.

Defendant has no prior adjudicated record. I shall suspend his license for fifteen days on Charge 1 (Re Brass Rail Liquors, Inc., Bulletin 1291, Item 12); fifteen days on Charge 2 (Re Gacos, Bulletin 1298, Item 10), and ten days on Charge 3 (Re Roignant, Bulletin 1278, Item 1), making a total suspension of forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 3rd day of April 1961,

ORDERED that plenary retail consumption license C-6, issued by the Township Committee of the Township of Lakewood to Morris Barry, t/a Barry's Bar, for premises 336 Fourth Street, Lakewood, be and the same is hereby suspended for thirty-five (35) days, commencing at 2 a.m. Monday, April 10, 1961, and terminating at 2 a.m. Monday, May 15, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ROYAL ROOM, INC.  
217 Main Street  
Little Ferry, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Little Ferry.

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Defendant-licensee, by Roger V. Grimshaw, President.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on Sunday, March 12, 1961, it sold during prohibited hours alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

At about 2:55 p.m. on the above date an ABC agent entered the licensed premises and requested six cans of beer for off-premises consumption from Joseph Bosotina (a bartender on duty at that time in the licensed premises). Bosotina said "Yeah, I'll take a chance", then removed six cans of beer from a refrigerator and placed them in a brown paper bag. The agent left the premises with the beer, joined a fellow agent who had remained outside, and both agents then entered the premises. The agents revealed their identity to Bosotina, who verbally acknowledged that he had made the sale.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of fifteen days. Re McMaster, Bulletin 1375, Item 8. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 4th day of April 1961,

ORDERED that Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Little Ferry to Royal Room, Inc., for premises 217 Main Street, Little Ferry, be and the same is hereby suspended for ten (10) days, commencing at 3 a.m. Tuesday, April 11, 1961, and terminating at 3 a.m. Friday, April 21, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

9. STATE LICENSES - NEW APPLICATIONS FILED.

Kennedy Distributing Co.  
900 Feet North of Cammersville Rd.  
West Side of Highway #34  
Wall Township, N. J.  
Application filed May 11, 1961 for person-to-person, place-to-place transfer of Limited Wholesale License WL-10 from John Burns Inc., 522-24-26 South Broadway, Gloucester City, N. J.

Menotti Lembo, t/a Lembo Distributing Company  
53 West Grand Street (rear)  
Elizabeth, N. J.  
Application filed May 16, 1961 for person-to-person, place-to-place transfer of State Beverage Distributor's License SBD-106 from Jacob L. Nydick, Receiver City Beverage Company, Inc., 415-417 West Grand St., Elizabeth New Jersey

*William Howe Davis*  
William Howe Davis  
Director

New Jersey State Library