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

BULLETIN 1041   DECEMBER 14, 1954.

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

BULLETIN 1041 DECEMBER 14, 1954.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (PERMITTING MAKING ARRANGEMENTS ON LICENSED PREMISES FOR ILLICIT SEXUAL INTERCOURSE) - HOSTESS - LICENSE SUSPENDED FOR 210 DAYS.

In the Matter of Disciplinary Proceedings against

BERNARD FROMKIN & ERNEST L. LIEBERMAN
360 Mulberry Street
Newark 2, N. J.,

Holders of Plenary Retail Consumption License C-249, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS AND ORDER

Saul C. Schutzman, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants were served with charges alleging that, (1) on December 26, 1953 and January 2 and 5, 1954 they allowed, permitted and suffered lewdness and immoral activity on their licensed premises, viz., the making of overtures and arrangements for illicit sexual intercourse, in violation of Rule 5 of State Regulations No. 20, and (2) on January 5, 1954 and on divers days prior thereto, they had allowed, permitted and suffered a female employed on their licensed premises to accept beverages at the expense of and as a gift of customers and patrons; in violation of Rule 22 of State Regulations No. 20.

Defendants pleaded not guilty to charge (1), but pleaded _non vult_ to charge (2).

At the hearing herein, two ABC agents testified in support of the charges and a number of witnesses testified on behalf of defendants, including two patrons, licensee Fromkin, bartenders Gregorio Vera and William Lieberman (father of licensee Lieberman), and Sarah --- (a female patron who had been apprehended as she left defendants' licensed premises in the company of one of the agents).

It is deemed unnecessary to set forth in minute detail all of the testimony of these witnesses. The testimony may be summarized as follows:

The agents, hereinafter referred to by the initial letter of their last names ("W" and "M") visited defendants' licensed premises on the three occasions listed in charge (1). On the first occasion (the early evening of December 26, 1953) they met a female called "Bimi" who hugged and kissed Investigator "W." They then engaged in conversation and made tentative arrangements to go out together and "make a night of it." However, the bartender, William Lieberman, who had been serving them the drinks was not present during this conversation. Shortly thereafter a young woman known as "Mildred" who was introduced to the agents by Bimi sat on the lap of Investigator "M." There followed a vulgar conversation concerning

Mildred's body during which she offered to engage in sexual intercourse for $10.00 plus the cost of room. Mildred then left the premises saying that she would return. Shortly thereafter, the agents asked the bartender who Mildred was and told him that she had agreed to return to the licensed premises and to go out to have intercourse for $10.00 plus the cost of room. The bartender stated that he did not know her but countered with a vulgar expression as to her desirability for the stated purpose. The agents left the premises before Mildred returned.

They again returned to the licensed premises at approximately 8:30 p.m. on January 5, 1954 taking with them two $5.00 bills and eight $1.00 bills, the serial numbers of which had been noted for purposes of identification. Bartender Vera was tending bar and licensee Fromkin was also present. Bimi asked Investigator "W" where he had been on the night they were supposed to have had a "date" and advised him that she would be unable to go with him that night.

Agent "W" engaged in conversation with the aforementioned Sarah who introduced herself to him and had several drinks at his expense. They then engaged in conversation during which it was agreed that she would take him out for intercourse for $10.00 plus $4.00 for the room. They were then joined by Alberta ---, the female employee referred to in charge (2). At Sarah's request the investigator paid her the $14.00, plus an extra dollar which she requested as a "tip." Before leaving the licensed premises Sarah went to the ladies' room and, upon emerging, handed licensee Fromkin some money which he took without comment and placed in his trouser pocket. Investigator "W" testified that Fromkin told them not to leave together, but for one to leave by way of the side door while the other left by way of the front door. As they prepared to leave, Sarah asked several of the patrons if they wanted any coffee. Shortly thereafter, Sarah and Agent "W" went out together through the front door where they were apprehended by a police officer and an ABC agent who was stationed outside. They all immediately returned to the licensed premises where Fromkin was requested to produce the money from his trouser pocket. He promptly complied and it was found that this money consisted of one of the $5.00 bills and four of the $1.00 bills, the serial numbers of which previously had been noted. Fromkin admitted that Sarah had asked him to hold the money for her. Sarah later produced from her shoe the balance of the marked money which she had received from the investigator.

Sarah admitted that she had been drinking with Investigator "W" and that she had left the licensed premises with him. She also admitted receiving money from him, part of which she handed to Fromkin. She sought to explain the incident by saying that the investigator had said that he was willing to spend between $10.00 and $15.00; that he had agreed to take her out to eat; that, when they left the licensed premises, they had intended to go to a diner; that she intended to return to the licensed premises and bring coffee to the people from whom she had collected money for that purpose and that she had handed the money to Fromkin to hold for her. She denied engaging in the conversation concerning intercourse as related by the investigator. On cross-examination, she admitted that she had not had any conversation with the investigator as to where or how much they were going to eat and further admitted that she did not pay for any of the drinks.

Bartender Lieberman, while admitting that the agents had talked with him concerning Bimi and had asked him whether Mildred would engage in intercourse, denied that he had made the vulgar remark attributed to him by the agent. He further denied that he had seen Mildred sitting on the lap of Investigator "M" and also denied having heard any conversations between the men and any of the females.

Bartender Vera testified that he remembered the agents visiting the licensed premises and admitted that they had asked him Sarah's name and had also asked him, "How is she?" However, he denied the conversation attributed to him by the agents and further denied that he had ever seen any females solicit men for immoral purposes at the licensed premises.

Fromkin admitted that he knows Sarah and that she had asked him to hold some money for her until she returned. He testified that Sarah had told him that she was going to a restaurant; that she had asked him if he wanted anything to eat; that she had announced to the patrons at the bar that she was going to a restaurant and had asked them if they wanted her to bring anything back for them. He further testified that he was merely holding the money as a favor and that he took no implications from her request. He denied suggesting that Sarah and the investigator leave by different doors and also categorically denied charge (1).

The two patrons testified that they have never observed any immoral activities upon defendants' licensed premises.

At his request, counsel for defendants appeared before the Director in oral argument. In sum, he urged that the proofs failed to establish defendants' guilt and, more specifically, that there was no participation in or knowledge of any immoral activity upon the part of the licensees or their employees.

After considering all of the evidence and counsel's argument, I am satisfied that overtures and arrangements for illicit sexual intercourse were made upon the licensed premises. I am also satisfied that defendants' bartenders were aware of these overtures and arrangements. Indeed, it is possible, even probable, that defendant Lieberman knew or had reason to know what was going on. I find defendants guilty as to charge (1).

As already indicated defendants have pleaded non vult to charge (2).

Defendants have no prior adjudicated record. However, by letter dated November 20, 1953, defendants' attention was directed to Rule 5 of State Regulations No. 20, with particular reference to "gutter type" language and the possibility that unescorted females were frequenting the premises soliciting male patrons for drinks. In that letter defendants were informed that they would be well advised to "tighten up" their control on the conduct and language of the patrons at their licensed premises.

I have given considerable thought to the penalty to be imposed in this case. Most certainly the facts and circumstances which moved me to find guilt on charge (1) necessitate a severe penalty. However, under all of the attendant circumstances, including the fact that neither the licensees nor their employees procured females for the agents, or were instrumental in effecting their acquaintances or in any other way promoted or actively participated in the overtures or arrangements, revocation of the license would be unnecessarily severe. Re Oranges and Hinkes, Bulletin 1039, Item 5. Nevertheless, as was pointed out in that case, "the unholy union of vice and liquor on licensed premises cannot, and will not, be tolerated." Under all of the circumstances I shall suspend defendants' license for two hundred ten days.

The frequency of violations of the kind involved in charge (1) has given me considerable concern and question arises as to whether or not more severe penalties should be imposed in cases of this kind. An

immediate re-examination of the Division's policy with respect to this question is in order.

Accordingly, it is, on this 24th day of November, 1954,

ORDERED that Plenary Retail Consumption License C-249, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Bernard Fromkin & Ernest L. Lieberman, for premises 360 Mulberry Street, Newark, be and the same is hereby suspended for two hundred ten (210) days, commencing at 2:00 a.m. November 30, 1954, and terminating at 2:00 a.m. June 28, 1955.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (PERMITTING MAKING ARRANGEMENTS ON LICENSED PREMISES FOR ILLICIT SEXUAL INTERCOURSE) - LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary Proceedings against)

EMANUEL SUSSMAN & HYMAN SUSSMAN
111 Washington St.
Newark 2, N. J.,)

Holders of Plenary Retail Consumption License C-897, issued for the 1953-54 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Newark; and renewed for the 1954-55 licensing period to them) CONCLUSIONS AND ORDER

t/a JOE'S BAR,)

for the same premises.)

Saul C. Schutzman, Esq., Attorney for Defendant-licensees.
Edward F Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to a charge alleging that on October 26, 28, 30 and 31, 1953, they allowed, permitted and suffered lewdness and immoral activity upon their licensed premises, viz., the making of arrangements for illicit sexual intercourse, in violation of Rule 5 of State Regulations No. 20.

At the hearing herein two ABC agents who conducted the investigation at the licensed premises on the dates above mentioned (hereinafter referred to as Investigator "F" and Investigator "R") and another ABC agent who accompanied them to the vicinity of the licensed premises on October 31 (hereinafter referred to as Investigator "C") testified in support of the charges. On behalf of defendants, licensee Emanuel Sussman, bartender Joseph De Rogatis, and several patrons testified. It is deemed unnecessary to set forth in detail the testimony of all these witnesses. The testimony may be summarized as follows:

The investigators first visited the premises on the afternoon of October 26th, at which time De Rogatis was tending bar. Investigator "F" talked with a female patron named Helen whom the bartender had described as "on the make" and "clean". After Helen had left the premises the bartender asked Investigator "F" "How did you make out?" and he replied that Helen had agreed to engage in sexual intercourse with him and to meet him at the licensed premises for that purpose on Wednesday night. The bartender said that she was a frequent visitor at the licensed premises and claimed that he had

engaged in intercourse with her and that she was "good". In reply to a question from Investigator "R" as to how much she would charge the bartender said "give her a fin, that is enough for both of you". He told the agents that he does not work at night but that, if he is not at the licensed premises at night, he is usually at the drug store on a nearby corner. He was relieved as bartender by licensee Emanuel Sussman and, as he left the licensed premises, he told the agents that he would see them on Wednesday night.

They returned at approximately 8:30 p.m., Wednesday, October 28, 1953, at which time licensee Emanuel Sussman and Al Paretti were tending bar. When questioned as to whether he had seen Helen, Sussman replied that he had not seen her all day. They then asked for De Rogatis and Sussman replied that he had not been there that evening but that he usually drops in. The investigators disclosed to Sussman their arrangements with Helen and discussed with him another female seated at the bar. Sussman said that he did not know her name and explained that he had only recently acquired the licensed premises; that De Rogatis had worked as bartender for the previous owner; that they had continued his employment; that he could give them information on the various females and that they should speak to him when he came in.

The investigators returned on the afternoon of October 30, at which time De Rogatis, who was tending bar, asked them how they made out. They explained that Helen did not keep her date and De Rogatis said that he had seen Helen and had told her that they had been there on Wednesday to meet her for the purpose of having intercourse. There followed a conversation during which De Rogatis discussed the desirability and cleanliness of certain females and agreed to try to obtain women for them later that same evening. The agents again returned at approximately 9:15 p.m. but De Rogatis did not arrive until after midnight. There again followed a conversation in which De Rogatis pointed out a number of females who, he said, were "clean" and would engage in intercourse. He then asked the agents whether they would return the next day and when they replied in the affirmative he told them that he would have two girls for them, Helen if she were there, and, if not, two other girls.

At approximately 1:00 p.m. on October 31, 1953, the investigators telephoned to the licensed premises and asked De Rogatis if the females were there. He replied in the negative but said that he expected them any minute and that he would be waiting for them. Investigators "F" and "R" entered the licensed premises at approximately 1:30 p.m., each taking with him five one-dollar bills, the numbers of which had previously been noted for identification purposes. Investigator "C" remained outside. De Rogatis told Agents "F" and "R" that the girls had not yet arrived but told them that a woman seated at the bar, later identified as Frieda, was a "good lay" and was "clean". The investigators talked with Frieda who responded in a demonstrative and affectionate manner and agreed to engage in intercourse with them for $5.00. The agents informed De Rogatis of their arrangements and he advised them to pay her only $3.00. However, the agents each paid Frieda $5.00 in marked money which she placed in her purse which was on the bar. When Frieda went to the ladies' room Investigator "F" told De Rogatis of their plans. Shortly thereafter the investigators left the licensed premises with Frieda through a rear door where they were apprehended by Investigator "C" and local police officers. Later, at police headquarters, De Rogatis admitted discussing Helen and Frieda with Investigators "F" and "R", admitted the telephone conversations hereinabove referred to and also admitted that he was supposed to get a couple of females for them and that he had discussed with the investigators their financial arrangements with Frieda.

On cross-examination the investigators admitted that they had not seen any other questionable conduct at defendants' licensed premises and that they had not been solicited or approached by any other females while there.

Investigator "C" testified that he had seen the other investigators leave the licensed premises with "Frieda"; that the marked money had been found in Frieda's purse; and that De Rogatis had made the admissions at police headquarters as hereinabove indicated. On cross-examination, he testified that De Rogatis had changed his story from time to time and that he refused to answer some of the questions asked of him.

On behalf of defendants, Emanuel Sussman testified that he actively conducts the business at the licensed premises; that his father, Hyman Sussman the other licensee, does not actively participate in the management of the premises; and that they had retained De Rogatis, the bartender from their predecessor. He denied that there had been any lewdness or immoral activity upon the licensed premises or that he had discussed with the investigators the subject of intercourse. He further testified that, when the investigators spoke to him concerning Helen, he thought that they were acting strangely and endeavored to discourage further conversation. He denied that he had any knowledge that De Rogatis engaged in conversations or did anything else in connection with immoral activities. He further denied that any of the females had acted in a suspicious manner.

De Rogatis testified that he had seen Investigators "F" and "R" at the licensed premises in October 1953; that they had questioned him concerning Helen but denied that he discussed her morals or her availability for intercourse. He denied that he introduced Helen to the agents or that he made a date for her with them. He further denied that he had agreed to obtain any females for them at any time. He admitted that they had called him on the telephone on October 31st but claimed that they had merely told him that they would be there in a little while. He admitted that Frieda was present on that occasion and claimed that Investigator "F" spoke to him in Italian, of which he understands but little, and that the investigator used an expression which he did not understand. He denied that he had told the agents that Frieda was a "good lay" or that he had discussed her with them. He also denied discussing with them their financial arrangements with Frieda or making the admissions attributed to him by the investigators.

Two patrons, husband and wife, testified that they visit the licensed premises approximately four nights a week; that they were present on October 28 and October 30 when the investigators said they were there; and that they saw no lewdness or immoral activity upon the licensed premises then or at any other time. They admitted, however, that they have seen unescorted females at the licensed premises.

At his request, counsel for the licensees appeared before the Director on oral argument. In general, he contended that defendants' guilt had not been established by the evidence and, more particularly, that neither the licensees nor their employees had introduced any females to the investigators or procured any females for immoral purposes; and that they took no part in and did not overhear the arrangements. He also stressed the fact that the bartender is no longer employed upon the defendants' licensed premises.

After considering all of the evidence and counsel's argument, I am satisfied that arrangements for illicit sexual intercourse were made upon the licensed premises and that defendants' bartender was aware of these arrangements. Furthermore, there is some evidence that defendant Emanuel Sussman knew or had reason to know of the aforementioned activities of the bartender De Rogatis.

I find defendants guilty as charged.

Defendants have no prior adjudicated record. I have given careful consideration to the penalty to be imposed in this case. Clearly, the facts and circumstances which moved me to find guilt necessitate a severe penalty. However, under all of the attendant circumstances, including the fact that neither the licensees nor their employees actually procured females for the agents, or introduced them, or promoted or actively participated in the arrangements, revocation of the license would be unnecessarily severe. Re Oranges and Hinkes, Bulletin 1039, Item 5. Nevertheless, as was pointed out in that case, "the unholy union of vice and liquor on licensed premises cannot, and will not, be tolerated." Under all of the circumstances I shall suspend defendants' license for 180 days.

The frequency of violations of the kind here involved has given me considerable concern and question arises as to whether or not more severe penalties should be imposed in cases of this kind. An immediate re-examination of the Division's policy with respect to this question is in order.

Accordingly, it is, on this 24th day of November, 1954,

ORDERED that Plenary Retail Consumption License C-897, issued for the 1954-55 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Emanuel Sussman & Hyman Sussman, t/a Joe's Bar, 111 Washington Street, Newark, be and the same is hereby suspended for a period of one hundred eighty (180) days, commencing at 2:00 a.m. November 30, 1954, and terminating at 3:00 a.m. May 29, 1955.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - FALSE ANSWERS IN APPLICATION - ILLEGAL SITUATION CORRECTED - CHARGE ALLEGING HINDERING OF INVESTIGATION, DISMISSED - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against CLUB ECHO, INC. 287 Main St. Hackensack, N. J., Holder of Plenary Retail Consumption License C-6 for the 1953-54 and 1954-55 licensing years, issued by the City Council of the City of Hackensack.	CONCLUSIONS AND ORDER

Stephen Toth, Jr., Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charges:

"1. In your application dated May 4, 1953, filed with the City Council of Hackensack, upon which you obtained your 1953-54 plenary retail consumption license, you, after listing your stockholders in answer to Question 22 as Frank Bakeris (10 shares or 10%), Gus Bakeris (56 2/3 shares or 56-2/3%) and Theodore T. Christakos (33 1/3 shares or 33-1/3%), falsely stated 'No' in answer to Question 24, which asks: 'Has any

stockholder of the applicant corporation any beneficial interest, directly or indirectly, in the stock of any other stockholder of the applicant corporation?', whereas in truth and fact Frank Bakeris was the real and beneficial owner of a portion of the shares held by Gus Bakeris; said false statement being in violation of R. S. 33:1-25.

"2. During May and June 1954, while an inspector of the Division of Alcoholic Beverage Control was investigating the above alleged violation, you, by Gus Bakeris and Frank Bakeris, your president and vice-president, respectively, failed to facilitate and hindred and delayed and caused the hindrance and delay of such investigation; in violation of R.S. 33:1-35.

"3. In your aforesaid application, you falsely stated 'No' in answer to Question 32, which asks: 'Does any individual, partnership, corporation or association hold any chattel mortgage or conditional bill of sale on any furniture, fixtures, goods or equipment used or to be used in connection with the conduct of the alcoholic beverage business to be operated under the license herein applied for?', whereas in truth and fact the Passaic-Clifton National Bank and Trust Company held a conditional bill of sale dated July 17, 1952 for a Carrier ice cube maker purchased from Tri-County Refrigeration, Inc. and used in connection with the licensed business; said false statement being in violation of R.S. 33:1-25."

At the hearing held herein a certified copy of the application dated May 4, 1953, was introduced into evidence. It appears therefrom that the answers to Questions 22, 24 and 32 were as stated in charge 1 and charge 3. There were also introduced into evidence statements given to an ABC agent by Gus Bakeris on May 4, 1954, and May 15, 1954, and statements given to the same agent by Frank Bakeris on May 3, 1954, and May 12, 1954. In the first statements given by Gus Bakeris and Frank Bakeris they said that both were advised, when defendant corporation was formed and obtained a license in 1951, that Frank was ineligible to hold more than 10% of the stock of the corporation because he then resided in New York City. In said statements Gus alleged that he invested a substantial sum of money when 56 2/3 shares were placed in his name, and Frank alleged that he invested a much smaller sum when 10 shares were placed in his name but he admitted that he received one-third of the profits. In their second statements both admitted that a large part of the money apparently invested by Gus actually belonged to Frank and that, in effect, each was the beneficial owner of one-third of the stock of the corporation. A copy of the conditional bill of sale referred to in charge 3 was also introduced into evidence.

The attorney for defendant presented no evidence. In summing up he did not deny that Frank Bakeris, Gus Bakeris and Theodore T. Christakos at all times had equal interests in the stock of the corporation. He alleged that his clients did not hinder or delay the investigation or intend to mislead the issuing authority in failing to disclose the conditional bill of sale. Our investigation indicates that Frank Bakeris now resides in New Jersey and, apparently, is now eligible to own one-third of the stock of defendant corporation.

After reviewing all the facts I conclude that charge 2 should be and the same is hereby dismissed. I find defendant guilty as to charges 1 and 3. I shall suspend defendant's license for twenty days because of the violation set forth in charge 1 (Re Frank Saroppo, Inc., Bulletin 1004, Item 4), and for an additional period of five days because of the violation set forth in charge 3 (Re Lauria, Bulletin 1004, Item 2), making a total suspension of twenty-five days.

Accordingly, it is, on this 8th day of November, 1954,

ORDERED that Plenary Retail Consumption License C-6 for the 1954-55 licensing year, issued by the City Council of the City of Hackensack

to Club Echo, Inc., for premises 287 Main Street, Hackensack, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. November 15, 1954, and terminating at 3:00 a.m. December 10, 1954.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE) - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

VICTORIA LODI BAR, INC.
Route 46 (formerly 6)
Lodi, N. J.,

Holder of Plenary Retail Consumption License C-11, issued by the Mayor and Council of the Borough of Lodi.

CONCLUSIONS AND ORDER

Samuel Moskowitz, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On September 25, 26 and October 2, 1954, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, in that female entertainers performed in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulations No. 20."

The file herein discloses that ABC agents visited defendant's licensed premises on the early mornings of September 25 and 26 and October 2, 1954.

On each of the aforementioned occasions an entertainer introduced as "Alicia", attired in a bra and abbreviated tights, performed a novelty dance over a flame emanating from a container on the stage floor. She bent her knees and proceeded to do the "bumps and grinds" in time with the music. She then slowly raised and lowered herself in this position and continued to do the "bumps and grinds" in a manner to simulate sexual intercourse. Also, on several of the occasions, a female entertainer known as "Chi Chi" did a dance consisting of "bumps and grinds" and various suggestive movements of her body.

The performances such as those described above have no place on licensed premises. Re The MLC Corporation, Bulletin 934, Item 7; Re Eagle Bar & Grill, Inc., Bulletin 935, Item 2; Re Corma, Bulletin 913, Item 4; Re DiAngelo, Bulletin 753, Item 4.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of thirty days. Re DiAngelo, supra. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 9th day of November, 1954,

ORDERED that Plenary Retail Consumption License C-11, issued by the Mayor and Council of the Borough of Lodi to Victoria Lodi Bar, Inc., for premises on Route 46 (formerly 6), Lodi, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. November 15, 1954, and terminating at 3:00 a.m. December 10, 1954.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 27 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

THREE STAR TAVERN, INC.
T/a HIGH LIFE BAR & GRILL
Cor. Sussex Turnpike & Calais Road
Randolph Township
P.O. R.D. #2, Dover, N. J.,

Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of Randolph Township.

CONCLUSIONS AND ORDER.

Three Star Tavern, Inc., by Harold Moyes, President.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant has pleaded non vult to charges alleging that (1) it sold at retail an alcoholic beverage at less than the price thereof listed in the then currently effective Minimum Consumer Resale Price List, in violation of Rule 5 of State Regulations No. 30, and (2) that, during prohibited hours, it sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that on Sunday, October 24, 1954, at about 1:40 p.m., an ABC agent who was present in defendant's licensed premises purchased from John Leslie Shank, a part-time bartender therein, a pint bottle of Seagram's 7 Crown Whiskey for $2.80. The then current minimum price for the item in question was $2.83. The agent left the premises with his purchase and, shortly thereafter, he and two other agents entered defendant's premises and identified themselves to the aforesaid bartender who admitted the sale.

Defendant has a prior adjudicated record. Effective July 24, 1951, its license was suspended for two days by the State Director for mislabeling a beer tap. See Bulletin 914, Item 6. The minimum penalty imposed for the violation alleged in charge 1 is ten days (Re Brooke, Bulletin 1002, Item 12) and, for the violation alleged in charge 2, fifteen days (Re Zayak, Bulletin 1031, Item 6). Since the prior record occurred within a five-year period, it will be considered in fixing the instant penalty (Re Tony's White Tavern, Bulletin 1035, Item 4). I shall suspend defendant's license for twenty-seven days and remit five days for the plea entered herein, leaving a net suspension of twenty-two days.

Accordingly, it is, on this 10th day of November, 1954,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of Randolph Township to Three Star Tavern, Inc., t/a High Life Bar & Grill, for premises at Cor. Sussex Turnpike & Calais Road, Randolph Township, be and the same is hereby suspended for twenty-two (22) days, commencing at 2:00 a.m. November 15, 1954, and terminating at 2:00 a.m. December 7, 1954.

WILLIAM HOWE DAVIS
Director.

6. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT STILL IN GARAGE - STILL AND OTHER PERSONAL PROPERTY FOUND THEREWITH ORDERED FORFEITED - GARAGE ORDERED PADLOCKED.

In the Matter of the Seizure on August 7, 1954 of a still, appurtenant equipment and two 5-gallon cans of alcohol, in a garage located at 228 Farnham Avenue, in the Borough of Lodi, County of Bergen and State of New Jersey.

Case No. 8673

ON HEARING
CONCLUSIONS AND ORDER

Joseph H. Gaudielle, Esq., by B.Franklin Boggia, Esq., Attorney for Nicholas Catania.
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 2, Revised Statutes of New Jersey, to determine whether a still, appurtenant equipment, two 5-gallon cans of alcohol, and other personal property, described in a schedule attached hereto, seized on August 7, 1954 in a garage located at 228 Farnham Avenue, Lodi, New Jersey, constitute unlawful property and should be forfeited, and further to determine whether the premises should be padlocked.

When the matter came on for hearing pursuant to R.S. 33:2-4, an appearance was entered on behalf of Nicholas Catania, the owner of the premises, who sought return of a bicycle and a kitchen cabinet, and also sought to avoid padlocking of the premises. Forfeiture of the balance of the seized property was not opposed by any person.

The Deputy Chief of Police of Lodi testified that about 11:30 p.m. on August 6, 1954 he detected an odor of mash while in the vicinity of the above premises. He summoned other police officers, and together with such officers traced the odor to Catania's premises.

The officers walked through the driveway of such premises to a three-car garage. The doors of one section of the garage were open, and Nicholas Catania was seated therein, in the dark, with cake and coffee on a cabinet. There was a connecting door leading to the other section of the garage. Through the door the officers observed a still. The bicycle was in the still section.

The officers thereupon arrested Catania. He refused to answer any questions at the time, but at police headquarters he told the officers that he rented the section of the garage where the still was found to a stranger for $60.00 per month for washing fluid. Catania refused to sign a written statement to that effect. The Division of Alcoholic Beverage Control was notified of the seizure. ABC agents arrived at the premises on the morning of August 7, 1954, met the police officers, and seized the still. In addition to the still, a high pressure steel boiler, an oil burner, about 900 gallons of mash, two cans of illicit alcohol, and the cabinet and bicycle were seized.

The agents ascertained that water and electric current were supplied to the still from Catania's dwelling immediately in front of the garage. The still was not registered with the Director of the Division of Alcoholic Beverage Control, as required by R. S. 33:2-1.

Rose Catania, wife of Nicholas Catania, testified that they have owned and occupied the dwelling for the past two years; that the garage was erected last year with electric current and water supply, for use at times as a summer kitchen, and also to garage a car and truck owned by her husband.

Nicholas Catania is employed by a tailoring concern, with earnings of between $65.00 and $75.00 per week. In addition, last year he intended to enter into a partnership in the heating line, and use the garage for storing their truck, but the venture never materialized. They appear to have no other assets than the truck, a 1950 sedan, and the premises in question.

The circumstances appear to indicate definitely that Nicholas Catania either participated in the illicit still operation, or at the very least, was aware thereof. He does not appear to have any previous criminal record for violating any liquor laws. Under the circumstances, padlocking of the garage should serve as an adequate lesson. However, none of the personal property seized can be returned since Catania obviously did not violate the law unknowingly. R. S. 33:2-7.

Accordingly, it is DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property and the same be and hereby is forfeited in accordance with the provisions of R. S. 33:2-5, and that it 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; and it is further

ORDERED that the garage on premises owned and occupied by Nicholas Catania, located at 228 Farnham Avenue, in the Borough of Lodi, County of Bergen and State of New Jersey, being the building in which the still was seized, shall not be used or occupied for any purpose whatsoever, for a period of six months, commencing the 1st day of December, 1954.

WILLIAM HOWE DAVIS
Director.

Dated: November 9, 1954.

SCHEDULE "A"

2 - 5 gallon cans of alcohol
1 - cooker
1 - copper column
4 - tanks with mash
1 - cooler
1 - receiving tank
1 - mixing tank
10 - empty 5 gallon cans
1 - Marlow water pump
1 - Sump pump
1 - oil blower
1 - Thrift Master Heater
1 - exhaust fan
1 - cabinet
1 - Elgin bicycle
1 - hot water booster
1 - General Electric oil burner
copper tubing
1 - boiler

7. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - ALCOHOL ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO INNOCENT LIENOR.

In the Matter of the Seizure on August 12, 1954, of 7 five-gallon bottles of alcohol and a Cadillac sedan on the northbound lane of the New Jersey Turnpike, in the Township of South Brunswick, County of Middlesex and State of New Jersey.

Case No. 8679

ON HEARING
CONCLUSIONS AND ORDER

Ora E. Brown, Pro Se.
General Motors Acceptance Corporation, by John F. Overton, Jr., Branch Manager.
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 7 five-gallon bottles of alcohol, and a Cadillac sedan, described in a schedule attached hereto, seized on August 12, 1954 on the northbound lane of the New Jersey Turnpike, South Brunswick, New Jersey, constitute unlawful property and should be forfeited.

A New Jersey State Trooper halted the Cadillac sedan on the above date and location during his routine patrol of traffic on the highway. The car was being driven by Roland Brown, husband of Ora E. Brown, the registered owner of the motor vehicle. The trooper discovered the above alcohol in the trunk of the car, in bottles which had no labels, or stamps indicating the payment of tax on alcoholic beverages, and thereupon seized such car and alcohol. The alcohol and motor vehicle were later turned over to agents of the Division of Alcoholic Beverage Control.

A sample of the alcohol in one of the bottles was analyzed by the Division chemist, who reports that it is an alcoholic beverage containing alcohol and water, fit for beverage purposes, with an alcoholic content by volume of 49.4 per cent.

When the matter came on for hearing pursuant to R. S. 33:1-66, an appearance was entered on behalf of General Motors Acceptance Corporation, which sought recognition of its alleged lien on the motor vehicle, and Ora E. Brown appeared and sought return of the Cadillac sedan.

Succinctly stated, Mrs. Brown asserts that it is her car, does not belong to her husband, and that she had no knowledge that he was using it to transport illicit alcohol.

The conditional sales contract for the car is signed by both husband and wife, and the General Motors Acceptance Corporation carries the account in both names. Both husband and wife were employed, "pooled" their money, and deposits were made in the husband's checking account, from which installment payments were made on the car. Mrs. Brown has not had a license to drive a motor vehicle since 1946. Her husband naturally drove the car, had free use thereof, frequently was away overnight with the car. On the occasion in question he was away for about two days, driving to Portsmouth, Virginia and obtained the bootleg alcohol in that vicinity.

The income of husband and wife is insufficient to permit savings of any great amount. Roland Brown at first claimed that the alcohol (corn whiskey) for which he paid $182.00, was for his own use. At the hearing he testified that he and his friends, members of a pinochle club, pooled their money to purchase the alcohol for Christmas for

their use, and that he went to Portsmouth for that purpose. Brown explained that he knew such alcoholic beverages were easily obtainable in that vicinity; that he "seen plenty around New York -- others bring it up -- and we always manage to get some when we wanted it, and decided to get some of it ourselves."

Even accepting Mrs. Brown's testimony at face value, both Roland Brown and Ora E. Brown have an interest in, or are the owners of the Cadillac sedan, with title registered in the wife's name as a matter of convenience. However, it is not necessary to evaluate the exact extent of the interest of each, since Roland Brown cannot avoid forfeiture because he knowingly transported bootleg alcohol in violation of the law. Similarly, Mrs. Brown cannot avoid forfeiture of whatever interest she may have in the car because she is presumed, by reason of their marital relations, to know of her husband's illegal alcoholic beverage activity, and also because to all intents and purposes, her husband had sole control and possession of the motor vehicle, without any supervision thereof by Mrs. Brown. Seizure Case No. 8525, Bulletin 1027, Item 3.

Roland Brown and Ora E. Brown stated at the hearing that if the Director decided to recognize the lien of General Motors Acceptance Corporation, and returned the motor vehicle to such finance company, the claim of Ora E. Brown was to be considered withdrawn. Since the motor vehicle will be returned to the finance company, as appears hereinafter, it is not necessary to further discuss Mrs. Brown's claim.

The conditional sales contract, dated January 6, 1954, evidences the sale of the motor vehicle by N.Y.U. Garage Inc., to Roland Brown and Ora E. Brown. The contract is assigned to General Motors Acceptance Corporation. The balance secured by the contract was $1169.82. The present balance due thereon is $664.38, after allowance for rebate for prepayment.

Prior to extending credit to the purchasers, the finance company received information concerning their character, background and employment. Such information was turned over to an independent agency for investigation. The agency furnished the finance company with a written report which disclosed the employment of Roland Brown and Ora E. Brown by various industrial concerns, advised that the other information furnished by the Browns was correct, and contained no derogatory information. In addition, the finance company checked with the Federal Narcotics Bureau, and Alcohol Tax Unit, in New York City, which agencies advised that they had no record against Roland Brown.

I am satisfied that the finance company acted in good faith and did not know or have any reason to suspect that illicit alcoholic beverages would be transported in the motor vehicle. I shall therefore recognize its lien to the extent of $664.38.

The Director of the Division of Purchase & Property has advised that the State of New Jersey is not interested in retaining the Cadillac sedan for the use of any state agency upon payment of the lien claim. The retail value of such vehicle does not appear to exceed the amount of such lien and the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if, on or before the 20th day of November, 1954, General Motors Acceptance Corporation pays the costs incurred in the seizure and storage of the Cadillac sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to such finance company; and it is further

DETERMINED and ORDERED that the bottles of alcohol described in the aforesaid Schedule "A" constitute unlawful property, and the same be and hereby are 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.

Dated: November 9, 1954.

WILLIAM HOWE DAVIS
Director.

SCHEDULE "A"

7 - 5 gallon bottles of alcohol
1 - Cadillac sedan, Serial No. and Engine No. 4962-27838, N. Y. Registration XD 2289.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

NICHOLAS IACAVELLA
T/a JOE VELLA'S
681 Anderson Avenue
Cliffside Park, N. J.,

Holder of Plenary Retail Consumption License C-30, issued by the Borough Council of the Borough of Cliffside Park.

CONCLUSIONS AND ORDER

Nicholas Iacavella, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant has pleaded non vult to the following charge:

"On October 7, 1954, you possessed, has custody of and allowed, permitted and suffered in and upon your licensed premises, an alcoholic beverage in a bottle which bore a label which did not truly describe its contents, viz.,

One 4/5 quart bottle labeled 'Bisquit Cognac XXX 84 Proof';

in violation of Rule 27 of State Regulations No. 20."

The file herein discloses that on October 7, 1954, an ABC agent, entering defendant's licensed premises to make a routine inspection, observed the bartender therein remove a bottle from the bar and place it under a counter. The agent, after identifying himself, seized the bottle labeled "Bisquit Cognac XXX" containing about twelve ounces of liquor which the bartender admitted he had poured from a bottle of "Coronet V.S.Q. Brandy" " for a special customer." An analysis by the Division's chemist of the purported "Bisquit Cognac XXX" showed it to be off in color, low in solids and high in acids when compared with a sample of the genuine product.

Defendant has no prior adjudicated record. I shall suspend his license for a period of fifteen days, remitting five days for the plea entered herein, leaving a net suspension of ten days. Re Cybulsky, Bulletin 1031, Item 7.

Accordingly, it is, on this 19th day of November, 1954,

ORDERED, that Plenary Retail Consumption License C-30, issued by the Borough Council of the Borough of Cliffside Park to Nicholas Iacavella, t/a Joe Valla's, for premises 681 Anderson Avenue, Cliffside Park, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. November 29, 1954, and terminating at 3:00 a.m. December 9, 1954.

WILLIAM HOWE DAVIS
Director.

9. OVERTURES AND ARRANGEMENTS FOR ILLICIT SEXUAL INTERCOURSE - FREQUENCY OF VIOLATION - WARNING TO LICENSEES - PENALTIES WILL BE HEAVIER THAN HERETOFORE IN CASES OF THIS KIND.

November 30, 1954.

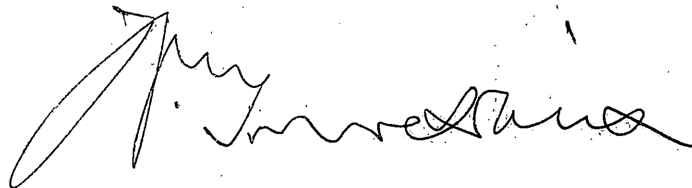
Re Fromkin & Lieberman, Bulletin 1041, Item 1, and Re Sussman & Sussman, Bulletin 1041, Item 2, involved either the making of overtures for illicit sexual intercourse or arrangements therefor, or both, upon licensed premises. In those cases I pointed out that the frequency of such violations had caused me considerable concern and that question had arisen as to whether or not more severe penalties should be imposed in cases of this kind.

It seems obvious that some of the penalties imposed in the past have not effectively deterred further violations of this kind by other licensees. Stiffer penalties may produce the desired result. Warning is hereby given that, from now on, the penalty imposed in such cases will be greater (irrespective of the plea entered) than the penalty which would have been imposed heretofore in comparable situations.

WILLIAM HOWE DAVIS
Director.

10. STATE LICENSES - NEW APPLICATION FILED.

Edmund M. Baginski, t/a Liberty Bottling Works
Rear 1014 Chestnut Ave.
Trenton, N. J.
Application filed December 10, 1954 for transfer of State Beverage Distributor's License from Josephine H. Baginski, t/a Liberty Bottling Works, Rear 1014 Chestnut Avenue, Trenton, N. J.



William Howe Davis
Director.

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