

BULLETIN 1097

FEBRUARY 8, 1956

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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 1097

FEBRUARY 8, 1956.

1. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JOHN J. BURATTI)
t/a JOHN'S TAVERN)
East Side of Main Avenue)
Passaic Township)
PO Stirling, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-6, issued by the)
Township Committee of Passaic)
Township.)
-----)

John T. Keefe, 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 charges alleging that he (1) sold, served and delivered alcoholic beverages to three minors and permitted the consumption of such beverages by said minors in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20; and (2) sold during prohibited hours an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that ABC agents obtained signed sworn statements from Oliver --- (age 19), Thomas --- (age 20), Donald --- (age 20), and an adult companion concerning the sale to and consumption by the minors of alcoholic beverages in defendant's licensed premises between 1:30 a.m. and 2:00 a.m., October 21, 1955, and the sale at that time of a pint of whiskey for off-premises consumption.

The substance of the above statements is that the three minors and their adult companion entered defendant's licensed premises at about 1:30 a.m. on the above date. Each of the minors and the adult were served, by the bartender, with three or four glasses of beer which they consumed. Oliver and Thomas then left the tavern. Donald and the adult remained. Donald asked Joseph Sperduto, the bartender, for a pint of whiskey. The bartender refused -- he said that Donald was in no condition to "take the bottle"; that he was too drunk and had had enough. Donald asked the bartender if he would give the bottle to the adult and the bartender handed the adult a bottle of Seagram's 7 Crown Whiskey. Donald did not have enough money to pay for the whiskey and the bartender agreed to accept what he had and wait until the next day for the balance. The adult placed the bottle of whiskey in his pocket and, with Donald, left the tavern and joined the other two minors.

Donald states that he had previously been in defendant's tavern in June 1955 and had been sold and served beer at the bar and to take out by Joseph Sperduto and a woman bartender without

being asked his age or to sign any written representation as to his age. The three minors were served and consumed alcoholic beverages on October 21st, similarly, without being asked their age or to sign any written representation on that score.

AEC agents report that Joseph Sperduto verbally admitted to them that he remembers the adult and the three minors being in the licensed premises on October 21, 1955, but that he doesn't remember the time they came in or left; that he remembers refusing to sell Donald a pint of whiskey because he looked as if he had had enough but wasn't drunk; that he does remember selling a pint of Seagram's 7 Crown Whiskey just before they left; that the minors in question all looked over 21 years of age to him and all of them looked "all right to him". The three minors and the adult have identified the licensed premises as the place where they were sold and served alcoholic beverages on October 21, 1955 and have identified Joseph Sperduto as the bartender who served them.

Defendant has a prior adjudicated record. Effective February 1, 1943, a license held by John J. Buratti for premises 1 Stelton Road, Piscataway Township, was suspended by the Division of Alcoholic Beverage Control for 105 days for sales to intoxicated persons and hostess activity. Re Buratti, Bulletin 551, Item 2. In view of the fact that the prior dissimilar violation occurred more than ten years ago, it will not be considered in fixing the penalty herein. Re Stein, Bulletin 1067, Item 4. Because three minors over the age of eighteen were involved, I shall suspend defendant's license for fifteen days on Charge 1. Re Tishler-Birn, Inc., Bulletin 1058, Item 7. I shall suspend defendant's license for an additional period of fifteen days on Charge 2. Re Imbornone, Bulletin 1080, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 4th day of January, 1956,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of Passaic Township to John J. Buratti, t/a John's Tavern, East Side of Main Avenue, Passaic Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. January 12, 1956, and terminating at 2:00 a.m. February 6, 1956.

WILLIAM HOWE DAVIS
Director.

2. 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 - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MARGHERITA FURNARI)
T/a RIVIERA TAVERN)
24-26 Washington Avenue)
Nutley, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the Town of Nutley.)
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Margherita Furnari, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that at about 1:15 a.m. Saturday, December 3, 1955, one of two ABC agents who had visited defendant's licensed premises said to Natele Lento (the bartender), "I know it's after 10:00 p.m., but I would like to get a pint of Four Roses." The bartender handed the agent a pint bottle of the requested brand, remarking "Put it away, its \$3.10 but I'll give it to you for \$3.00." The agent paid the reduced price and, accompanied by the other agent, left the premises with the merchandise. They returned immediately and identified themselves to the bartender who, in the presence of the licensee, orally admitted the aforesaid sale for off-premises consumption at the reduced price. The minimum resale price then in effect for the item in question was \$3.10.

Defendant has no prior adjudicated record. I shall suspend her license for ten days on Charge 1 (Re Cattani, Bulletin 1083, Item 10) and for fifteen days on Charge 2 (Re 124 - 16th Avenue Corp., Bulletin 1088, Item 8), making a total suspension of twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 9th day of January, 1956,

ORDERED that Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the Town of Nutley to Margherita Furnari, t/a Riviera Tavern, for premises 24-26 Washington Avenue, Nutley, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. January 17, 1956, and terminating at 2:00 a.m. February 6, 1956.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

GEORGE ZIPKO)
T/a COLUMBIA HOUSE)
262 Passaic Street)
Passaic, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-154, issued by the Board of Commissioners of the City of Passaic.)

-----)

Sidney Simandl, 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 Friday night, December 16, 1955, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Robert ---, U. S. Navy, age 18, and Claudette ---, age 19, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

The file herein discloses that two ABC agents entered defendant's licensed premises about 11:45 p.m. December 16, 1955. There were about twenty patrons at the bar and approximately the same number of patrons in a rear room where there were several tables and chairs and a section reserved for dancing. One of the agents observed a male patron leaving the rear room and going to the bar where he purchased a pitcher of beer from Melvin Stagg (the bartender). This agent further observed the patron returning to a table in the rear room and filling some empty glasses, the contents of one of which was consumed by Claudette ---, who was later ascertained to be nineteen years of age. Shortly thereafter Robert --- and an adult companion entered the premises and went to the bar. According to the agents' report, the adult ordered from Melvin Stagg two glasses of beer, and the bartender placed one glass in front of the adult and one glass in front of Robert. According to statements obtained from the adult and Robert, the latter was not at the bar when the drinks were ordered by the adult and placed on the bar by the bartender. In any event, the agents observed Robert consuming the contents of one of the glasses and ascertained that he was eighteen years of age. The facts disclose an indirect sale and service of alcoholic beverages to both minors. Re Morganstern and Oliver, Bulletin 292, Item 9. Moreover, it appears that both minors were permitted to consume alcoholic beverages on the licensed premises.

Defendant has a prior record. Effective June 8, 1953, his license was suspended for five days for sale to a minor (Re Zipko, Bulletin 975, Item 8). Since this is a second similar violation within five years, I shall double the minimum penalty imposed in cases involving sale to two minors over eighteen and shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 9th day of January, 1956,

ORDERED that Plenary Retail Consumption License C-154, issued by the Board of Commissioners of the City of Passaic to George Zipko, t/a Columbia House, for premises 262 Passaic Street, Passaic, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. January 16, 1956, and terminating at 3:00 a.m. January 31, 1956.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - ENGAGING IN CONDUCT PROHIBITED TO EMPLOYER - PERMIT SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ANTHONY F. INZALACO)
306 DeMott Avenue)
Clifton, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Employment Permit No. 1433,)
issued by the Director of the Division)
of Alcoholic Beverage Control.)

Friend & Friend, Esqs., by Israel Friend, Esq., Attorneys for Defendant-permittee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he engaged in conduct prohibited to his employer by Rules 1 and 5 of State Regulations No. 20, in violation of Rule 9 of State Regulations No. 13.

The file herein discloses that on Friday night, September 16, 1955, ABC agents visited the licensed premises of Pleasant Hour Cocktail Lounge, Inc., located at 535 Ridge Road, Lyndhurst, wherein they observed a four-piece male orchestra entertaining some fifty patrons. At 10:45 p.m. a female vocalist rendered a popular number which was punctuated by indecent and suggestive lyrics sung to the same tune by the orchestra members, one of whom was the defendant herein. At 11:15 p.m. defendant proceeded to the bar where he consumed a glass of beer served by the bartender who made no inquiry as to his age. Defendant admitted to the agents that he was nineteen years old.

Defendant has no prior record. I shall suspend his employment permit for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days (Re Jotzat, Bulletin 944, Item 8).

Accordingly, it is, on this 4th day of January, 1956,

ORDERED that Employment Permit No. 1433, issued by the Director of the Division of Alcoholic Beverage Control to Anthony F. Inzalaco, 306 DeMott Avenue, Clifton, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. January 11, 1956, and terminating at 9:00 a.m. January 21, 1956.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - ENGAGING IN CONDUCT PROHIBITED TO EMPLOYER - PERMIT SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

FRANK LISBONA
62 West 2nd Street
Clifton, N. J.,

CONCLUSIONS
AND ORDER

Holder of Employment Permit No. 1434, issued by the Director of the Division of Alcoholic Beverage Control.

Frank Lisbona, Defendant-permittee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he engaged in conduct prohibited to his employer by Rule 5 of State Regulations No. 20, in violation of Rule 9 of State Regulations No. 13.

The file herein discloses that on Friday night, September 16, 1955, ABC agents visited the licensed premises of Pleasant Hour Cocktail Lounge, Inc., located at 535 Ridge Road, Lyndhurst, wherein they observed a four-piece male orchestra entertaining some fifty patrons. At 10:45 p.m. a female vocalist rendered a popular number which was punctuated by indecent and suggestive lyrics sung to the same tune by the orchestra members, one of whom was the defendant herein.

Defendant has no prior record. I shall suspend his employment permit for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days (Re Jotzat, Bulletin 944, Item 8).

Accordingly, it is, on this 4th day of January, 1956,

ORDERED that Employment Permit No. 1434, issued by the Director of the Division of Alcoholic Beverage Control to Frank Lisbona, 62 West 2nd Street, Clifton, be and the same is hereby suspended for ten (10) days, commencing at 9:00 a.m. January 11, 1956, and terminating at 9:00 a.m. January 21, 1956.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - ENGAGING IN CONDUCT PROHIBITED TO EMPLOYER - PERMIT SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LOUIS J. BUDZ)
196 Ackerman Avenue)
Clifton, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Employment Permit No. 1432, issued by the Director of the Division of Alcoholic Beverage Control.)
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Friend & Friend, Esqs., by Israel Friend, Esq., Attorneys for Defendant-permittee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he engaged in conduct prohibited to his employer by Rules 1 and 5 of State Regulations No. 20, in violation of Rule 9 of State Regulations No. 13.

The file herein discloses that on Friday night, September 16, 1955, ABC agents visited the licensed premises of Pleasant Hour Cocktail Lounge, Inc., located at 535 Ridge Road, Lyndhurst, wherein they observed a four-piece male orchestra entertaining some fifty patrons. At 10:45 p.m. a female vocalist rendered a popular number which was punctuated by indecent and suggestive lyrics sung to the same tune by the orchestra members, one of whom was the defendant herein. At 11:15 p.m. defendant proceeded to the bar where he consumed a glass of beer served by the bartender who made no inquiry as to his age. Defendant admitted to the agents that he was eighteen years old.

Defendant has no prior record. I shall suspend his employment permit for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days (Re Jotzat, Bulletin 944, Item 8).

Accordingly, it is, on this 4th day of January, 1956,

ORDERED that Employment Permit No. 1432, issued by the Director of the Division of Alcoholic Beverage Control to Louis J. Budz, 196 Ackerman Avenue, Clifton, be and the same is hereby suspended for ten (10) days, commencing at 9:00 a.m. January 11, 1956, and terminating at 9:00 a.m. January 21, 1956.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - ENGAGING IN CONDUCT PROHIBITED TO EMPLOYER - PERMIT SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ALFRED A. PORRO, JR.
78 Riverside Avenue
Lyndhurst, N. J.,

Holder of Employment Permit No. 1411, issued by the Director of the Division of Alcoholic Beverage Control.

CONCLUSIONS
AND ORDER

Alfred A. Porro, Jr., Defendant-permittee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he engaged in conduct prohibited to his employer by Rule 5 of State Regulations No. 20, in violation of Rule 9 of State Regulations No. 13.

The file herein discloses that on Friday night, September 16, 1955, ABC agents visited the licensed premises of Pleasant Hour Cocktail Lounge, Inc., located at 535 Ridge Road, Lyndhurst, wherein they observed a four-piece male orchestra entertaining some fifty patrons. At 10:45 p.m. a female vocalist rendered a popular number which was punctuated by indecent and suggestive lyrics sung to the same tune by the orchestra members, one of whom was the defendant herein.

Defendant has no prior record. I shall suspend his employment permit for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. (Re Jotzat, Bulletin 944, Item 8).

Accordingly, it is, on this 4th day of January, 1956,

ORDERED that Employment Permit No. 1411, issued by the Director of the Division of Alcoholic Beverage Control to Alfred A. Porro, Jr., 78 Riverside Avenue, Lyndhurst, be and the same is hereby suspended for ten (10) days, commencing at 9:00 a.m. January 11, 1956, and terminating at 9:00 a.m. January 21, 1956.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAPS - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

WILLIAM MONAHAN)
37 Ridge Road)
Lyndhurst, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-14, issued by the Board of Commissioners of the Township of Lyndhurst.)

William Monahan, Defendant-licensee, Pro se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On December 3, 1955, you allowed, permitted and suffered a tap on your licensed premises to be connected with a barrel of malt alcoholic beverage which tap did not bear a marker which truly indicated the name or brand of the manufacturer of such malt alcoholic beverage, in that a tap labeled 'Rheingold Extra Dry' was connected to a barrel of Camden beer; in violation of Rule 26 of State Regulations No. 20.

"2. On the aforesaid date, you allowed, permitted and suffered taps on your licensed premises to be connected with barrels of malt alcoholic beverages which taps did not bear markers which truly indicated the name or brand of the manufacturer of such alcoholic beverages, in that four taps bearing no markers were connected to barrels of Camden beer; in violation of Rule 26 of State Regulations No. 20."

The file herein discloses that two ABC agents entered defendant's licensed premises about 9:55 a.m., December 3, 1955. As they entered they observed the licensee go to one of the beer spigots and unscrew a beer marker which he placed underneath the bar. Subsequent investigation disclosed that this beer marker bore the name "Rheingold" and that the spigot from which it had been detached was connected with a barrel of Camden beer in the cellar. The agents also found that there were four additional barrels of Camden beer on tap; that the spigot attached to one of these barrels bore the name "Camden" but that the spigots attached to the other three barrels bore no beer marker.

In attempted mitigation defendant alleges that he removed the "Rheingold" beer marker because he had connected the barrel of Camden beer to that tap "only a few seconds" before the agents entered and that he did not know that "a tap connected to a full barrel, but not in use, must necessarily carry a marker indicating that brand." However, Rule 26 of State Regulations No. 20 is clear. It reads as follows:

"No licensee privileged to sell alcoholic beverages for consumption on the licensed premises shall allow, permit or suffer any tap on the licensed premises to be connected with any barrel or other container of a malt alcoholic beverage unless such tap bears a marker, not exceeding 3 1/2 inches by 3 1/2 inches or 12 1/4 square inches, which truly indicates the name or brand of the manufacturer

of such malt alcoholic beverage, and unless such name or brand is in full view of the purchaser when the tap is located at a bar at which consumers are served."

Defendant has a prior record. His license was suspended by the local issuing authority in 1936 for sale to minors, and in 1942 for sale during prohibited hours. Since these violations occurred more than ten years ago, I shall disregard them in fixing a penalty herein. Effective July 23, 1951, the then Director suspended his license for thirty days for allowing gambling and possessing contraceptives (Re Monahan, Bulletin 913, Item 3). Effective June 13, 1955, the local issuing authority suspended his license for ten days for sale during prohibited hours. Hereafter the minimum suspension to be imposed in cases of this kind will be ten days. However, because of the prior dissimilar violations within the past five years, I shall, under all the circumstances of this case, suspend defendant's license in this case for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 9th day of January, 1956,

ORDERED that Plenary Retail Consumption License C-14, issued by the Board of Commissioners of the Township of Lyndhurst to William Monahan, 37 Ridge Road, Lyndhurst, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. January 16, 1956, and terminating at 2:00 a.m. January 26, 1956.

WILLIAM HOWE DAVIS
Director.

9. ELIGIBILITY - PERMITTING GUESTS TO REGISTER FALSELY AT MOTEL - CRIME HELD TO INVOLVE MORAL TURPITUDE.

MORAL TURPITUDE - PERMITTING GUESTS TO REGISTER FALSELY AT MOTEL HELD TO INVOLVE MORAL TURPITUDE.

Re: Eligibility Case No. 666

BY THE DIRECTOR:

The applicant seeks my determination as to whether his criminal record, on the question of moral turpitude (R.S. 33:1-25), renders him ineligible to be employed on alcoholic beverage licensed premises.

The Hearing in the matter was held at the Division's offices on December 6, 1955.

In 1931, the applicant entered a plea of guilty to a violation of the National Prohibition Act and was sentenced to imprisonment for 60 days and was fined \$150.00. It is unnecessary to discuss, herein, questions as to moral turpitude in connection with that offense.

In 1932, the applicant (using an assumed name) was apprehended by police authorities in a large city in a northeastern state and was accused of breaking and entering a building in the nighttime. After investigation he was released. In 1933, the applicant (using a different alias) was apprehended by police authorities in a large city in a midwestern state and was held for investigation. He was turned over to Federal authorities by whom he was released the following day. At the Division Hearing, the applicant testified that he could give no reason for his apprehension on either occasion, and he gave no reason for using assumed names.

On August 17, 1954, the applicant, then the manager of a motel which was raided by law enforcement officers, entered a plea of non vult to twelve (12) counts of an indictment, each charging him with permitting guests to register falsely at the motel, in violation of R. S. 29:4-1. On September 2, 1954, he was sentenced to 30 days in the County Jail on each count (360 days in all) and was fined \$100.00 on each count (\$1,200.00 in all). The operation of the jail sentence was suspended and he was placed on probation for a period of one year.

In the raiding of the motel it had been ascertained that twelve couples who were not married to each other had registered as husband and wife, respectively, and had occupied rooms in the motel.

In July of 1955, it was discovered by the Division's agents that the applicant was employed (during his period of probation) as a bartender by a licensee in New Jersey. The agents' pertinent questioning at that time led to the Division's fingerprinting of the applicant and to full disclosure of the record hereinabove outlined. At the Division Hearing, the applicant was asked: "Did you know that you might not be eligible to work in any capacity whatsoever in a licensed premises because of your conviction?" He replied: "No, I didn't, because I was led to believe by my attorney (not the attorney representing applicant at the Division Hearing) that the charge wouldn't involve anything. He more or less told me it would be like a speeding ticket or something. I wouldn't try to jeopardize any person's license working for them knowing I'm not supposed to." (The licensee by whom the applicant was employed as bartender is the husband of the applicant's niece.)

A letter of December 12, 1955 (made part of the record herein) contends, on behalf of the applicant, that the conviction of violation of R. S. 29:4-1 was not a conviction of a disqualifying crime involving moral turpitude. The letter's argument, in support of that contention, is as follows:

"... A reading of the statute indicates that the gravamen of the offense is failing to keep, maintain or preserve such a register. The statute does not say 'knowingly or wilfully' fail to keep, etc. The mere omission to keep a register constitutes the violation, whether knowingly or not. If 'intent' is not an ingredient of the crime, how then could it involve moral turpitude. It is the mere violation of a statutory provision which has been set up to require the keeping of certain administrative records. It is somewhat akin to driving a motor vehicle without having your license in your possession.

"The violation of this section does not constitute a crime which is 'malum in se'. In 16 Corpus Juris, Sec. 8 it states: 'Crimes have been divided according to their nature into crimes mala in se and crimes mala prohibita. The former class comprises those acts which are immoral or wrong in themselves, such as murder, rape, arson, burglary and larceny, breach of the peace, forgery, and the like, while the latter class comprises those acts to which, in the absence of statute, no moral turpitude attaches, and which are crimes only because they have been prohibited by statute.' It appears then that the phrase 'in the absence of statute' is the controlling matter here. We have to determine the intent of the Legislature in passing this statute.

"In arriving at the Legislative intent we should point out that this section of the law is contained along with

other statutes in Title 29 of our statutes entitled 'Hotels'. It governs fire protection, liability to guests, registration of hotel names and general regulations. The section in question here falls under general regulations. It is to be noted that in case of violation of fire regulations the act is a misdemeanor punishable by a \$300.00 fine to be imposed annually; in the case of violation of the use of registered names no crime attaches but the penalty is \$25.00 per day for each day the violation continues; and in case of failure to keep a register it is a misdemeanor punishable by a \$100.00 fine, or 30 days in jail, or both. It is to be noted that in each case the punishment is specifically stated. This indicates the degree of the offense by indirection because in New Jersey all misdemeanors are punishable alike, unless otherwise stated. The presence of this section along with other sections regulating the conduct of hotels likewise indicates that it is an administrative regulation with teeth put in it under the exercise of the 'police power' of the State.

"Finally the Legislature has seen fit to pass other laws to govern the conduct of hotel keepers and the like in the renting of rooms. In Title 2A, governing 'Crimes' which embraces our criminal code and specifically Chapter 133 there is provision made for punishment of any person who permits a building to be used for prostitution, lewdness or assignation. It is punishable as a misdemeanor. This is the statute by which the Legislature intended to punish such crimes -- the violation in such case does involve moral turpitude...."

I cannot agree, and I am singularly unimpressed by the applicant's attempt to picture his offense in violation of R.S. 29:4-1 as a mere peccadillo.

The offense was a "misdemeanor" (R.S. 29:4-4) and the misdemeanor, of course, a "crime". (16 C. J. Section 2; 22 C.J.S. Section 1b.)

I am convinced that an offense prohibited by statute may involve moral turpitude, within the meaning and intendment of R. S. 33:1-25, irrespective of whether the statute sets forth specific intent as essential to constitute the crime charged. And while, on the question of moral turpitude, many court decisions have made a distinction between offenses mala in se and offenses mala prohibita such a test is by no means a sweeping or a controlling one. The term moral turpitude has been defined as: "An act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men or to society in general contrary to the accepted and customary rule of right and duty between man and man." (Bouvier's Law Dictionary -- Rawle's Third Revision -- Vol. 2, page 2347.) We have progressed and the accepted definition is broader. An Act involving the violation of a rule of public policy and morals may involve moral turpitude. (See Rudolph v. United States ex rel. Rock, 6 F. (2d) 487 -- District of Columbia Court of Appeals, 1925; 40 A.L.R. 1042.)

"Thus the standard is fixed by the consensus of opinion, the judgment of the majority....so we must say that those things which are discountenanced and regarded as evil and accordingly forbidden by society are immoral and that the doing of them contrary to the sentiment of society thus expressed involves moral turpitude, and this regardless of the punishment imposed for their doing." (State v. Malusky, 59 N. D. 501, 230 N. W. 735; 71 A.L.R. 190.)

As stated, in 1935, by the late Commissioner Burnett: "It is the nature of the offense and not its name which determines whether the conviction involves moral turpitude." (Re Dunn, Bulletin 80, Item 6.) Thus, there is an apparent misconception regarding the intent and purpose of the statute violated by the applicant. That statute was not enacted as part of Revised Statutes, Title 29 (Hotels). It was an independent Act (P. L. 1939, c. 254). Its Title reads: "An Act regulating tourist camps, trailer camps and overnight lodging places, providing penalties for violation hereof." And although later placed in the "Hotels" Title 29 as Chapter 4 thereof, when given the R.S. number designations 29:4-1 through 29:4-4, Section 3 of the Act (R. S. 29:4-3) provides: "Nothing in this act shall be construed in any way to apply to any duly licensed hotel having more than ten sleeping rooms for guests." The clear purpose of the Act is well demonstrated by the indictment and conviction here under consideration. In connection with the Act's reason and purpose and the serious nature of the social evil legislated against, it is appropriate to point out that if the motel corporation managed by the applicant had held an alcoholic beverage license, the conduct which gave rise to the criminal conviction would have subjected the license to revocation.

I find that the applicant's offenses and conviction thereof under R. S. 29:4-1 et seq. involved the element of moral turpitude within the meaning of R. S. 33:1-25; and, therefore, it is my ruling that the applicant is ineligible to hold an interest in any alcoholic beverage license in New Jersey or to be employed by or connected in any business capacity whatsoever with the holder of such a license. (Cf. Case No. 305, Bulletin 365, Item 11.)

WILLIAM HOWE DAVIS
Director.

Dated: January 9, 1956.

10. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1955 THROUGH DECEMBER 31, 1955

	1st Quarter		2d Quarter		Total
	July, Aug.,	Sept.	Oct., Nov.,	Dec.	
ARRESTS:					
Total number of persons arrested	94		106		200
Licensees and employees	28		38		66
Bootleggers	64		67		131
ABC agent impersonators	2		1		3
SEIZURES:					
Motor vehicles - cars	12		16		28
- trucks	4		2		6
Sfills - over 50 gallons	5		3		8
- 50 gallons or under	3		2		5
Mash - gallons	14,884.00		850.00		15,734.00
Distilled alcoholic beverages - gallons	837.38		376.95		1,214.33
Wine - gallons	214.89		34.87		249.76
Brewed malt alcoholic beverages - gallons	144.39		34.12		178.51
RETAIL LICENSEES:					
Premises inspected	2,435		2,739		5,174
Premises where alcoholic beverages were gauged	1,726		1,953		3,679
Bottles gauged	33,631		36,065		69,696
Premises where violations were found	239		217		456
Violations found	327		310		637
Type of violation found:					
Unqualified employees	151		114		265
Disposal permit necessary	31		30		61
Regs. #38 sign not posted	30		23		53
Other mercantile business	20		12		32
Gambling devices	4		6		10
Prohibited signs	4		6		10
Probable fronts	3		0		3
Improper beer taps	3		0		3
Other violations	81		119		200
STATE LICENSEES:					
Premises inspected	29		83		112
License applications investigated	50		45		95
COMPLAINTS:					
Complaints assigned for investigation	1,404		1,229		2,633
Investigations completed	1,317		1,223		2,540
Investigations pending	(185)		125		125
LABORATORY:					
Analyses made	350		419		769
Refills (from licensed premises) - bottles	6		11		17
Bottles from unlicensed premises	65		127		192
IDENTIFICATION BUREAU:					
Criminal fingerprint identifications made	64		62		126
Persons fingerprinted for non-criminal purposes	720		517		1,237
Ident. contacts made with other enforcement agencies	608		463		1,071
Motor vehicle identifications via N.J. State Police teletype	16		23		39
DISCIPLINARY PROCEEDINGS:					
Cases transmitted to municipalities	29		70		99
Violations involved:					
Sale during prohibited hours	17		39		56
Sale to minors	11		21		32
Failure to close premises during prohibited hours	0		5		5
Service to women at a bar (local reg.)	1		3		4
Sale to non-members by clubs	0		4		4
Permitting lottery activity on premises	3		0		3
Permitting bookmaking on premises	2		0		2
Permitting gambling (baseball bets, wagering) on premises	1		1		2
Permitting hostesses on premises	1		1		2
Permitting brawl on premises	1		1		2
Sale to intoxicated persons	1		1		2
Failure to afford view into premises during prohibited hours	0		1		1
Possessing contraceptives on premises	0		1		1
Employing unqualified persons	0		1		1
Cases instituted at Division	65		75		140
Violations involved:					
Sale to minors	38		26		64
Sale during prohibited hours	4		17		21
Permitting bookmaking on premises	9		6		15
Permitting lottery activity (baseball pools, numbers, sweepstakes tickets, drawing)	7		8		15
Sale below minimum resale price	2		6		8
Permitting hostesses on premises	2		6		8
Permitting immoral activity on premises	4		3		7
Possessing illicit liquor	3		3		6
Fraud and front	0		5		5
Possessing indecent matter	2		2		4

*Includes 1 cancellation proceeding - license improvidently issued to club not bona fide

	1st Quarter July, Aug., Sept.			2d Quarter Oct., Nov., Dec.			Total
DISCIPLINARY PROCEEDINGS (Continued):							
Cases Instituted at Division (Continued)							
Permittee engaging in conduct prohibited to employer	0			4			4
Failure to close premises during prohibited hours	0			4			4
Sale outside scope of license	0			3			3
Possessing pin ball machine on premises	2			0			2
Permitting female impersonators on premises	2			0			2
Illegal activity connected with licensed premises	1			1			2
Solicitor employed by retailer	1			0			1
Permitting consumption during license suspension	1			0			1
Possessing contraceptives on premises	0			2			2
Sale to intoxicated persons	0			2			2
Mislabeled beer taps	0			2			2
Conducting business as a nuisance	0			2			2
Sale to non-members by clubs	0			1			1
Permitting slot machines on premises	0			1			1
Permitting brawl on premises	0			1			1
Failure to file notice of change in application	0			1			1
Hindering investigation	0			3			3
Cases brought by municipalities on own initiative and reported to Division	37			32			69
Violations involved:							
Sale to minors	14			17			31
Permitting brawls on premises	12			7			19
Sale during prohibited hours	9			5			14
Hindering investigation	3			2			5
Permitting gambling (cards, wagering) on premises	3			2			5
Failure to afford view into premises during prohibited hours	1			0			1
Illegal activity connected with licensed premises	1			0			1
Permitting immoral activity on premises	1			0			1
Employing female bartender (local reg.)	1			0			1
Altering interior of premises w/o approval (local reg.)	1			0			1
Permitting bookmaking on premises	0			1			1
Employing unqualified persons	0			1			1
Employing bartender w/o working permit (local reg.)	0			1			1
HEARINGS HELD AT DIVISION:							
Total number of hearings held	122			124			246
Appeals	18			17			35
Disciplinary proceedings	65			70			135
Eligibility	20			8			28
Seizures	13			21			34
Tax revocations	2			3			5
Applications for license	4			3			7
Orders to show cause	0			2			2
STATE LICENSES AND PERMITS ISSUED:							
Total number issued	19,834			4,993			24,827
Licenses	926			22			948
Employment permits:							
Solicitors' "	676			497			1,173
Disposal "	2,944			169			3,113
Social affair "	229			270			499
Wine "	1,019			1,017			2,036
Miscellaneous "	1			1,376			1,377
Transportation insignia	764			551			1,315
Transportation certificates	13,198			1,039			14,237
	77			52			129

WILLIAM HOWE DAVIS
DIRECTOR

Dated: January 11, 1956

