

Gossweiler

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

BULLETIN 1496

MARCH 1, 1963

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

BULLETIN 1496

MARCH 1, 1963

1. APPELLATE DECISIONS - MELSTAN CORPORATION v. RANDOLPH.

MELSTAN CORPORATION,)	
t/a THE SALEM,)	
)	
Appellant,)	
)	
v.)	ON APPEAL
)	CONCLUSIONS
TOWNSHIP COMMITTEE OF THE)	AND ORDER
TOWNSHIP OF RANDOLPH,)	
)	
Respondent.)	

Paul Colvin, Esq., Attorney for Appellant.
Young & Sears, Esqs., by Harry L. Sears, Esq., Attorneys
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of the respondent whereby, on April 26, 1962, it suspended appellant's license for twenty-five days, effective June 4, 1962, after finding appellant guilty of a charge alleging sale of alcoholic beverages to a minor in violation of Rule 1 of State Regulation No. 20. Appellant's premises are located on South Salem Street, Randolph Township, Morris County, N. J.

"Upon the filing of the appeal, an order was entered by the Director on May 25, 1962, staying respondent's order of suspension until the further order herein. R.S. 33:1-31.

"Appellant in its petition of appeal alleges that the action of the respondent was erroneous and should be reversed for the following reasons:

"a. There was no legal proof of age of the alleged minor; and

"b. The appellant took all the precautions required by law not to serve a minor and the proofs submitted to it showed that the alleged minor was of legal age.

"Respondent did not file an answer herein. Its failure was due to the feeling on the part of the respondent that its elected officials could handle this matter without the necessity of retaining counsel; but they did not comply with the provisions of Rule 4 of State Regulation No. 15, which requires an answer to be filed prior to the hearing. At long last, respondent retained its township attorney, who appeared at the hearing and explained that, since the matter was not handled by him, it was probable that no answer was filed. Since both sides were interested in a fair and equitable disposition of this appeal without further adjournment or delay, counsel for the appellant consented to have the matter heard without the formal

filing of an answer. This procedure was irregular and should not ordinarily be condoned in future cases.

"The hearing on appeal was heard de novo, pursuant to Rule 6 of State Regulation No. 15, with full opportunity for counsel to present testimony under oath and cross examine witnesses. Sidoroff, et al. v. Jersey City and Niebanck, Bulletin 1310, Item 1.

"A brief summary of the material facts herein reflects the following: The appellant's licensed premises attracts large numbers of young people on weekends because it features "name" dance bands and rock-and-roll music, among other attractions. On Saturday evening, January 20, 1962, several hundred persons patronized this establishment, one of whom was the minor in question, Paul ---.

"He testified that he was born on January 23, 1943 and thus was several days short of 19 years of age on the alleged dates. While standing near a booth toward the rear of the premises, he ordered a bottle of beer from the waiter on duty, later identified as William Gaertner. When the waiter asked him for proof of age, he produced the driver's license of his brother, which indicated that the holder of said license was 23 years of age. No written representation was made, requested or required. Paul paid for the beer, consumed it and during the evening went to the bar on two occasions, ordered from the bartenders and was served two additional bottles of beer. The last bottle of beer was served to him at about 1:00 a.m. on January 21st. Service of the beer by the bartender was made to this minor without any inquiry as to his age, without requiring any proof thereof or obtaining any written representation by the minor of his age.

"The minor testified under cross examination that he used the driver's license with the clear intention of misleading the licensee in the event it became necessary. However, it became necessary only on the first occasion.

"ABC Agent D, on a specific assignment to these premises on the date in question, testified that he observed this minor being served and consuming alcoholic beverages. When he was served the third drink, Agent D approached Paul, identified himself to both the minor and the bartender, and questioned them. Paul stoutly insisted that he was 23 years of age and the agent continued questioning him because, in his opinion, he appeared to be obviously under 21. The minor stated that he had a heart condition and was thereupon permitted to leave the premises. The agent questioned Joseph Speer, the president of the corporate licensee, regarding this minor's age and the president stated that 'he looks 21 to me. I have nothing to say about the matter.'

"The agent further stated that he returned to the premises on Monday, January 22, 1962, and again interrogated Speer with respect to the incident. He then informed him that he had ascertained the true age of this minor and Speer said that he could not recall whether he had served any alcoholic beverages to this minor.

"It was stipulated by counsel that the testimony of ABC Agent N would fully corroborate the testimony of Agent D.

"On behalf of the appellant, Elmer Russell testified that he had no recollection of having served the minor but stated

that his usual procedure was to check ID cards of anyone who appeared to be under the statutory age. He admitted that he does not require written representation because 'if I don't think they are old enough whenever I serve them, I just refuse if they can't produce the identification we require.' He was then asked, 'Is it possible you may have [served this minor] A. It is possible, yes.'

"Joseph Speer, the president of the corporate appellant, testified that the ABC agents first brought to his attention service to the minor when he saw the said minor with a bottle of beer and a glass in his hand while seated at the bar. They then adjourned to his office in the rear of the premises. This minor insisted that he was in fact his brother, age 23, and because of his vehemence and his claim of illness, he was permitted to leave.

"Speer was not sure whether there was a special officer employed on the premises at that time but stated that the usual practice was to employ a special officer. On cross-examination, he admitted that there were about 250 patrons on the premises that night and the only practical way of checking the ages of the patrons was at the door. 'We have no time to fool around with filling out forms and getting witnesses. I would rather lose a sale.' In other words, he said that where he is in doubt, 'we throw them out.'

"Speer stated that in six or seven cases, the ages of patrons appeared to be doubtful. I then asked him, 'Having looked doubtful, don't you think it would be better procedure to get written identification of those so that you could have protected yourself? A. I suppose it would have.'

"The first point raised by the petition was that the legal age of the minor was not adequately proved. However, the minor testified at this appeal de novo that he was born on January 20, 1943, in Mineola, Long Island. The established rule in these proceedings is that testimony by the minor himself is legally sufficient to establish his age. State v. Huggins, 83 N.J.L. 43; State v. Koettgen, 89 N.J.L. 678; State v. Girone, 91 N.J.L. 498.

"The evidence in this case clearly establishes that this minor was served alcoholic beverages on the dates alleged. I am persuaded that when he ordered his first bottle of beer, the waiter made inquiry regarding his age. Such inquiry merely consisted of an oral interrogation and he was satisfied by the production of a driver's license. This was insufficient and not in compliance with the terms of R.S 33:1-77, which contains the following proviso:

'...that the establishment of all of the following facts by a person making any such sale shall constitute a defense to any prosecution therefor: (a) that the minor falsely represented in writing that he or she was twenty-one (21) years of age or over, and (b) that the appearance of the minor was such that an ordinary prudent person would believe him or her to be twenty-one (21) years of age or over, and (c) that the sale was made in good faith relying upon such written representation and appearance and in the reasonable belief that the minor was actually twenty-one (21) years of age or over.' (Emphasis ours).

"However, counsel argues that notwithstanding the specifics for a complete defense as outlined by the said statute, the unusual circumstances in this case require a different application of the rule. It is asserted that the intentional misrepresentation by this minor in the production of his brother's driver's license and his vigorous and repeated self-identification with the facts on that license, even to the ABC agents, serves as a defense and an answer to this statute.

"This contingency, however, was expressly anticipated by this Division in a special note (p. 77 of the Rules and Regulations) which, in explanation of Rule 1 of State Regulation No. 20, recites, in part, the following imperative language:

'... (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. Hence it is not a defense that mere verbal inquiry may have been made as to the age of the minor or that the minor had verbally misrepresented his age or that the minor had displayed some document (such as a driver's license, birth certificate, military identification card, selective service registration certificate, or any other similar document) which represented his age as over 21. The representation in writing required by the Alcoholic Beverage Law is a writing made by the minor at or prior to the time of sale or service. Such a writing must be signed by the minor in the presence of the licensee or his employee and one in which the minor gives his name, address, age, date of birth and, by signing the writing, makes a statement that he is making the representation as to his age to induce the licensee to make the sale. After the writing has been signed, the licensee should be required that the person signing the representation adequately identify himself as that person and thus affirmatively avoid the acceptance of these representations from persons using fictitious names, addresses and ages...'

"I can conceive of no basic distinction from the facts in this case and those presented in Sportsman 300 v. Board of Commissioners of Nutley, 42 N.J. Super. 488 (App. Div. 1956). In that case a driver's license was also presented and the court there held that a 'false representation in writing by the minor was not intended to embrace such writing as a driver's license.' The court quoted from the decision in Re Wedemeyer, Bulletin 1050, Item 8:

'Experience in cases similar to this indicates that for some reason licensees or their agents are reluctant to "embarrass" a minor by requiring him to reduce to writing his name, age and address. If licensees are willing to use their own methods of determining the age of a minor, rather than follow the statute, they do so at their peril and must accept the consequences of their own neglect.'

Cf. Tony Mart, Inc., Bulletin 1437, Item 4.

"In the instant matter, if the testimony of the minor and the two ABC agents is to be believed (and there is no persuasive denial of the service to him), the minor was not even questioned as to his age when served those drinks by the bartender. Thus, the argument for the circumference of this rule need not be considered, and indeed must be rejected, in view of this testimony.

"The prevention of sale of intoxicating liquor to minors not only justifies, but necessitates, the most rigid control. Hudson-Bergen County Retail Liquor Stores Ass'n v. Hoboken, 135 N.J.L. 502; In re Schneider, 12 N.J. Super. 449, 456; Mazza v. Cavicchia, 15 N.J. 498, 505; Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373, 384.

"I have observed the appearance of this minor on the stand and there is no question in my mind that he appears to be under 21 years of age. The very fact that he was questioned by the waiter in the first instance lends substance to the fact that there was serious doubt in the mind of appellant's agent. It thus became appellant's clear duty to invoke the method prescribed by the statute in order to protect itself. This was not done. Rigoletti v. Wayne, Bulletin 1430, Item 2. I am therefore satisfied that the appellant has not met the burden of establishing that the action of the respondent herein was erroneous.

"Finally, consideration should be given to the penalty imposed by the respondent on this charge. It is, of course, unfortunate that the appellant was victimized by the willful misrepresentation of the minor. It is equally clear that the appellant had not taken the precautions enjoined by the statute. It has generally been held by this Division that a suspension imposed in a local disciplinary proceeding rests, in the first instance, within the sound discretion of the municipal issuing authority; and the power of the Director to reduce or modify it will be sparingly exercised and only with the greatest caution. Harrison Wine and Liquor Co. v. Harrison, Bulletin 1296, Item 2. I cannot say, under all of the circumstances, that the penalty imposed herein was so severe as to form a basis for reversal or even modification on this appeal. The plea of modification should be made, if at all, to respondent, which may grant relief in the event that the members thereof determine that such action is advisable. Russo v. Lincoln Park, Bulletin 1177, Item 7.

"I therefore recommend that an order be entered affirming respondent's action and dismissing the appeal, fixing the effective dates for the suspension imposed by respondent, and stayed pending the entry of the order herein."

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

Having carefully considered the transcript of the testimony, the exhibits, including the memorandum of counsel for the licensee, and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 14th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Randolph to Melstan Corporation, t/a The Salem, for premises on South Salem Street, Randolph Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, January 21, 1963, and terminating at 2:00 a.m. Friday, February 15, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - SUSSEX LANES v. SPARTA.

SUSSEX LANES,)

Appellant,)

v.)

TOWNSHIP COMMITTEE OF THE)
TOWNSHIP OF SPARTA,)

Respondent.)

ON APPEAL
CONCLUSIONS
AND ORDER

 Charles P. DeYoe, Esq., Attorney for Appellant.
 Dolan and Dolan, Esqs., by Francis E Bright, Esq., Attorneys
 for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent which, by resolution and order adopted on August 28, 1962, suspended appellant's plenary retail consumption license C-10 for a period of three days effective September 8, 1962, after finding the licensee guilty of selling and delivering alcoholic beverages on April 5, 1962, in and upon its licensed premises to two persons under the age of twenty-one years, in violation of Rule 1 of State Regulation No. 20.

"Upon the filing of the appeal the Director entered an order on September 11, 1962, staying the respondent's order of suspension until further order herein.

"Appellant in its petition of appeal alleges that respondent's action was erroneous in that it was arbitrary, unreasonable, unsupported by a fair preponderance of the believable evidence and the result of a mistake.

"When the matter came on for hearing the attorneys for the respective parties hereto agreed to present the appeal solely upon the transcript of the proceedings before the local issuing authority pursuant to Rule 8 of State Regulation No. 15.

"The transcript was received in evidence, and it appears therefrom that, the licensee having pleaded not guilty to the charge preferred against it, the attorney for the Township produced six witnesses to substantiate the alleged violation. They are George --- (18 years of age), Walter --- (19 years of age) and their two adult companions on the date alleged, who will be referred to hereinafter as Vance and Hubbard (21 and 23 years respectively), Officer Geffken of the Sparta Police Department, and Robert --- (a former employee of the licensee).

"Succinctly stated, the evidence adduced to support the charge discloses the following: At 6:30 p.m. Thursday, April 5, 1962, George, Vance and Hubbard met in downtown Sussex and proceeded in George's open top Pontiac to tour the adjoining municipalities. Walter joined the trio in Newton. After joy riding for some time, they stopped at a liquor emporium located on the highway between Sussex and Newton where two six-packs of canned beer were purchased. All four testified that the purchase

was made in a tavern. However, none of them knew the name of the tavern or its specific location, and three of them didn't know who purchased the beer. Hubbard testified that he purchased it, and none of the four, except George who was driving, knew what seat he occupied in the car before or after the six-packs were purchased. Continuing their aimless touring, they consumed most of the beer. George testified that he drank two cans of beer, and Walter testified that he drank one can of beer. Weary of their escapade, they parked the car in an area alongside Sussex Lanes, entered the licensed premises and proceeded separately to the bar. George testified that he was served therein numerous glasses of beer and two 'shots' of whiskey, and Walter testified that he was served six or seven glasses of beer. Neither of them was required to produce a written representation of his age by the bartender whose name they didn't know and whom they identified only after the licensee's attorney asked both of the licensee's bartenders to stand up. None of the four knew the approximate time they entered Sussex Lanes or departed therefrom, but all stated they were in the licensed premises about two hours. During their stay an altercation between George and a patron created such a disturbance that George and his companions were asked to leave. They complied and, as they departed, the loud jeering by the patrons who had followed them to the door attracted the attention of Officer Geffken who was in a police car nearby. The time was then 10:04 p.m. Approaching the Pontiac, the officer observed two youths staggering toward the car, one of whom, upon entering it, threw out an empty beer can. Inspecting the car, the officer found two cans of beer under the front seat, and took the minors and their companions into custody.

"The testimony of Robert (Hubbard's cousin) was neutralized by his repudiation of his sworn statement to the police wherein he said that he had seen the minors consuming beer on the licensed premises.

"Witnesses for the licensee were William Ely (manager of Sussex Lanes), Thomas VanDuzer (assistant manager), Adolph Zimmerman and John Reinhardt (bartenders) and Frank Dekmar (a patron).

"Succinctly stated, their testimony discloses the following: On the date alleged, John Reinhardt's tour of duty was from 8 to 11 p.m. Shortly after 9 p.m. the four youths in question came to the front bar where Reinhardt was stationed and ordered drinks. Reinhardt saw that they 'obviously' had enough to drink and refused to serve them. Subsequently there was a disturbance caused by George brushing into a patron who had been bowling. VanDuzer, who had watched the four youths since they entered the premises, accosted them and cautioned them to watch their language because of the presence of women and children. His admonition was not heeded and, shortly thereafter, VanDuzer told the four youths that he didn't particularly care for their actions and asked them to leave, telling them that, if they didn't, he would call the police. One of the youths remarked 'Come on, let's get out of here before we get in trouble' and the four departed about 10 p.m.

"The evidence adduced before the issuing authority clearly establishes that, when the minors, with whom we are here concerned, were apprehended by the police officer, they were under the influence of intoxicating beverages. Since the minors admit that they consumed beer which was purchased at an unidentified tavern, the only question to be determined is whether or not alcoholic

beverages were served or delivered to them in Sussex Lanes.

"The inability of the minors to remember the name or specific location of the tavern where the six-packs of beer were purchased, or the person who purchased them, their uncertainty as to the time they arrived at and departed from Sussex Lanes, and their certainty as to what they did and what occurred the same night when they entered the licensed premises are inconsistencies difficult to reconcile.

"Having carefully reviewed the transcript, I believe the testimony of the licensee's witnesses and disbelieve the testimony of the minors and their companions, and it appears from the questions propounded by members of the issuing authority that grave doubt was engendered in their minds as to the trustworthiness of the youths' testimony.

"I am convinced that the inebriety of the minors resulted from alcoholic beverages they consumed in the unidentified tavern and from the six-packs of beer they purchased there, and that they and their companions involved the licensee herein because they were expelled from its premises. Furthermore, I am inclined to believe that the issuing authority sought in this case to compromise the issue by reluctantly finding the licensee guilty as charged and then placating it by suspending its license for only three days -- a penalty inconsistent with the fifteen days usually imposed for a violation involving two minors eighteen and nineteen years of age. Re Bergen Smith Recreation, Inc., Bulletin 1471, Item 3.

"Considering all the facts and circumstances herein, I recommend that an order be entered reversing the action of the issuing authority and dismissing the charge."

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

Having carefully considered the transcript of the testimony presented before the respondent, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 14th day of January 1963,

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

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - PERMITTING FEMALE IMPERSONATOR ON LICENSED PREMISES - INDECENT ENTERTAINMENT - LICENSE SUSPENDED FOR 90 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)	
)	
ANDY'S NEW LOG CABIN, INC.)	
t/a ANDY'S NEW LOG CABIN)	CONCLUSIONS
9-11 Lehigh Avenue)	AND ORDER
Gloucester City, N. J.)	
Holder of Plenary Retail Consumption License C-19, issued by the Mayor and Common Council of the City of Gloucester City.)	

Robert Wilinski, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on November 18, 1962, it (1) permitted a female impersonator on the licensed premises, in violation of Rule 4 of State Regulation No. 20, and (2) permitted such person to perform in a lewd, indecent and immoral manner, in violation of Rule 5 of State Regulation No. 20.

Reports of investigation disclose that an entertainer, subsequently ascertained to be a male but wearing female attire and make up, performed a strip tease routine with accompanying bumps and grinds and, when stripped to bra and G-string, rotated his buttocks first separately and then together

Absent prior record, the license will be suspended for the established minimum period of sixty days on the first charge and thirty days on the second charge, or a total of ninety days (cf. Re Bedrock, Inc., Bulletin 1417, Item 1), with remission of five days for the plea entered, leaving a net suspension of eighty-five days.

Accordingly, it is, on this 8th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-19, issued by the Mayor and Common Council of the City of Gloucester City to Andy's New Log Cabin, Inc., t/a Andy's New Log Cabin, for premises 9-11 Lehigh Avenue, Gloucester City, be and the same is hereby suspended for eighty-five (85) days, commencing at 2:00 a.m. Monday, January 14, 1963, and terminating at 2:00 a.m. Tuesday, April 9, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

- 4. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS - HOSTESS ACTIVITY - FOUL LANGUAGE - POSSESSION OF INDECENT MATTER - HINDERING INVESTIGATION - PRIOR RECORD OF PRINCIPAL STOCKHOLDER - LICENSE SUSPENDED FOR 85 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
 BLUE CHATEAU, INC.)
 501 Central Avenue) CONCLUSIONS
 Union City, N. J.) AND ORDER
 Holder of Plenary Retail Consumption License C-44, issued by the Board of Commissioners of the City of Union City.)

 Licensee, by Gertrude M. Blackwell, President, Pro se.
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on November 27, 1962, it (1) and (2) sold alcoholic beverages in violation of local hours regulation, (3) and (7) permitted hostess activity (solicitation for drinks by a barmaid and a female patron), in violation of Rules 22 and 5 of State Regulation No. 20, (4) permitted foul, filthy and obscene language by a barmaid, in violation of Rule 5 of State Regulation No. 20, (5) possessed indecent matter (pornographic drawing), in violation of Rule 17 of State Regulation No. 20, and (6) hindered investigation (refusal to surrender the cash register tape to ABC agents), in violation of R.S. 33:1-35.

Although the licensee has no previous record of suspension of license, Gertrude M. Blackwell, its president and 97% stockholder, has a previous record of suspension of license as follows: by the municipal issuing authority (1) for five days, effective March 8, 1948, for sale to minors; (2) for five days, effective January 24, 1954, for local hours violation; (3) for fifteen days, effective July 5, 1955, for sale to minors; (4) by the Director for thirty-five days, effective March 3, 1958, for sale to minors (Re Blackwell, Bulletin 1215, Item 12); and (5) by the municipal issuing authority for ten days, effective August 24, 1958, for sale to a minor.

The previous record of suspension for dissimilar violations in 1948 and 1955 disregarded because occurring more than five years ago but considering the previous similar violation occurring within ten years and the two dissimilar violations occurring within five years, the license will be suspended on the first and second charges for fifteen days (Re Lauterio, Bulletin 1475, Item 8), on the third and seventh charges for twenty days (Re Tropeano, Bulletin 1410, Item 6), on the fourth charge for ten days (Re Subaru, Inc., Bulletin 1481, Item 5), on the fifth charge for fifteen days (Re The Lagoon, Inc., Bulletin 1438, Item 10), and on the sixth charge for ten days (Re Edward J. Power, Inc., Bulletin 1487, Item 5), to which should be added five days for the prior similar hours violation more than five but less than ten years ago and ten days for the two prior dissimilar violations within five years (cf. Re Mandel, Bulletin 1472, Item 2), making

a total suspension of eighty-five days, with remission of five days for the plea entered, leaving a net suspension of eighty days.

Accordingly, it is, on this 14th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-44, issued by the Board of Commissioners of the City of Union City to Blue Chateau, Inc. for premises 501 Central Avenue, Union City, be and the same is hereby suspended for eighty (80) days, commencing at 3:00 a.m. Monday, January 21, 1963, and terminating at 3:00 a.m. Thursday, April 11, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (INDECENT ENTERTAINMENT) - HOSTESS ACTIVITY - UNQUALIFIED EMPLOYEE - LICENSE SUSPENDED FOR 70 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN J. SCHILLIG)
t/a SCHILLIG'S ESCORT BAR)
2200 Atlantic Avenue)
Atlantic City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-172, issued by the Board of Commissioners of the City of Atlantic City.)

Gennaro Consalvo, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges as follows:

- "1. On Saturday night, November 10 and early Sunday morning, November 11, 1962, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene conduct in and upon your licensed premises, viz., in that you allowed, permitted and suffered female persons to perform for the entertainment of your customers and patrons in a lewd, indecent and immoral manner and to engage in obscene, indecent, filthy, lewd, lascivious and disgusting acts while so performing; in violation of Rule 5 of State Regulation No. 20.
- "2. On the occasion aforesaid, you allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of or as a gift from customers and patrons; in violation of Rule 22 of State Regulation No. 20.
- "3. On the occasion aforesaid and prior thereto, you employed and allowed, permitted and suffered the employment in and upon your licensed premises of a person not a bona fide resident of the State of New Jersey, contrary to and in violation of Rule 4 of State Regulation No. 13."

In essence, it appears that two female entertainers each performed a strip tease routine with bumps and grinds, one including in her performance a simulation of sexual intercourse and ending her act completely nude. Both drank (domestic champagne at \$5 per two-fifth pint) at the expense of male patrons; and one was a non-resident employed without requisite employment permit.

Absent prior record and considering the violation as an aggravated one, the license will be suspended on the first charge for forty-five days (Re Jockey Club, Inc., Bulletin 1488, Item 1) and on the second and third charges for twenty-five days (Re Lanin Corporation, Bulletin 1429, Item 3), or a total of seventy days, with remission of five days for the plea entered, leaving a net suspension of sixty-five days.

Recent inspections of the licensed premises by agents of this Division disclose that the licensed business is being conducted only on a limited basis and thus no effective penalty can be imposed at this time. The effective dates for the suspension will be fixed by the entry of a further order herein after operation of the licensed business is fully resumed on a substantial basis.

Accordingly, it is, on this 10th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-172, issued by the Board of Commissioners of the City of Atlantic City to John J. Schillig, t/a Schillig's Escort Bar, for premises 2200 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for sixty-five (65) days, the effective dates thereof to be fixed by further order as aforesaid.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR DISSIMILAR RECORD OF STOCKHOLDERS - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

HALF WAY INN, A CORPORATION)
Delsea Drive & Taras Avenue)
Deptford Township)
PO RD Westville, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-15, issued by the Township Committee of the Township of Deptford.)

Licensee, by William Schramm, President, Pro se.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on October 25, 1962, it possessed alcoholic beverages in three bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20, and (2) in its application for current license, it failed to disclose the previous record of suspensions of license held by its predecessors in interest, William Riddle and William Schramm, its present principal stockholders, in violation of R.S. 33:1-25.

The previous record above mentioned involves suspension of license (1) of Joseph Riddle, William Riddle and William Schramm by the Director for five days, effective May 19, 1958, for sale below filed price (Re Riddle and Schramm, Bulletin 1231, Item 6), and (2) of Dora E. Riddle, Executrix, William Riddle and William Schramm by the Director for twenty-five days, effective October 19, 1959, for sale to a minor (Re Riddle and Schramm, Bulletin 1308, Item 6).

The license will be suspended on the first charge for twenty days (Re Voacolo Holding Corp., Bulletin 1478, Item 8) and on the second charge for ten days (Re The Ulster Club of New Jersey, Inc., Bulletin 1477, Item 11), to which will be added ten days for the two dissimilar violations occurring within the past five years (Re Mandel, Bulletin 1472, Item 2), making a total suspension of forty days. Five days will be remitted for the plea entered, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 8th day of January, 1963,

ORDERED that Plenary Retail Consumption License C-15, issued by the Township Committee of Deptford Township to Half Way Inn, A Corporation, for premises Delsea Drive and Taras Avenue, Deptford, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. Tuesday, January 15, 1963, and terminating at 2:00 a.m. Tuesday, February 19, 1963.

WILLIAM HOWE DAVIS
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - PRIOR SIMILAR RECORD DISREGARDED BECAUSE OF CHANGE IN STOCKHOLDERS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)	
EAGLE PACKAGE LIQUOR CO., INC.)	
t/a EAGLE PACKAGE LIQUOR CO., INC.)	CONCLUSIONS AND ORDER
136 South Broadway)	
South Amboy, N. J.)	
Holder of Plenary Retail Distribution License D-1, issued by the Common Council of the City of South Amboy.)	

 Licensee, by Richard J. Bouchard, Secretary-Treasurer, Pro se.
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

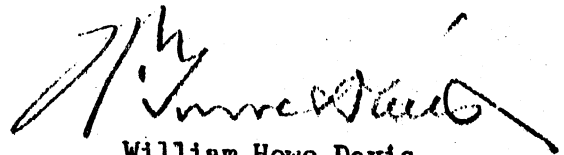
Licensee pleads guilty to a charge alleging that on November 24, 1962, it sold a case of bottles of beer to a minor, age 20, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for twenty-five days, effective January 19, 1954, for similar violation. Re Eagle Package Liquor Co., Bulletin 1000, Item 7.

In mitigation of penalty, the licensee points out that its present officers and stockholders were not officers and stockholders at the time of the previous offense. Consequently, such offense will be disregarded in fixing the penalty herein. Re Right Spot Bar & Restaurant Corp., Bulletin 1482, Item 13. The prior record thus disregarded, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Subar, Inc., Bulletin 1481, Item 5.

Accordingly, it is, on this 27th day of December, 1962,

ORDERED that Plenary Retail Distribution License D-1, issued by the Common Council of the City of South Amboy to Eagle Package Liquor Co., Inc. for premises 136 South Broadway, South Amboy, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. Monday, January 21, 1963, and terminating at 9:00 a.m. Saturday, January 26, 1963.



William Howe Davis
 Director