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~~CONFIDENTIAL~~

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1941

November 17, 1970

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1. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION  
NO. 38 - PRIOR SIMILAR RECORD - AGGRAVATED CIRCUMSTANCES - LICENSE  
REVOKED.

In the Matter of Disciplinary )  
Proceedings against )

JOHN COLEMAN )  
643 Communipaw Avenue )  
Jersey City, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-362, issued by the Municipal )  
Board of Alcoholic Beverage Control of )  
the City of Jersey City. )

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John Coleman, Licensee, Pro se  
Francis P. Meehan, Jr., Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on Friday, August 14, 1970 he sold a pint bottle of gin for off-premises consumption during hours prohibited by Rule 1 of State Regulation No. 38.

The licensee has a previous record of suspensions of licenses held by him as follows: (1) license for premises 545 Boulevard, Bayonne, by the municipal issuing authority for ten days effective July 26, 1954 for sale to minors and permitting a brawl on the premises, and with respect to premises 614 Communipaw Avenue, Jersey City, by the Director (2) for fifteen days effective July 21, 1958 for sale in violation of Rule 1 of State Regulation No. 38; (3) again for thirty days effective May 29, 1968 for sale in violation of Rule 1 of State Regulation No. 38 and municipal hours ordinance; (4) again for thirty days effective September 21, 1965 for sale in violation of Rule 1 of State Regulation No. 38; and (5) for sixty days effective November 15, 1965 for violation of Rule 1 of State Regulation No. 38. Re Coleman, Bulletins 1239, Item 10; 1518, Item 4; 1641, Item 4; and 1651, Item 4. In the Conclusions and Order suspending the license for sixty days (Bulletin 1651, Item 4, supra) it was stated that, because of the number of previous similar violations, "outright revocation of the license" might result from future similar violation. Thereafter the license was transferred to Loretta Coleman, but John Coleman continued in employment of Loretta Coleman and made a sale of alcoholic beverages in violation of Rule 1 of State Regulation No. 38 on Sunday, May 22, 1966, on basis of which a disciplinary proceeding for violation of that regulation was instituted against Loretta Coleman. In view of the continuing employment of John Coleman (as manager) by Loretta Coleman, she was held chargeable for the previous record of suspensions of John Coleman and her license was suspended for one hundred fifteen days, effective September 6, 1966. Re Loretta Coleman, Bulletin 1696, Item 1.

Division records show that the license held by Loretta Coleman was transferred effective January 2, 1968 to another

person and for other premises and that John Coleman obtained his present license by transfer effective June 8, 1970 from one Clarence Williams.

A liquor license is a privilege. Mazza v. Cavicchia, 15 N.J. 498. The licensed business is one that must be carefully supervised and it should be conducted by reputable people in a reputable manner. Zicherman v. Driscoll, 133 N.J.L. 586.

The record of violations against this licensee, including the repetitive violations of Rule 1 of State Regulation No. 38 (this being his fifth chargeable violation of that regulation), including his apparent lack of responsibility of the license privilege afforded him, indicates an indifference on his part to comply with the Alcoholic Beverage Law and regulations. Additionally, it is noted that the agents report that the bartender who made the sale in the present case, when confronted by them with the alleged violation, stated, "I'm only the bartender. I do what the boss tells me to do. If he says serve minors, I serve minors."

The conduct of business by this licensee, as disclosed in the records of this Division, set forth in detail herein, makes it manifest that he should be disassociated from the alcoholic beverage industry. For the purpose of sound enforcement and effective alcoholic beverage control, coupled with the desire to bring about a more respectful adherence to the law and regulations, I am convinced that the only appropriate penalty herein is revocation. Re Ja-Da, Inc., Bulletin 1791, Item 3.

Accordingly, it is, on this 1st day of October 1970,

ORDERED that Plenary Retail Consumption License C-362, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to John Coleman, for premises 643 Communipaw Avenue, Jersey City, be and the same is hereby revoked effective immediately.

RICHARD C. McDONOUGH  
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - HOSTESS ACTIVITY - LEWDNESS - PRIOR SIMILAR RECORD - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 200 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )  
 )  
 LEE CASTLE, INC. )  
 t/a LEE CASTLE'S BAR ) CONCLUSIONS  
 3 S. Michigan Ave. ) AND ORDER  
 Atlantic City, N. J. )

Holder of Plenary Retail Consumption License C-152 for the 1969-70 licensing year for premises 3 S. Michigan Ave. & rears of 5 & 7 S. Michigan Ave., and C-171 for the 1970-71 licensing year for the above premises, issued by the Board of Commissioners of the City of Atlantic City. )

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 Edwin H. Helfant, Esq., Attorney for Licensee  
 Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on April 14, 15 and 16, 1970, it permitted female entertainers on the licensed premises to accept drinks at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20, and (2) on May 16-17, 1970 it permitted lewdness and immoral activity (indecent entertainment) on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Reports of investigation, with respect to the first charge, disclose that on the occasions in question female entertainers drank at the expense of male patrons splits (6.4 ounces) and fifths (25.6 ounces) of a domestic champagne retailing at approximately 69 cents and \$1.99 respectively at a charge of \$8.00 and \$18.00 respectively, and, with respect to the second charge, that on the occasion in question females performed for the entertainment of the customers and patrons during course of which they stripped to the briefest of panties and/or "G-strings" without any coverings whatsoever on the upper portion of their bodies with their breasts completely nude (not even adorned with pasties), the performances being what is commonly known as strip-tease and topless routines.

Licensee has a previous record of suspensions of license by the Director for similar violation of hostess activity as alleged in the first charge herein, viz., fifteen days effective March 24, 1969 and eighty-five days effective October 22, 1969 (two separate and distinct offenses). Re Lee Castle, Inc., Bulletins 1856, Item 7 and 1887, Item 3.

The minimum suspension for a first offense involving an aggravated hostess activity violation, as alleged in the first charge (which I deem present herein), is thirty days (Re Ask Inc., Bulletin 1641, Item 2), and for a first offense of lewdness and immoral activity (indecent entertainment) as alleged in the second charge herein is thirty days (Re Paddock International, A Corp., Bulletin 1372, Item 2). Since this is the licensee's fourth similar offense alleged in the first charge, the license will be suspended thereon for one hundred twenty days (Re 1643 Atlantic Avenue Corporation, Bulletin 1652, Item 1), and on the second

charge for thirty days (Re Ask Inc., supra), to the total of which will be added fifty days by reason of the repetitive nature of the offense in the first charge and the additional aggravating circumstance that such four offenses occurred within a period of thirteen months, indicating a lack of responsibility by the licensee of the license privilege afforded it and an apparent complete indifference on its part to comply with the Alcoholic Beverage Law and regulations, making a total of two hundred days, with remission of five days for the plea entered, leaving a net suspension of one hundred ninety-five days.

In addition, the licensee is pointedly warned that any future similar violation of either of the charges herein, or any dissimilar violation, may well result in outright revocation of the license.

Accordingly, it is, on this 2nd day of October 1970,

ORDERED that Plenary Retail Consumption License C-171, issued by the Board of Commissioners of the City of Atlantic City to Lee Castle, Inc., t/a Lee Castle's Bar, for premises 3 S. Michigan Ave., Atlantic City, be and the same is hereby suspended for one hundred ninety-five (195) days, commencing at 7:00 a.m. Wednesday, October 14, 1970, and terminating at 7:00 a.m. Tuesday, April 27, 1971.

RICHARD C. McDONOUGH  
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (ROOM RENTING) - SALE OF DRINKS FOR OFF-PREMISES CONSUMPTION - LICENSE SUSPENDED FOR 95 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

RANCH OPERATING CORPORATION  
t/a TRIPLE LAKE RANCH  
1 Main Street  
Roxbury Township  
PO Succasunna, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Township Committee of the Township of Roxbury.

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Joseph E. Nouhan, Esq., Attorney for Licensee  
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that, on April 4-5, 1970 it (1) permitted lewdness and immoral activity (renting of rooms for purpose of illicit sexual intercourse) on the licensed premises, in violation of Rule 5 of State Regulation No. 20, and (2) sold mixed drinks of alcoholic beverages for off-premises consumption, in violation of R.S. 33:1-2.

Absent prior record, the license will be suspended on the first charge for ninety days (Re Brierhurst Associates, Inc., Bulletin 1919, Item 6), and on the second charge for five days (Re Furman, Bulletin 1646, Item 5), or a total of ninety-five days, with remission of five days for the plea entered, leaving a net suspension of ninety days.

Accordingly, it is, on this 2nd day of October 1970,

ORDERED that Plenary Retail Consumption License C-11, issued by the Township Committee of the Township of Roxbury to Ranch Operating Corporation, t/a Triple Lake Ranch, for premises 1 Main Street, Roxbury Township, be and the same is hereby suspended for ninety (90) days, commencing at 2:00 a.m. Tuesday, October 13, 1970, and terminating at 2:00 a.m. Monday, January 11, 1971.

RICHARD C. McDONOUGH  
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

DENNIS GASSER )  
t/a Circle Tavern )  
315 Van Winkle Avenue )  
Jersey City, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-434, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

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George W. Weleck, Esq., Attorney for Licensee  
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on divers days between June 4 and July 9, 1970 he permitted the acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re Lorello and Schulkes, Bulletin 1919, Item 9.

Accordingly, it is, on this 7th day of October 1970,

ORDERED that Plenary Retail Consumption License C-434, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Dennis Gasser, t/a Circle Tavern, for premises 315 Van Winkle Avenue, Jersey City, be and the same is hereby suspended for fifty-five (55) days, commencing at 2 a.m. Monday, October 12, 1970, and terminating at 2 a.m. Sunday, December 6, 1970.

RICHARD C. McDONOUGH  
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR SIMILAR RECORD - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against JEMICK CORP. t/a Club Alibi 222 Grant Avenue East Newark PO Harrison, N. J.

Holder of Plenary Retail Consumption License C-2 (for 1969-70 license period), issued by the Borough Council of the Borough of East Newark, and transferred during the pendency of these proceedings to PETER J. & MARGARET FITZPATRICK t/a Club Alibi,

Holders of Plenary Retail Consumption License C-2 (for 1970-71 license period), issued by the Borough Council of the Borough of East Newark, for the same premises.

CONCLUSIONS AND ORDER

Licensee, by James A. Fitzpatrick, President, Pro se Edward F. Ambrose, Esq., Appearing for the Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the first charge and non vult to the second charge, as follows:

"1. On May 3, 1970, 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., Judith ---, age 19, and Joseph ---, age 20, 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 Regulation No. 20.

"2. On May 3, 1970, you, directly or indirectly, failed to facilitate, hindered, delayed, caused the hindrance and delay, and attempted to hinder, delay and cause the hindrance and delay of an investigation and inspection of your licensed business and premises

then and there being conducted by Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of Rule 35 of State Regulation No. 20."

The Division's case was presented primarily through the testimony of two ABC agents who were specifically assigned to investigate alleged sales to minors at the subject premises.

ABC Agent R gave the following account: On May 3, 1970, at approximately 11 p.m., he entered the said premises and seated himself at the bar. Shortly afterwards ABC Agent B entered the premises and seated himself near him. A bartender (referred to as John) was then on duty but, shortly after the agents entered the bar, he became "upset or discontented about being behind the bar" and he left. Three men then went behind the bar and acted as bartenders. The agents observed numerous apparent minors being served, two of whom were Judith --- (age 19) and Joseph --- (age 20). Joseph was served a portion of a clear-colored drink and consumed part of it. Judith was also served a drink, the contents of which were not identified.

At about 12:30 a.m. the agents then called the East Newark Police Department for assistance because of the crowded condition of the premises. When they re-entered the premises after making this call, they immediately identified themselves to Joseph and seized his drink which was directly in front of him. Judith in the meantime took her drink and disappeared into the ladies' room. They then identified themselves to James A. Fitzpatrick (the corporate licensee's president) who was at that time behind the bar. Fitzpatrick then came from behind the bar, shouted "You are not going to seize anybody's drink" and grabbed the glass out of the agent's hand. During the scuffle the drink spilled on the agent and a local police officer and the rest of its contents spilled on the ground. The agents had difficulty convincing Fitzpatrick that they were ABC agents, and it was only after the police officers remonstrated with Fitzpatrick that he appeared to be convinced that they were in fact ABC agents. As a result of his action, the agents were unable to take a sample of the drink. Of course, the drink served to the female had already disappeared.

The testimony of this agent was fully corroborated by ABC Agent B.

James A. Fitzpatrick, testifying on behalf of the licensee, stated that he is president of the corporate licensee and frankly admitted that he did hinder the investigation of the ABC agents. He also admitted that he did not believe the police officers because "it appeared to me to be a shakedown because the policemen can pick up any two strangers off the street, bring them in, and unless they show their credentials, they can shake me down."

With respect to the service to these minors, he asserted that a rum-and-coke was served to Joseph's brother and was not actually served to the minor. He stated that the agent had seized the drink that did not belong to the minor and he wanted to return the drink to Joseph's brother. He frankly admitted that the drink that was seized was a rum-and-coke. He identified the three persons who came behind the bar as his brother (vice president of the corporate licensee), an employee and a friend.

The two minors refused to give written statements to the ABC agents or to the police officers but they denied being served alcoholic beverages. They were called to testify solely with respect to their age. Joseph stated that at the time of the

alleged incident he was twenty years of age. Judith testified that on the date alleged herein she was nineteen years of age.

Since the licensee pleaded non vult to the second charge, it is only necessary to consider the factual complex with respect to the first charge herein. These proceedings are civil in nature and not criminal, and the proof herein must be supported by a fair preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956); Freud v. Davis, 64 N.J. Super. 242 (App.Div. 1960).

I have had full opportunity to observe the demeanor of the witnesses as they testified and am persuaded that the testimony of the agents was forthright and accurately depicted what transpired on the date alleged herein. It is clear from the admission of Fitzpatrick that the drink, partially consumed according to the testimony, was in fact a rum-and-coke, which is an alcoholic beverage. Joseph certainly appeared to be under twenty-one years of age. I do not believe Fitzpatrick's version that this drink was served to Joseph's brother but that in fact it was served to this minor. Obviously, because of the interference by Fitzpatrick, the contents thereof were spilled on the ground and could not be preserved for analysis. However, my assessment of the testimony herein leads me to conclude that there was a sale and service to Joseph and that, so far as the charge with respect to him is concerned, the proof is supported by substantial evidence. Hornauer v. Div. of Alcoholic Beverage Control, 40 N.J. Super. 501 (1956).

However, with respect to Judith, the testimony of the agents was to the effect that the drink which was served to her was clear in color and they could not determine whether it was an alcoholic beverage. As above noted, during the time intervening between the first observation by the agents and the confrontation, Judith disappeared with her drink. There is no testimony that Judith had any odor of alcohol on her breath nor did the agents obtain possession of the glass or its contents. She, of course, denied that she was served any alcoholic beverages.

In view of the absence of affirmative testimony, I believe that the licensee should be given the benefit of the doubt and the charge with respect to this minor should be dismissed.

Licensee has a prior adjudicated record of suspension. When the said license was issued for the 1969-70 license period to Jemick Corp., t/a Club Alibi, prior to transfer to the present licensees, it was suspended by the local issuing authority for fifteen days effective June 1, 1970, for sale to minors. It is further recommended that the license be suspended for a period of twenty days on the first charge by reason of the prior record of suspension for similar violation within the past five years (Re Ehrlich, Bulletin 1864, Item 5) and for ten days on the second charge (Re Getcliffe, Inc., Bulletin 1911, Item 9), or a total of thirty days.

#### Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony and the Hearer's report, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 30th day of September 1970,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of East Newark to Jemick Corp.; t/a Club Alibi, for premises 222 Grant Avenue, East Newark, for the 1969-70 license period, and transferred during the pendency of these proceedings to Peter J. & Margaret Fitzpatrick, t/a Club Alibi, the holders of Plenary Retail Consumption License C-2, for the 1970-71 license period, issued by the Borough Council of the Borough of East Newark for the same premises, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. Wednesday, October 14, 1970, and terminating at 2:00 a.m. Friday, November 13, 1970.

RICHARD C. McDONOUGH  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against

MARION IPPOLITO  
t/a Frank Paul's  
79 East Railroad Avenue  
Jamesburg, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Jamesburg.

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Wilentz, Goldman & Spitzer, Esqs., by Robert W. Lewandowski, Esq.,  
Attorneys for Licensee  
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On January 14, 1970, 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., Joseph ---, age 17 and Garry ---, age 18, 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 Regulation No. 20."

In behalf of the Division Gary --- testified that he is eighteen years of age and was born on November 16, 1951. Accompanied by a Mrs. Barbara Hines and Joseph --- he entered the licensed premises on January 14, 1970 and proceeded to the bar. He ordered a beer and a Southern Comfort from a male whom he could not positively identify. He thought it was possible that the bartender was Charles Seminara whom he pointed out in the hearing room. There was no Southern Comfort in stock. Gary was served Seagram's 7, which he consumed. He and Joseph played a game of pool. It was his impression that he consumed the drink at the bar. Payment was made from money that Mrs. Hines and Joseph --- had pooled on the bar. He was not requested to show proof of age

or any identification, nor was he asked to make a written representation concerning his age.

On cross examination Gary testified he had been in the licensed premises on New Year's Eve or New Year's Day with other males. He was unable to definitely identify the bartender who served him on that occasion. Gary admitted bar-hopping on the date mentioned in the charge with Joseph and Mrs. Hines and that they stopped at two barrooms prior to stopping at the subject licensed premises. At the first bar he admitted consuming four beers, a rum-and-coke and a Southern Comfort. He denied feeling a "little high." He departed from this tavern at approximately 8:00 p.m. and went to another licensed premises where he consumed "about three beers and three shots of Southern Comfort." After leaving this tavern at 8:45 p.m. he proceeded to the subject licensed premises. At that time he admitted feeling "high" and further admitted "I could have been drunk but I wasn't so drunk that I didn't know what I was doing." Upon entering the licensed premises in question Mrs. Hines sat at the bar, Joseph went to the men's room and he (Gary) either went directly to the bar or shot pool. He was seated next to Mrs. Hines when she ordered sloe gin and Seven-Up. He reiterated that he ordered Southern Comfort and a beer. Upon being informed that there was no Southern Comfort in stock, he accepted Seagram's 7. Mrs. Hines had put money on the bar. Mrs. Hines ordered her drink first, Joseph second, and Gary last. He denied that he was told to leave upon ordering the drink because he was too drunk. He consumed the whiskey and beer, played pool, and upon returning to the bar they were requested to leave. The bartender said that they were drunk. He was questioned why he didn't inform Sergeant Robert Reid of the local Police Department that he had drunk something there, instead of informing him that he had merely ordered a drink. He replied, "I meant to say I drank something." Finally he testified that, accompanied by Sergeant Reid and two ABC agents, he confronted Seminara in the licensed premises on a date subsequent to January 14. At that time he asserted that he was not positive that Seminara had served him.

Joseph --- testified that he was born on February 23, 1952, and was seventeen years of age. Accompanied by Gary and Mrs. Hines he entered the licensed premises on January 14 at approximately 8:45 p.m. He proceeded directly to the lavatory and, upon exiting therefrom, he went to the bar and ordered Southern Comfort and a beer. Upon being informed that there was no Southern Comfort in stock, he said, "I will take Seven and Seven." Gary ordered the same beverages. He was not certain what Mrs. Hines had ordered. He was served the drink, consumed it and went to the pool table. He and Mrs. Hines pooled money on the table for payment of the drinks. He identified Charles Seminara as the person who served him. He was not questioned as to his age or identification, nor was he requested to give a written statement concerning his age.

On cross examination the witness reiterated that, although he had subsequently signed a statement wherein he stated that he and Gary ordered a bottle of beer each, he actually consumed beer and whiskey. The trio had stopped at two taverns prior to entering the instant licensed premises. At the first stop he consumed three beers and two Southern Comforts. At the second stop he consumed two or three Southern Comforts and two or three bottles of beer. Upon entering the licensed premises herein he was feeling high but he was not drunk. While he and Gary were shooting pool they were requested to leave because it was claimed that they were drunk. Finally he denied that he was refused service upon ordering drinks.

Barbara Hines testified that, accompanied by Joseph and Gary, she entered the licensed premises on January 14 at approximately 8:45 p.m. She sat at the bar, ordered sloe gin and Seven-Up and took money from her pocket, some of which was contributed by Joseph. One of the males (she did not know which one) went to the men's room and the other to the bar. Each ordered a bottle of Schaefer beer. She did not recall whether or not they ordered anything else. Seminara served the beverages ordered. Joseph picked up his beer, walked to the pool table and, upon his return, they were requested to leave by Seminara "because he figured Joe Larry [Joseph] was drunk or getting drunk." Upon being questioned as to whether she observed the youths consuming their drinks, the witness testified, "Truthfully, I can't say yes, I did, because they sat by me and then they walked away and walked over by the pool table. And when they came back, some of it was gone. I wasn't paying any attention to them. I was sipping my own drink." Seminara did not ask for identification, nor did he request a written statement concerning their age.

On cross examination the witness reiterated that she ordered her drink first and thereafter the minors ordered beer. Approximately fifteen or twenty minutes elapsed from the time that they entered the premises to the time that they were requested to leave.

Sergeant Robert Reid of the local Police Department testified that he investigated an automobile accident on the night of January 14 wherein Joseph was the driver and Gary was a passenger in one of the cars. On January 21, 1970, at 7:10 p.m., he accompanied both minors, Mrs. Hines and two ABC agents to the licensed premises. Mrs. Hines and Joseph identified Seminara as the bartender who had served them. Gary was not certain and he conferred with Joseph. Sergeant Reid commanded them to cease conferring with each other. Later Gary identified Seminara as the person who served him. Gary was not hesitant concerning his identification of the premises.

On cross examination the witness asserted that, in the statement taken from Gary subsequent to the accident, he (Gary) stated that "they each ordered a bottle of Schaefer beer and a shot of Southern Comfort" and, further, that "Mrs. Hines had a sloe gin and Seven-Up." The statement did not mention that they had received or consumed the beverages.

In defense of the charge Charles Seminara testified that he was employed as a part-time bartender at the licensed premises and he was the sole bartender on duty on the night in question. The barroom consists of one large room containing a bar on one side and a pool table on the other side. He observed Joseph, Gary and Mrs. Hines enter the barroom at "about ten minutes to 9, 9 o'clock." At that time he was serving approximately eight or ten patrons including a Mr. Caprio. Mrs. Hines approached and sat at the bar first and ordered sloe gin and Seven-Up. Upon making service, he observed that the youths were seated at either side of Mrs. Hines. He then testified as follows:

"Q Did [Gary] order a drink?

A He ordered a drink and I said, 'You got enough.'

Q What did he order?

A He ordered a bottle of beer and a shot of Southern Comfort, which we don't have on the bar in the first place, Southern Comfort. I said to him,

'You got enough.' And the other fellow, he went to the bathroom, and he come back and he ordered the same thing, a bottle of beer and Southern Comfort. And I said to him, 'Look, you got enough. Leave.' So then they went to the pool table. They went to the pool table and I said to Barbara, 'Now, Barbara, drink up your drink and leave because these fellows got enough.'"

When one of the youths returned to the bar, Mrs. Hines informed him that the bartender said that they had enough and that he wanted them to leave. After Mrs. Hines consumed her drink, she and the two minors (who had started to play pool and had not completed the game) departed from the premises. He served the minors no beverages at all. He took payment for Mrs. Hines' drink from a five-dollar bill that was on the bar. He next saw the minors when they entered the licensed premises accompanied by Mrs. Hines, Sergeant Reid and two ABC agents. Upon confrontation by the agents he admitted serving Mrs. Hines. However, he denied serving the minors. Gary could not identify Seminara as the bartender who served him; Joseph said he wasn't served.

On cross examination the witness conceded that there was no question raised concerning the identity of the licensed premises. He testified that Gary identified him as the bartender on duty and that, upon further questioning, Gary stated he (Seminara) did not serve him on the night charged.

Charles Caprio testified that he patronized the licensed premises on the night in question and was seated at the bar. He observed Mrs. Hines enter the barroom with the two minors. After Mrs. Hines and he exchanged greetings, she sat at the bar approximately ten feet distant. One of the minors sat alongside Mrs. Hines, the other minor proceeded to the men's room prior to sitting at the bar. He heard both minors order a drink from Seminara. Seminara did not serve the minors. Seminara informed them that they had enough and that they should leave. Seminara requested Mrs. Hines to "take these boys out of the bar." They were in the barroom approximately five minutes.

On cross examination the witness testified that he saw Mrs. Hines enter the tavern; however, he didn't see the minors until a "couple minutes" later. Joseph went to the bar just prior to going to the men's room. He observed the minors commence to play pool and then heard Seminara command Mrs. Hines to take the minors out of the barroom upon consuming her drink. He did not hear the minors order a drink.

It is a firmly established principle that disciplinary proceedings against liquor licensees, such as in the instant proceeding, are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956); Hornauer v. Division of Alcoholic Beverage Control, 40 N.J. Super. 501 (1956). This principle was re-echoed in the case of Howard Tavern, Inc. v. Division of Alcoholic Beverage Control (App.Div. 1962), not officially reported, reprinted in Bulletin 1491, Item 1.

Thus the credibility of the witnesses and the probative force of their testimony must be weighed.

The guiding rules in these matters is that the finding must be based on competent legal evidence and must be grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, Sec. 1042.

I have had an opportunity to observe the demeanor of the witnesses as they testified and, in view of the conflict in the testimony, I have made a careful analysis and evaluation of their testimony.

Although the conduct of the minors on the date in question was less than exemplary, nonetheless I am persuaded that they did not compound their misdeeds by falsifying their testimony. Additionally, an intensive cross examination by the licensee's attorney failed to reveal improper motivation on the part of the minors. Additionally, I am satisfied that the identity of the bartender who served the minors was adequately established by the testimony of Mrs. Hines and of Joseph. In any event, it has long been established that the failure to identify the particular employee making the sale or service of alcoholic beverages to a minor is not fatal in disciplinary proceedings provided it be established that the minor purchased, had served to him or was permitted to consume an alcoholic beverage in the licensed premises. Re Kurinsky and Ancel, Bulletin 1100, Item 7; Re Dante, Bulletin 771, Item 9; Ott's Incorporated v. Division of Alcoholic Beverage Control (App.Div. 1962), not officially reported, reprinted in Bulletin 1444, Item 1.

I am of the opinion that a fair evaluation of the evidence clearly and reasonably preponderates in favor of a finding of guilt, and I so recommend.

The licensee has no prior record of suspension of license. I further recommend that the license be suspended for twenty days. Re Parkside Tavern Inc., Bulletin 1906, Item 8.

#### Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, is is on this 23rd day of September, 1970,

ORDERED that Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Jamesburg to Marion Ippolito, t/a Frank Paul's, for premises 79 East Railroad Avenue, Jamesburg, be and the same is hereby suspended for twenty (20) days, \*commencing at 2 a.m. Thursday, October 8, 1970, and terminating at 2 a.m. Wednesday, October 28, 1970.

RICHARD C. McDONOUGH  
DIRECTOR

\*By amended Order dated October 1, 1970 the period of suspension was advanced by request of licensee's attorney to commence at 2 a.m. Friday, October 2, 1970 and terminate at 2 a.m. Thursday, October 22, 1970.

7. DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBERS - LICENSE  
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ITALIAN-AMERICAN SOCIAL CLUB, INC. )  
401-403 Somerset Street )  
North Plainfield, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Club License CB-4, issued by the Mayor and Council of the Borough of North Plainfield. )

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Michael A. Paticchio, Esq., Attorney for Licensee  
Francis P. Meehan, Jr., Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that, on August 1, 1970, it sold a drink of beer to a non-member, in violation of Rule 8 of State Regulation No. 7.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Cranbury Vikings & Sportsmen's Club, Inc., Bulletin 1893, Item 5.

Accordingly, it is, on this 1st day of October 1970,

ORDERED that Club License CB-4, issued by the Mayor and Council of the Borough of North Plainfield to Italian-American Social Club, Inc., for premises 401-403 Somerset Street, North Plainfield, be and the same is hereby suspended for ten (10) days, commencing at 1:00 a.m. Monday, October 12, 1970, and terminating at 1:00 a.m. Thursday, October 22, 1970.

RICHARD C. McDONOUGH  
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
 FREWILL, INC.  
 t/a The Ranch House  
 104 North 10th Street  
 Kenilworth, N. J.  
 Holder of Plenary Retail Consumption License C-9, issued by the Borough Council of the Borough of Kenilworth.

CONCLUSIONS AND ORDER

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 Licensee, by Fred J. Wuethrich, President, Pro se.  
 Walter H. Cleaver, Esq., Appearing for the Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that, on May 27, 1970, it possessed alcoholic beverages in two bottles bearing lables which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for fifteen days, effective August 21, 1967, for similar violation. Re Frewill, Inc., Bulletin 1756, Item 11.

The prior record of suspension of license for similar violation within the past five years considered, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Zaktansky, Bulletin 1737, Item 3.

Accordingly, it is, on this 7th day of October, 1970,

ORDERED that Plenary Retail Consumption License C-9, issued by the Borough Council of the Borough of Kenilworth to Frewill, Inc., t/a The Ranch House, for premises 104 North 10th Street, Kenilworth, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Monday, October 12, 1970 and terminating at 2:00 a.m. Sunday, November 1, 1970.

RICHARD C. McDONOUGH  
 DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE  
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

TOP ROAD TAVERN (A CORP.)  
t/a Top Road Tavern )  
1042-1044 Brunswick Ave. )  
Trenton, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-240, issued by the City Council of the City of Trenton. )

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Licensee, by Armando Illuminati, President, Pro se  
Francis P. Meehan, Jr., Esq., Appearing for the Division

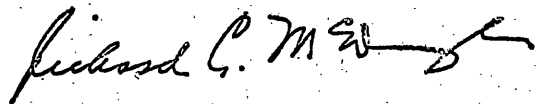
BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 28, 1970 it sold drinks of beer to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Pall's New Bar, Inc., Bulletin 1882, Item 9.

Accordingly, it is, on this 1st day of October 1970,

ORDERED that Plenary Retail Consumption License C-240, issued by the City Council of the City of Trenton to Top Road Tavern (A Corp.), t/a Top Road Tavern, for premises 1042-1044 Brunswick Avenue, Trenton, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, October 19, 1970, and terminating at 2 a.m. Thursday, October 29, 1970.



Richard C. McDonough  
Director