

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

BULLETIN 1680

June 23, 1966

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

BULLETIN 1680

June 23, 1966

1. NEW LEGISLATION - INTEREST IN BOTH BREWERY, DISTILLERY OR WHOLESALING, ETC., AND IN RETAILING PROHIBITED - AMENDMENT OF SECTION 33:1-43 AND SUPPLEMENT TO CHAPTER I OF TITLE 33 OF THE REVISED STATUTES.

On June 2, 1966 the Governor signed into law Senate, No. 356 which thereupon became Chapter 58 of the Laws of 1966, effective immediately. The Act, new matter underscored, reads as follows:

"AN ACT concerning alcoholic beverages, amending section 33:1-43 and supplementing chapter 1 of Title 33 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 33:1-43 of the Revised Statutes is hereby amended to read as follows:

33:1-43. It shall be unlawful for any owner, part owner, stockholder or officer or director of any corporation, or any other person whatsoever interested in any way whatsoever in any brewery, winery, distillery or rectifying and blending plant, or any wholesaler of alcoholic beverages, to conduct, own either in whole or in part, or be directly or indirectly interested in the retailing of any alcoholic beverages except as provided in this chapter, and such interest shall include any payments or delivery of money or property by way of loan or otherwise accompanied by an agreement to sell the product of said brewery, winery, distillery, rectifying and blending plant or wholesaler. Prior to June 6, 1941, the ownership of or mortgage upon or any other interest in licensed premises if such ownership, mortgage or interest existed on December 6, 1933, shall not be deemed to be an interest in the retailing of alcoholic beverages. On and after June 6, 1941, the ownership of or mortgage upon or any other interest in licensed premises if such ownership, mortgage or interest existed on December 6, 1933, shall not be deemed to be an interest in the retailing of alcoholic beverages; provided, none of the products of the brewery, winery, distillery, rectifying and blending plant, or wholesaler, is sold directly or indirectly at the licensed premises.

It shall be unlawful for any owner, part owner, stockholder or officer or director of any corporation, or any other person or corporation whatsoever interested in any way whatsoever in any winery, distillery, or rectifying and blending plant, to conduct, own either whole or in part, or be directly or indirectly interested in the business of any licensee for the sale at wholesale to licensed retailers in New Jersey of any alcoholic beverages, other than malt alcoholic beverages, and such interest shall include any payments or delivery of money or property by way of loan or otherwise accompanied by an agreement to sell the product of said winery, distillery or rectifying and blending plant; except that the foregoing shall not apply in the case of a licensee for the sale at wholesale who on July 1, 1965, and thereafter until the effective date of this act, shall have filed for publication

by the Division of Alcoholic Beverage Control price listings for brands of alcoholic beverages pursuant to the rules and regulations of the Division of Alcoholic Beverage Control.

It shall be unlawful for any owner, part owner, stockholder or officer or director of any corporation, or any other person whatsoever, interested in any way whatsoever in the retailing of alcoholic beverages to conduct, own either in whole or in part, or to be a shareholder, officer or director of a corporation or association, directly or indirectly, interested in any brewery, winery, distillery, rectifying and blending plant, or wholesaling or importing interests of any kind whatsoever outside of the State.

No interest in the retailing of alcoholic beverages shall be deemed to exist by reason of the ownership, delivery or loan of interior signs designed for and exclusively used for advertising the product of or product offered for sale by such brewery, winery, distillery or rectifying and blending plant or wholesaler.

It shall be unlawful for any owner, part owner, stockholder or officer or director of any corporation, or any other person or corporation whatsoever interested in any way whatsoever in the wholesaling of alcoholic beverages, other than malt alcoholic beverages, to own either in whole or in part, or to be a stockholder, officer or director of a corporation or association, directly or indirectly, interested in, any winery, distillery or rectifying and blending plant, or wholesaling or importing interests of any kind whatsoever outside of the State, unless such relationship with respect to such winery, distillery or rectifying and blending plant or wholesaling or importing interests of any kind whatsoever outside the State shall have been in existence on July 1, 1965 and shall have continued to be in effect on the effective date of this act.

2. Nothing in this act shall affect the right of any person having any interest whatsoever in the wholesaling in this State of alcoholic beverages, other than malt alcoholic beverages, to hold or acquire an interest of not more than 10% of any corporation, the shares of which are traded on a national securities exchange or regularly traded in an over-the-counter market by one or more members of a national or affiliated securities association.

3. This act shall take effect immediately."

JOSEPH P. LORDI
DIRECTOR

Dated: June 9, 1966

2. NEW LEGISLATION - DISCRIMINATION IN THE SALE OF NATIONALLY ADVERTISED BRANDS OF ALCOHOLIC BEVERAGES, OTHER THAN MALT ALCOHOLIC BEVERAGES, TO DULY LICENSED WHOLESALERS - CHAPTER 1 OF TITLE 33 OF THE REVISED STATUTES SUPPLEMENTED - CHAPTER 264 OF THE LAWS OF 1942 (REVISED STATUTES, 33:1-93.1 TO 33:1-93.5) REPEALED.

On June 2, 1966 the Governor signed into law Senate, No. 357 which thereupon became Chapter 59 of the Laws of 1966, effective immediately. The Act reads as follows:

"AN ACT concerning alcoholic beverages, supplementing chapter 1 of Title 33 of the Revised Statutes and repealing chapter 264 of the laws of 1942.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. There shall be no discrimination in the sale of any nationally advertised brand of alcoholic beverage other than malt alcoholic beverage, by importers, blenders, distillers, rectifiers and wineries, to duly licensed wholesalers of alcoholic beverages who are authorized by such importers, blenders, distillers, rectifiers and wineries to sell such nationally advertised brand in New Jersey.
2. In the event any such importer, blender, distiller, rectifier or winery shall refuse to sell alcoholic beverages other than malt alcoholic beverages, to any such individual wholesaler or comply with the provisions of this act, then such wholesaler shall petition the director setting forth the facts and demanding a hearing thereon to determine whether or not said refusal to sell was discriminatory.
3. If the director shall determine that said refusal to sell is discriminatory and shall be satisfied with the ability of the wholesaler to pay for such merchandise as ordered, he shall order the importer, blender, distiller, rectifier or winery to complete said sale of alcoholic beverages other than malt alcoholic beverages, to the wholesaler.
4. In the event said importer, blender, distiller, rectifier or winery refused to complete said sale or to comply with the terms of the director's order, the director shall issue an order to every licensed wholesaler prohibiting purchase by such wholesaler of any alcoholic beverages other than malt alcoholic beverages, of said importer, blender, distiller, rectifier or winery directly or indirectly until there is strict compliance by said importer, blender, distiller, rectifier or winery with the order of the Director.
5. The Director shall adopt and promulgate such rules and regulations as may be necessary to carry out and insure compliance with the provisions of this act.
6. "An act concerning alcoholic beverages, and supplementing chapter 1 of Title 33 of the Revised Statutes," approved June 25, 1942, is repealed.
7. This act shall take effect immediately."

The STATEMENT below the Bill, as Introduced, reads:

"The purpose of this bill is to insure an equitable basis for competition between supplier franchised wholesalers of alcoholic beverages in New Jersey."

JOSEPH P. LORDI
DIRECTOR

DATED: June 9, 1966

3. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against

EUNICE CLARK LAVRENTIEV
t/a Eunice's Bar & Grill
Hwy. #35, Box 274, Melrose
Sayreville
PO South Amboy, N. J.

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-23, issued by the Borough Council of the Borough of Sayreville

George G. Kress, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On Friday night November 19 and again in the early morning hours of Saturday, November 20, 1965, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years viz., Thomas J. ---, age 18, and on said occasion of Saturday, November 20, 1965, you allowed, permitted and suffered the consumption of an alcoholic beverage, by said person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

At the hearing held herein, Thomas testified that he is 18 years of age, being born on September 27, 1947; that on November 19, 1965 at "about 10, 10:30" he entered licensee's premises, alighting from a car driven by Charles and, beside himself and the driver, there were three other passengers, among whom were Robert and Raymond; that all of the occupants with the exception of himself remained in the car parked in front of the licensed premises; that a woman whom he identified at the hearing as Beatrice Roman (hereinafter Beatrice) was on duty as barmaid; that he asked her for twelve containers of beer and, when she requested proof of his age, he told her he had been in the premises the previous week and her response was, "Yes. I remember you. You are from Perth Amboy"; that she then filled twelve containers with beer, for which he paid \$6 (\$3 having been received

from Raymond) and thereafter treated Beatrice to "a pack of cigarettes"; that Beatrice put the containers of beer into three paper bags which he carried from the premises; that he entered the front seat of the car and placed the said bags on the floor, and proceeded to Raymond's home; that as he entered the home, he met Wayne and James; that while playing cards, the beer was consumed and then Wayne drove him and Robert to the licensee's establishment where he arrived "about 12, 12:30" on the early morning of November 20, 1965; that the car was parked in front of the licensed premises and, after he and Wayne entered, Beatrice inquired of him what he would have this time; that he complained to her that the containers purchased previously "weren't full" whereupon she treated him to a "free beer"; that while Beatrice was filling his order for twelve more containers of beer, he and Wayne played pool; that Beatrice also served "another beer and a shot" to him and Wayne had "a coke"; that after he (Thomas) paid for the drinks and the containers of beer, they were placed in three paper bags and he and Wayne carried them to the car and drove to Raymond's house.

Wayne testified that on November 20, 1965, he drove Thomas and Robert to the licensee's premises, arriving there at 12:15 or 12:30 a.m., and that he and Thomas entered. At the hearing he identified Beatrice as the person who served a coke to him while Thomas had "three beers and a shot"; that as Beatrice filled Thomas' order for twelve containers of beer, he and Thomas played pool; that after the containers were filled and placed in paper bags and payment made for the drinks, he and Thomas carried the bags to the car.

Robert testified that he remembered going to the licensee's premises at "10, 10:30" and "12, 12:30" although he did not recall the dates; that the first time he went in a car driven by Charles and on the second occasion in a car driven by Wayne; that on both occasions he remained in the respective cars which were parked in front of the premises; that on the first occasion, Thomas had nothing with him when he entered the licensed premises but came out with three bags which he (Robert) subsequently learned contained beer; that on the second occasion, neither Thomas nor Wayne carried anything when entering the premises but, when they returned to the car, both had packages which contained beer.

Raymond testified that on November 19, 1965, Charles drove him to the licensee's premises, arriving there at 10:30 p.m.; that among other passengers beside himself and Charles were Thomas and Robert; that he (Raymond) had given Thomas \$3 and was aware that Thomas "had money on him"; that Thomas alone went into the tavern and in about fifteen minutes came out carrying three packages containing beer; that Thomas put the packages in the front seat of the car, got in, and the car was driven to Raymond's house; that at about a quarter after 12 o'clock, Thomas, Wayne and Robert left but he (Raymond) did not accompany them.

ABC agent T testified that accompanied by Police Officer Duggan and Thomas, he interviewed Beatrice at the licensee's premises concerning the alleged sale of alcoholic beverages to Thomas on the dates in question and, in the presence of Beatrice, Thomas identified her as the person who waited on him on November 19 and 20, 1965; that Beatrice stated she alone was on duty at the times but had never seen the boy before "and if he came in the tavern he looked young enough he would never have been served."

The licensee's attorney cross-examined all the Division

witnesses but the substance of their testimony remained unchanged.

Beatrice Roman testified that she is employed by the licensee and was on duty on the night of November 19-20 but Thomas was not in the licensed premises. Moreover, Beatrice testified that she had never seen him before the agent brought him to the premises. Beatrice also testified she had never seen Wayne in the tavern. Further, she testified that a week after Thomas identified her as the one who sold alcoholic beverages to him, she met him in a supermarket and, when she asked him if she had ever served beer to him, Thomas looked down and said, "My buddy gave it to me."

During cross examination when questioned concerning the sale of beer in containers after 10:00 p.m. on November 19, she admitted that she made a sale of twelve containers of beer but denied that Thomas was the purchaser. On further cross examination concerning the sale of containers of beer on the night in question, she stated repeatedly that she did not remember.

Eunice Clark Lavrentiev, the licensee, who was not present at the times in question, testified that Beatrice is employed by her and that she had never seen Thomas in her premises "until he was brought in by the officers."

Thomas, called in rebuttal, admitted meeting Beatrice at a supermarket where she told him to tell the truth and he assured her that he would. He said that two days later on the street, she called him and again advised him that he "better tell the truth" and he again said that he would. Thomas denied that he ever said to Beatrice that his "buddy" gave him the beer.

Inasmuch as this proceeding presents a factual question, I have set forth in detail much of the material testimony adduced herein in order to arrive at a proper conclusion. A disciplinary action such as the one now under consideration is civil in nature and thus the proof must be supported by a fair preponderance of the credible evidence. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 36 N.J. Super. 512 (App. Div. 1955); aff'd 20 N.J. 373 (1956).

I have had an opportunity to observe the demeanor of the witnesses while they testified and, in view of the conflict in the testimony, I have made a careful analysis thereof. Both Thomas and Wayne identified Beatrice as the person who made the sale and service of the alcoholic beverages to Thomas at the licensed premises. I am satisfied that both Thomas and Wayne have given an accurate and truthful account as to what occurred at the licensed premises on the dates in question. Despite Beatrice's denial, I am satisfied that she sold and served alcoholic beverages on both November 19 and 20 to Thomas a minor.

Thus, it is recommended that the licensee be found guilty of the charge preferred herein.

Licensee, under her former name of Eunice Gural (then in partnership with Andrew Gural at the same address) has a previous record of suspension of license by the Director for five days effective April 26, 1954, for sale to minors. Re Gural, Bulletin 1013, Item 6. Inasmuch as the prior record of suspension for similar violation occurred more than ten years ago, it should be disregarded in fixing the penalty herein. It is recommended that an order be entered suspending the license for fifteen days. Re Arthur Pauls, Inc., Bulletin 1666, Item 9.

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, it is, on this 10th day of May, 1966,

ORDERED that Plenary Retail Consumption License C-23, issued by the Borough Council of the Borough of Sayreville to Eunice Clark Lavrentiev, t/a Eunice's Bar & Grill, for premises on Highway #35, Melrose, Sayreville, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. Tuesday, May 17, 1966, and terminating at 3:00 a.m. Wednesday, June 1, 1966.

JOSEPH P. LORDI
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING (WAGERING) - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against)	
)	
TOWN TAVERN OF BOUND BROOK, INC. 13 Hamilton Street Bound Brook, New Jersey)	CONCLUSIONS AND ORDER
)	
Holder of Plenary Retail Consumption License C-16, issued by the Borough Council of the Borough of Bound Brook.)	
)	

McDonough & Sullivan, Esqs., by Edward A. Ryan, Esq., Attorneys for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"During the early morning hours of Saturday, October 23, 1965, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the playing of a pool game for stakes of money; in violation of Rule 7 of State Regulation No. 20."

The Division offered the testimony of two ABC agents in substantiation of the charge.

Agent S testified that, pursuant to specific assignment to investigate an allegation of gambling on pool games and other alleged infractions of regulations and rules, he, together with Agent R, entered the licensed premises (described generally as a

neighborhood tavern) on Saturday, October 23, 1965, at approximately 12:30 a.m. The agents positioned themselves at the bar about four feet from the pool table. Forty-two patrons were in the tavern. Dennis Foy was tending bar at the front end of a U-shaped bar nearest the pool table. George Ziegler (a major stockholder and president of the licensee corporation) was mostly in the kitchen area to the rear of the bar, serving food.

The agent noted patrons (identified as Francis Baun and Anthony Rizzi, also called Rizzo) engaged in playing pool for side bets of \$25 on each. At the termination of the game (won by Rizzi) no money was exchanged. Foy remarked to a patron seated alongside the agent, "Fine shooting." In response to the question as to whether he had heard Foy say anything in particular, the agent replied:

"Yes, sir. Foy walked a step to his left, which would still be further to my right, and inquired of the two gentlemen friends who were associates of Rizzi, 'What is on the game?' and a male said '\$25. I have \$10.' He then pointed to his buddy seated next to him and he said, 'He has \$5 and Rizzi has \$10.'"

The testimony then revealed the following:

"Q Did you hear any conversation with respect to money?

A Yes sir. Rizzi inquired of Baun for the \$25, and Baun in turn, who was now standing at the bar holding a cue stick directly to the left of Agent R ---, hollered across he will take him on another game for \$30. Rizzi had conversation with the 2 associates, and they agreed, and subsequently a game for \$30 was played.

Q Who won the first game?

A Rizzi.

Q When this conversation took place about the money and a second game did you observe where Mr. Boy was?

A Foy was standing directly in front of myself."

The second game was won by Rizzi. No pay-off was made at that time. Rizzi and his associates were loudly asking Baun for their money, at which time Foy came over and requested them to be quiet. Rizzi's associates told Foy that, if Baun would pay off, they would not be so loud. Thereupon Foy approached Baun (who was seated two stools away from the agent) and said to Baun that he owed \$55 and "You are going to lose your mortgage payment" and continued, "Rizzi was pretty hot that night."

A third game in which the stakes were \$25 was won by Baun. Baun took \$25 of his money, obtained \$5 from an associate and paid off Rizzi who was alongside the agent. Foy was across the bar from the agent. With Foy directly in front of the witness, Baun spoke across the bar to Rizzi (who was seated on the other corner), stating that he would engage him in another game for \$25. After Rizzi engaged in a hushed conversation with his associates, a wager of \$15 a game was agreed upon. Baun and Rizzi each placed \$15 on the bar an arm's length from Foy. A beer coaster was placed on top. The agent identified himself to Foy and took the \$30 from the bar after Foy refused to pick up the money. He then identified himself to Baun and Rizzi. The two agents, Foy, Baun and Rizzi went to the kitchen area where the agents identified themselves to George Ziegler.

It was stipulated between the attorneys that the testimony of Agent R on direct examination would be the same as the testimony given by Agent S. leaving the licensee's attorney full right of cross examination. On cross examination the witness declared that Foy observed the pay-off and that he saw the pay-off being made and the bartender at the same time. Additionally, he testified that he heard the conversation concerning the bet of \$15 a game between the two players.

George L. Ziegler, testifying in behalf of the licensee stated that he did very little bartending on the night in question; he was engaged in other activities in the licensed premises. He was generally stationed near the kitchen, away from Foy's position at the bar.

When called to the witness stand, Francis J. Baun admitted that he and Rizzi were shooting pool and gambling. On cross examination he testified that he and Rizzi started playing pool for money shortly after he entered the licensed premises, which was at about 10 p.m., and that between that time and 12:30 or 1 a.m. they played close to fifteen games. There was no pay-off at the end of each game; they made a mental note of their bets. Baun was then asked the following questions:

- "Q Mr. Foy, of course, knew you were gambling, didn't he?
 A Not to my knowledge. He certainly did not, no.
 Q Did you say anything to him about it or he say anything to you?
 A No. I believe I better correct myself. I believe near the end he became somewhat suspicious, and he asked a couple of leading questions, but I denied we were. But that is -- I don't know whether he was suspicious or not but I thought he might have been."

Further, he stated that the discussion between Rizzi and himself concerning the payment of the money due Rizzi was deliberately kept low and that, although he seriously doubted Foy's ability to hear it, he testified as follows:

- "Q Did Mr. Foy know how much you were indebted to Rizzi?
 A No.
 Q Did he say something to you about your mortgage?
 A Yes.
 Q What did he say?
 A Right around this time, as I mentioned before, Rizzi [sic] started getting suspicious. As a matter of fact, at this time he asked me how much.
 Q Who said that? Foy?
 A Foy. I said, 'What are you talking about?' He said, 'You better watch out. He is good. Liable you owe the mortgage to him.' I believe he was trying to find out if there was gambling on the premises."

Dennis C. Foy testified that he was a part time bartender and was on duty on the night in question. He noted that Rizzi and Baun played pool together that evening intermittently, from approximately 10:30 p.m. to beyond midnight. At one point he testified, "All of a sudden they got up again a little after 12 and they started playing pool. After a while I got suspicious about this." Continuing, he testified, "They were playing pool and I kept -- I asked him trying to get him to tell me if he was gambling. If he was I would have shut the pool table off so they couldn't play any more. They get mad and go away or just stop." He denied that

either Rizzi or Baun had associates or that he spoke with any associates as to "any pieces of the action they might have had." He stated that the bar was busy and he took care of the entire bar. He denied that he saw any pay-off or money change hands. If he did, he would have closed down the pool table.

On cross examination Foy stated that he had seen Rizzi and Baun play pool together on prior occasions. He never had any suspicions that they played for money at any time. They merely pursued a custom of the loser buying drinks. He claimed that he first became suspicious of the possibility of gambling after he spoke with a patron, Peter Guadelupo. He added that the conversation he had with Guadelupo gave rise to the suspicion that Rizzi and Baun were gambling. He then questioned Baun as to "what was going on" and, upon being reassured that he and Rizzi were "just buying drinks and playing pool", he returned to tending bar. He denied that he asked "What is on the game" of anyone other than Baun. Further, the testimony divulged the following:

"Q When was it you said something to John [also known as Baun] about it?

A I went back and served people. He was standing next to [Agent] R---. I came over, 'What is the matter? How much are you out? You buy drinks and put quarters in the pool table. What is going on?' He loses all the games. He is a good pool shooter. 'You are going to get the guy drunk.' I said, 'You keep fooling around you are liable to lose your mortgage money.'

Q You did say, 'How much are you out?'

A Yes, trying to find out what was going on."

Foy testified that he was not aware of the details concerning the last game, he heard no discussion about it and he did not see the \$30 on the bar until his attention was called to it by the agent.

Thus it is apparent that this proceeding presents a purely factual question.

The licensee's attorney forcefully argued that the Division had not sustained the burden of proving by a fair preponderance of the evidence that the licensee or its bartender permitted or suffered gambling upon the premises.

Of course, it was not denied that Baun and Rizzi played pool for money. The bartender Foy denied that he had any knowledge of their playing for money and he denied further that he saw money being passed between the two players. He admitted that the contestants played for "drinks", from which it could be inferred that he was under the misapprehension that it was perfectly legal to play for drinks.

I have carefully examined and evaluated the testimony presented in this matter and, additionally, I have carefully observed the demeanor of all of the witnesses. I am persuaded that the version given by the ABC agents was credible and truly portrayed the occurrences of the date in question. It will be recalled that Baun admitted that Foy was getting suspicious of the gambling activities which he engaged in with Rizzi in a clandestine manner and that Foy admitted that he was suspicious of the activities of the two contestants at the pool table.

Considering all of the circumstances herein, I am satisfied that the playing of pool for stakes of money was "allowed, permitted and suffered" in and upon the licensed premises by the bartender, as charged. See Re S. Amster, Inc., Bulletin 1657, Item 4. See also Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup.Ct. 1947); Conner v. Fogg, 75 N.J.L. 245 (Sup.Ct. 1907). In the Fogg case Judge Trenchard, in considering the terms "permit" and "suffer", stated (at p. 247):

"To permit is defined as meaning to authorize or to give leave (McHenry v. Winston, 49 S.W. Rep. 4), but the term 'permit' has been often used synonymously with 'suffer,' so that it may be said that one who suffers the doing of a thing which he might have prevented permits it."

It is to the public's best interest that a licensee be held strictly accountable for keeping his place and his patronage under proper control. Seidel v. Upper Freehold, Bulletin 1246, Item 1.

A licensee may not escape or avoid his responsibility for conduct occurring on his premises by merely closing his eyes and ears. On the contrary, licensees or their agents or employees must use their eyes and ears, and use them effectively, to prevent the improper use of their premises. Bilowth v. Passaic, Bulletin 527, Item 3; Re Ehrlich, Bulletin 1441, Item 5; Re Club Tequila, Inc., Bulletin 1557, Item 1.

One additional basic principle is worthy of emphasis. A licensee is responsible for the misconduct of his employees and is fully accountable for their activities on the licensed premises. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948); In re Schneider, 12 N.J. Super. 449 (App.Div. 1951); Rule 33 of State Regulation No. 20.

Applying the firmly established principles to the instant proceeding, I am of the opinion that the licensee's contention that it did not "allow, permit or suffer" the occurrences in question cannot prevail.

Accordingly, I am persuaded by the clear and convincing proof in this case that the charge has been sustained by a fair preponderance of the credible evidence. I therefore recommend that the licensee be found guilty of said charge, and that an order be entered herein suspending its license for fifteen days. Re S. Amster, Inc., supra.

Conclusions and Order

No exceptions to the Hearer's report were filed within the time limited by 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, it is, on this 5th day of May 1966,

ORDERED that Plenary Retail Consumption License C-16, issued

by the Borough Council of the Borough of Bound Brook to Town Tavern of Bound Brook, Inc., for premises 13 Hamilton Street, Bound Brook, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Thursday, May 12, 1966, and terminating at 2 a.m. Friday, May 27, 1966.

JOSEPH P. LORDI
DIRECTOR

5. DISQUALIFICATION REMOVAL PROCEEDINGS - POSSESSION OF POLICY LOTTERY SLIPS AND MAINTAINING A POLICY LOTTERY - ORDER REMOVING DISQUALIFICATION.

In the Matter of an Application
to Remove Disqualification because
of a Conviction, Pursuant to
R.S. 33:1-31.2.

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CONCLUSIONS
AND ORDER

Case No. 1998

Edwin H. Helfant, Esq., by Sherman L. Kendis, Esq., Attorney for
Petitioner.
David S. Piltzer, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Petitioner's criminal record discloses that on December 16, 1957, she was convicted in a county circuit court in another state for possession of policy lottery slips and for maintaining a policy lottery, and as a result thereof was sentenced to serve twelve months in a state reformatory (suspended) on the first charge, and fined \$1000 on the second charge.

The Division's records and the file in this case disclose that in 1960 petitioner purchased a retail consumption licensed business and the building containing same for \$40,000, \$10,800 of which was to be paid in cash and the balance by assuming a real and chattel mortgage. Petitioner actually invested \$5000 in cash and states that, in addition thereto, she gave the vendor her demand note of \$5800 and has since reduced same to about \$5000. Petitioner states that she had accumulated the cash payment of \$5000 over a period of a few years from her earnings and that she had kept this money in her home, although she maintained a bank account at the time.

It further appears that in 1960 petitioner entered into a second marriage; that she and her husband maintained a joint account in connection with the operation of the aforesaid licensed business; that in 1963 she was advised by an agent of this Division that her husband was disqualified from being engaged in the liquor business in this State because of his criminal record established prior to their marriage and that upon receipt of such notice the joint bank account was transferred into her name alone. Petitioner states that prior thereto she had no knowledge of her husband's past criminal record.

It further appears that in her license applications filed with the local issuing authority, she denied that she had ever been convicted of a crime and listed her residence in New Jersey. Petitioner is adamant in her belief that her convictions did not constitute convictions of a crime because she had not been sentenced to prison. With respect to her residence, there is substantial evidence indicating that she actually lived outside of this state at the time she filed her aforesaid license application. However,

the question of petitioner's actual residence has become moot because in disciplinary proceedings brought by the Division against petitioner she pleaded non vult to a charge alleging that she falsely stated in her license application dated June 7, 1965 that she was an actual and bona fide resident of New Jersey. Re Greenwell, Bulletin 1680, Item 6.

It further appears that in 1935 petitioner's husband was convicted in another state for grand larceny; that between 1933 and 1960 he was arrested on numerous occasions by law enforcement officers and convicted on a number of the charges; that on June 18, 1965, he was convicted in a federal court for selling narcotics in petitioner's licensed premises in 1963, for which he was sentenced to serve two years in a federal penitentiary. Petitioner's husband, in addition to issuing numerous checks in payment of merchandise sold to the licensed business, frequently visited the same. Petitioner admits these visits were made by her husband to take care of her interests. Investigation discloses that between 1960 and 1965, petitioner's husband was not gainfully employed, and that petitioner has shown a decided lack of knowledge concerning the operation of the licensed business in question.

At the hearing held herein, petitioner (49 years old) reiterated that she was incognizant of the fact that her convictions in 1957 were convictions of crime; that until recently she had no knowledge that her husband had sold narcotics in the licensed premises; that she had never seen him in possession of any narcotics; that she had never seen any narcotics; that until notified by an agent of this Division in 1963, she was unaware of her husband's criminal record prior to 1960; that her husband has no occupation, "I am taking care of him", and that she employs a manager at the premises who conducts the licensed business on her behalf.

Petitioner further testified that upon her husband's release from confinement, she will bar him from the licensed premises, and that she intends to do everything to protect her investment in the licensed business.

Petitioner further testified that she is asking for the removal of her disqualification to be free to continue to engage in the alcoholic beverage industry in this State and that, ever since her convictions in 1957, she has not been convicted of any crime,

Petitioner produced three character witnesses (a detective, a housewife and a bookkeeper) who testified that they have known petitioner for more than five years last past and that, in their opinion, she is now an honest, law-abiding person with a good reputation.

The Police Department of the municipality wherein the petitioner resides reports that there are no complaints or investigations presently pending against petitioner.

The attorney for petitioner argues that petitioner's convictions in 1957 are not convictions of crime involving moral turpitude. In support thereof he has placed in evidence a letter dated January 25, 1966, signed by an Assistant Attorney General of the State wherein petitioner was convicted, in which the writer states "that conviction of a lottery offense in this State is not an infamous crime and not a crime involving moral turpitude." Petitioner's attorney, however, has not cited any case law to support his argument. Moreover, in my opinion, the law of New Jersey prevails. Cf. Severini v. Division of Alcoholic Beverage Control, 82 N.J. Super 1. (App.Div. 1964).

The crimes of which petitioner was convicted, in my opinion, involve the element of moral turpitude, (Re Case No. 1906, Bulletin 1646, Item 4; Re Case No. 1931, Bulletin 1652, Item 6; Re Case No. 1965, Bulletin 1652, Item 11), and petitioner was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

With respect to petitioner's denial in her license applications that she had ever been convicted of any crime, I shall resolve any doubts in my mind in her favor and find that she was not aware that such convictions were convictions of crime. I do not believe that petitioner in her said denial intended to perpetrate any fraud on the local issuing authority. I nevertheless cannot ignore petitioner's false statements in her license applications that she was a bona fide resident of this state at the time of such applications.

However, more serious questions confront me in this case: (1) Is petitioner "fronting" for her husband? (2) Will petitioner abide by her present intentions to bar her husband from visiting the licensed premises or having connections with the same upon his release from prison?

I shall give petitioner the opportunity to prove her good faith with a promise that I shall deal heavily with her in the event that it comes to my attention that her husband is the true owner of the licensed business or that he is permitted to visit the same, or be engaged in its operation in any manner whatsoever upon his release from imprisonment.

Considering all of the aforesaid facts and circumstances, I shall grant petitioner's application.

Accordingly, it is on this 9th day of May, 1966,

ORDERED that petitioner's statutory disqualification because of the convictions described herein be and the same is hereby removed, in accordance with the provisions of R.S. 33:1-31.2.

JOSEPH P. LORDI
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN LICENSE APPLICATION RE CONVICTION OF CRIME AND NEW JERSEY RESIDENCE - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

CANCELLATION PROCEEDINGS - LICENSEE NON-RESIDENT OF NEW JERSEY AND CONVICTED OF CRIME INVOLVING MORAL TURPITUDE - ORDER TO SHOW CAUSE DISCHARGED ON CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Disciplinary Proceedings against)

GRAYCE GREENWELL)
t/a GOLDEN'S COCKTAIL BAR)
41 N. Kentucky Ave.)
Atlantic City, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-108, issued by the Board of Commissioners of the City of Atlantic City.)

Edwin H. Helfant, Esq., by Sherman L. Kendis, Esq., Attorney for Licensee.

David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Charges were preferred against the licensee as follows:

"1. In your application dated June 7, 1965, filed with the Board of Commissioners of the City of Atlantic City, upon which you obtained your current plenary retail consumption license, in answer to Question No. 33 you falsely denied that you had ever been convicted of a crime, whereas in truth and fact you had been convicted on December 16, 1957 in the Circuit Court for Prince George's County, Maryland, of the crime of engaging in policy lottery; in violation of R.S. 33:1-25.

"2. In your aforesaid application, in answer to Question No. 27(a), you falsely stated that you were an actual and bona fide resident of the State of New Jersey, whereas in truth and fact you were then an actual and bona fide resident of Washington, D. C., maintaining your home at 6621 Third Street, N. W., Washington, D. C.; in violation of R.S. 33:1-25."

In addition, the licensee was ordered to show cause why the license should not be cancelled and declared null and void for the following reason:

"The license was issued in violation of R.S. 33:1-25 in that you had been convicted of a crime involving moral turpitude, viz., the crime set forth in the above Charge 1, and in that you were not a resident of the State of New Jersey."

Licensee pleads non vult to Charge 2, stipulates the facts alleged in Charge 1, and does not contest the order to show cause.

During the pendency of the proceeding, the unlawful situation has been corrected by the licensee's having become a bona fide

resident of New Jersey; and the disqualification resulting from her conviction of crime has been removed by Conclusions and Order entered simultaneously herewith in Re Case No. 1998, Bulletin 1680, Item 5.

Absent prior record, the license will be suspended on the first charge for twenty days (cf. Re Cameron, Bulletin 1643, Item 6) and on the second charge for ten days (Re Cletzky, Bulletin 1659, Item 6) or a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Since the unlawful situation no longer exists, the order to show cause will be discharged. Cf. Re Darrow & Dudek, Bulletin 1645, Item 5.

Accordingly, it is, on this 9th day of May, 1966,

ORDERED that Plenary Retail Consumption License C-108, issued by the Board of Commissioners of the City of Atlantic City to Grayce Greenwell, t/a Golden's Cocktail Bar, for premises 41 N. Kentucky Avenue, Atlantic City, be and the same is hereby suspended for twenty-five (25) days, commencing at 7:00 a.m. Monday, May 16, 1966, and terminating at 7:00 a.m. Friday, June 10, 1966; and it is further

ORDERED that the order to show cause herein be and the same is hereby discharged.


Joseph P. Lordi
Director

New Jersey State Library