

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

BULLETIN 975

JUNE 29, 1953.

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Keansburg) - LEWDNESS AND IMMORAL ACTIVITIES (RENTING ROOMS FOR IMMORAL PURPOSES) - SELLING ALCOHOLIC BEVERAGES BEYOND TERMS OF LICENSE - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 180 DAYS.
2. DISCIPLINARY PROCEEDINGS (Elizabeth) - ILLEGAL SITUATION CORRECTED - PRIOR SUSPENSION FOR BALANCE OF TERM LIFTED UPON EXPIRATION OF 45 DAYS FROM EFFECTIVE DATE THEREOF.
3. DISCIPLINARY PROCEEDINGS (Howell Township) - SALE TO MINORS - HINDERING INVESTIGATION - NO REMISSION FOR PLEA AS TO ONE CHARGE BECAUSE IT WAS NECESSARY TO TRY CASE FULLY AS TO OTHER CHARGE - LICENSE SUSPENDED FOR 40 DAYS.
4. DISCIPLINARY PROCEEDINGS (Penns Grove) - CLUB LICENSE - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - ADDITIONAL CHARGE OF PERMITTING SALE OF ALCOHOLIC BEVERAGES TO NON-MEMBER DISMISSED - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS.
5. DISCIPLINARY PROCEEDINGS (Liberty Township) - ALLOWING OBSCENE LANGUAGE AND CONDUCT ON LICENSED PREMISES - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Jersey City) - CONDUCTING BUSINESS DURING PROHIBITED HOURS - PERMITTING PERSONS OTHER THAN ACTUAL EMPLOYEES AND AGENTS ON LICENSED PREMISES DURING PROHIBITED HOURS - FAILURE TO REMOVE OBSTRUCTIONS SO AS TO PERMIT CLEAR VIEW OF THE BAR DURING PROHIBITED HOURS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Jersey City) - CONDUCTING BUSINESS DURING PROHIBITED HOURS AND PERMITTING PERSONS OTHER THAN ACTUAL EMPLOYEES AND AGENTS ON LICENSED PREMISES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Passaic) - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Trenton) - SUSPENSION REIMPOSED AFTER DEFENDANT FAILED TO PERFECT APPEAL TO APPELLATE DIVISION.
10. DISCIPLINARY PROCEEDINGS (Fort Lee) - LEWDNESS AND IMMORAL ACTIVITIES (RENTING ROOMS FOR IMMORAL PURPOSES) - POSSESSION AND SALE OF CONTRACEPTIVES - POSSESSION OF OBSCENE REPRESENTATION - LICENSE SUSPENDED FOR 180 DAYS.

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

BULLETIN 975

JUNE 29, 1953.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(RENTING ROOMS FOR IMMORAL PURPOSES) - SELLING ALCOHOLIC BEVERAGES
BEYOND TERMS OF LICENSE - PRIOR RECORD NOT CONSIDERED BECAUSE OF
LAPSE OF TIME - LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary)
Proceedings against)

HELEN HALEY)
T/a HOTEL BERKSHIRE)
48 Pineview Avenue)
Keansburg, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-19, issued by the)
Mayor and Council of the Borough)
of Keansburg.)

Walter J. George, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The following charges were preferred against the defendant:

"1. On December 12 and 19, 1952, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the renting of rooms for the purpose of illicit sexual intercourse; in violation of Rule 5 of State Regulations No. 20.

"2. On December 19, 1952, you sold alcoholic beverages not pursuant to and within the terms of your license as defined by R.S. 33:1-12(1) in that you sold alcoholic beverages in other than their original containers for consumption off the licensed premises; in violation of R.S. 33:1-2."

Defendant has pleaded not guilty to charge (1) and non vult to charge (2).

It appears from the testimony of an ABC agent that he and another agent visited defendant's licensed premises at 1:00 p.m. on Thursday, December 11, 1952; that when they entered the premises Doris, the defendant's daughter (subsequently identified as Doris Roseman), was tending bar; that he engaged in conversation with Doris "Just about things in general, who owns the place, if she was married. She said her husband was some kind of electronics worker with some outfit in Long Branch, if I'm not mistaken. That's the text of our conversation with her"; that at 3:00 p.m. the defendant "came from inside by the dining room and proceeded behind the bar"; that he had no conversation with the defendant on that occasion but did speak to a male patron; that he left defendant's licensed premises about 3:30 p.m.; that, specifically with respect to the renting of rooms, there was no conversation on this subject on that day either with defendant or Doris.

The ABC agent's testimony continued: At 8:45 p.m. on Friday, December 12, 1952, he and his fellow agent again visited defendant's licensed premises. The defendant was tending bar and continued so to do until 10:00 p.m. when she was relieved by a man, subsequently

identified as her son-in-law. The agent testified that he had no conversation with the son-in-law at that time. The defendant resumed tending bar at about 11:40 p.m. and thereafter the agents engaged her in conversation relative to renting rooms in the premises. The agent stated that defendant said she had two rooms "for you and your wives" but that he replied that "the girls that we wanted to take here are not our wives, they are married, but they were cheating on their husbands and so are we cheating on our wives." In response thereto, the defendant replied "Oh, I see." The agent explained to the defendant "that we wanted to be careful, we don't want these girls to be seen by their husbands or anyone, you know, as we want to take them upstairs for a lay." The defendant nodded her head. She inquired of the agents whether the husbands of the girls were around or were they in the service, and his fellow agent told her "that the husbands are around but they're from out of town, and we don't want to take a chance of the girls getting in any trouble." The defendant, in answer to pointed inquiries, remarked that, although it was not necessary for them to have baggage, they would have to sign the register and that the "way" the agents might sign the register would be their business. There was some conversation about which entrance the girls could use. The two agents left defendant's premises at midnight, but made mention to her before leaving that they might want the rooms for some day the following week.

The agent further testified that he and the same fellow agent returned to defendant's licensed premises at 5:15 p.m. on Friday, December 19, 1952, in the company of a third agent who remained on the outside. The defendant was seated at a table in the dining room. The agent spoke to her, in the presence of his fellow agent, about renting two rooms for that evening. He explained to her that the two married girls whom they were supposed to take to the defendant's premises for immoral purposes were "a couple of bum steers" but that the two girls they intended to take there that evening to engage in sexual intercourse were single. The second agent asked defendant whether the price of the room would be the same if they remained only an hour or two. The defendant answered that the price would be the same, as it was necessary to change the beds. The testifying agent then asked the defendant if she had any rubbers (contraceptive devices) and she answered that she did not have any. After a comment by the agent that the rubbers would be purchased elsewhere, defendant, in response to a question as to whether there were any stores open here, replied: "Yes, there's lots of stores open here." The agent then repeated to the defendant that the girls were single and that they themselves were married and could not afford to take a chance. Again there was talk about which entrance the girls should use. Defendant said it would not make any difference because she would be there. The agent asked that when the girls arrived she show them up to the respective rooms. Thereafter, the agents left the premises but returned at 7:15 p.m. At this time further conversation was had with the defendant about the use of the rooms for immoral purposes. The defendant produced a book (which was introduced in evidence) and asked that they sign their names. They signed the register, one signing "Mr. and Mrs. Tony Finelli," the other "Mr. and Mrs. Walt Wilton," and each handed the defendant a five-dollar bill, the serial numbers of which had previously been noted on a list. The defendant then escorted the two agents to the third floor and assigned a room to each agent. In response to the other agent's admonition not to "forget to show the girls up to our room when they get here," defendant said "Don't worry, I'll show them." The room assigned to the witness contained a large bed, a single bed, a bureau, table, chair and a fire escape consisting of a long chain and rope. At about 8:00 p.m. the witness opened the door in response to a knock, observed the ABC agent who had remained outside of the licensed premises, the defendant, and two local police officers. After inquiry as to the

purpose for which the room was rented, the five proceeded to the other bedroom and like inquiry was made of the other agent. The defendant, upon request, produced a five-dollar bill from her purse.

The second agent, who had accompanied the first agent to defendant's licensed premises on December 11, 12 and 19, was called as a witness for the Division. After being sworn, the parties hereto stipulated that the testimony of this agent would be the same as that given by the agent who had preceded him on the witness stand.

A third ABC agent testified that, on December 19, 1952, he accompanied the two other agents to defendant's licensed premises; that he remained outside while his two fellow ABC agents entered; that at 6:15 p.m., the two agents came out of the premises and re-entered at 7:15 p.m.; that at 7:45 p.m., he entered the premises and ordered a drink; that when he did not see the two other agents in the premises he contacted the local police; that two policemen arrived in response to his call; that the three proceeded to the kitchen where he identified himself to the defendant; that in compliance with his request the defendant showed him the register wherein he observed the names of "Mr. and Mrs. Tony Finelli" and "Mr. and Mrs. Walt Wilton"; that thereafter the defendant escorted him and the two police officers to the third floor; that in room No. 16 he found one agent and in room No. 18 he found the other agent; that the defendant answered, when asked for what purpose the agents rented the rooms, "Well, the boys wanted the rooms for the night. They were bringing their wives up"; and continued "What's wrong? There aren't any girls here anyhow"; that, when asked if defendant received payment for the rooms and, if so, to show him the money, she handed him a five-dollar bill and said the other five-dollar bill was downstairs in the cash register in the barroom; that after he obtained the five-dollar bill from the cash register, he checked the serial numbers of the two bills with those noted on the list and found that they corresponded. (The list and the bills were introduced in evidence.)

The defendant testified that she remembered the two ABC agents come into her licensed premises on December 11, 1952, but that she neither heard nor paid attention to any conversation which the agents may have had with her on that day. Later, she testified that she did not know whether there was any conversation on that day with the agents about renting rooms. However, still later she testified that she did have a conversation with the agents on that day, at which time they said "This is a nice place. We are bringing our wives down for a week end," to which she replied, "All right, bring your wives down if you like the place." The defendant further testified that, on December 12, 1952, prior to going upstairs "to retire," she saw the two ABC agents, and upon her return a "couple of hours" later she again saw them. The only conversation she had with the agents, according to her testimony, was when she said "I had to retire for a while" in answer to their questions as to her whereabouts. She further testified that, on December 19, 1952, while seated at a table in the dining room, the agents inquired about renting two rooms as they were bringing their wives in later; that she told them the price for each room would be five dollars; that they asked whether she had any rubbers (contraceptive devices) and that she told them "We have no such place. We are not running such a place"; that, in answer to their inquiry as to the location of a drug store, she advised them "There's one uptown"; that they left, but returned, registered, and paid for the rooms; that she did not mention anything about the need for baggage to them; that she "figured out the gentlemen's intention was not to bring no girls in. They only make believe." She admitted, however, that pursuant to the agents' order she brought four drinks of alcoholic beverages to their rooms. Although she testified she was of the opinion that no females were to appear, nevertheless, when asked on cross-examination whether she said anything to the two agents when they purchased four drinks to be delivered to their rooms, she answered, "I didn't mention anything."

Doris Roseman, daughter of defendant, testified that, on December 11, 1952, she was asked by the ABC agents regarding the renting of rooms and she told them that her mother took care of that. Her testimony continued that on December 12, 1952 when the agents came into the licensed premises she was seated in front of the bar with her husband; that the latter acted as bartender when her mother indicated that she desired to retire; that thereafter she observed her husband serve drinks to the agents. She further testified she was not present on December 19, 1952 when the agents were in defendant's premises.

I am satisfied, after careful consideration of all the evidence presented in the instant case, that the testimony of the ABC agents accurately describes the incidents and conversations which took place upon the licensed premises on the occasions described. I am further convinced that the defendant knew that the rooms were rented by the agents from her ostensibly for an unlawful purpose, i.e., to engage in illicit sexual intercourse. It is immaterial that no illicit sexual intercourse actually occurred in the rooms after they were rented to the agents. The offense charged (allowing, permitting and suffering lewdness and immoral activities in and upon the licensed premises) was complete when the rooms were rented with knowledge on the part of the defendant that they were (ostensibly) to be used for the purpose of illicit sexual intercourse. In affirming an order of suspension in a case where the facts were almost analogous to the one now under consideration, Judge Jayne, speaking for the Appellate Division of the Superior Court of New Jersey, said: "We are therefore confronted with the question whether the mere renting of bedrooms in the licensed premises by a licensee with the belief and intention that they will be occupied for the purposes of illicit sexual intercourse is an immoral activity within the signification of Rule 5. We answer the question in the affirmative." In re Schneider, 12 N. J. Super. 449 (App. Div. 1951). In the same case Judge Jayne further stated: "The object manifestly inherent in the rule with which we are here concerned is primarily to discourage and prevent not only lewdness, fornication, prostitution, but all forms of licentious practices and immoral indecency on the licensed premises. The primary intent of the regulation is to suppress the inception of any immoral activity, not to withhold disciplinary action until the actual consummation of the apprehended evil."

I find the defendant guilty on charge (1). As already stated, defendant has pleaded non vult to charge (2).

Defendant has a prior adjudicated record. Effective August 14, 1946, defendant's license was suspended by the local municipal authority for ten days for sale of alcoholic beverages during prohibited hours. Again, effective December 8, 1947, her license was suspended by the local issuing authority for ten days for permitting bookmaking on the licensed premises. Since both of the prior dissimilar violations committed by defendant occurred more than five years ago, I shall not take them into consideration in fixing the penalty herein. Cf. Re Goldberg, Bulletin 962, Item 4. Under the circumstances, I shall suspend defendant's license for a period of 180 days. Re Schneider, supra; Re Hartman, Bulletin 904, Item 2; Re McCarty, Bulletin 919, Item 3; Re Larsen, 17 N.J. Super. 564; Re Old Wagon Wheel Inn, Inc., Bulletin 922, Item 3; Re Bertown Realty Corp., Bulletin 934, Item 6; Re Mazza, Bulletin 972, Item 1.

Accordingly, it is, on this 9th day of June, 1953,

ORDERED that Plenary Retail Consumption License C-19, issued by the Mayor and Council of the Borough of Keansburg to Helen Haley, t/a Hotel Berkshire, 48 Pineview Avenue, Keansburg, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m., June 15, 1953; and it is further

ORDERED that, if any license be issued to this licensee or to any other person for the premises in question for the 1953-54 licensing year, such license shall be under suspension until 2:00 a.m., December 12, 1953.

DOMINIC A. CAVICCHIA
Director.

2. DISCIPLINARY PROCEEDINGS - ILLEGAL SITUATION CORRECTED - PRIOR SUSPENSION FOR BALANCE OF TERM LIFTED UPON EXPIRATION OF 45 DAYS FROM EFFECTIVE DATE THEREOF.

In the Matter of Disciplinary Proceedings against

LOTTIE STANISLAWSKI
89-91 Elizabeth Avenue
Elizabeth 1, N. J.,

ON PETITION
O R D E R

Holder of Plenary Retail Consumption License C-221, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth.

Benny A. Dudek, Esq., Attorney for Petitioners.

BY THE DIRECTOR:

On March 31, 1953, I suspended defendant's license for the balance of its term, effective at 2:00 a.m. April 6, 1953, after finding her guilty of charges alleging in substance that her husband, Bronislaw Stanislawski, had an undisclosed interest in her license. See Bulletin 965, Item 5. In said order it was provided that, upon correction of the illegal situation, defendant or other proper person might petition me for an order lifting the suspension after at least forty-five days of the suspension had been served.

John Penczak and Caroline Penczak have filed a verified petition wherein they set forth that on May 18, 1953, the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth granted their application for a transfer of License C-221 from Lottie Stanislawski to petitioners for the premises mentioned above. Said action was subject to the suspension heretofore imposed. Rule 5 of State Regulations No. 16. A copy of the resolution of the local Board is attached to the petition.

The verified petition filed herein further recites that neither Lottie Stanislawski nor Bronislaw Stanislawski will have any further interest in the license.

Petitioners request me to lift the suspension.

It appearing from the verified petition that the illegal situation has been corrected and that the suspension heretofore imposed will have been in effect for a period of forty-five days at 2:00 a.m. May 21, 1953,

It is, on this 19th day of May, 1953,

ORDERED that Plenary Retail Consumption License C-221, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth, be restored to full force and operation at 6:00 a.m. May 21, 1953, or as soon thereafter as the Secretary of said Board endorses on the license certificate the transfer of said license from Lottie Stanislawski to John Penczak and Caroline Penczak.

DOMINIC A. CAVICCHIA
Director.

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - HINDERING INVESTIGATION - NO REMISSION FOR PLEA AS TO ONE CHARGE BECAUSE IT WAS NECESSARY TO TRY CASE FULLY AS TO OTHER CHARGE - LICENSE SUSPENDED FOR 40 DAYS.

In the Matter of Disciplinary Proceedings against)

LILLIAN and AUGUST VON SCHRAG)
 T/a WINDMILL BAR & GRILL)
 Junction State Highways Nos. 33 & 34)
 Howell Township)
 R.D. #2, Farmingdale, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-8, issued by the Township Committee of the Township of Howell.)

 Sidney Simandl, Esq., Attorney for Defendant-licensees.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The following charges were preferred against defendants:

"1. On Saturday night, March 14, 1953, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises, to Ernest ---, Robert ---, Marvel --- and Peggy ---, persons under the age of twenty-one (21) years and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20.

"2. On Saturday night, March 14 and early Sunday morning, March 15, 1953, while investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety were conducting an investigation at your licensed premises you, through Lillian Von Schrag, failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation; in violation of R. S. 33:1-35."

The defendants pleaded non vult to charge (1) and not guilty to charge (2).

It appears, from an examination of the file with respect to charge (1), that on Saturday night, March 14, 1953, a bartender employed by the defendants sold and served alcoholic beverages to minors. During the evening in question, and prior to the time two ABC agents made known their identity, two minor girls, who were 16 and 17 years of age, respectively, were each served two glasses of beer, and their male companions, both 19 years of age, were each served four or five glasses of beer. The agents seized the glass containing a quantity of beer from each of the girls and a glass containing a quantity of beer from one of the male youths. The other male youth had consumed the entire contents of his glass. The four minors gave voluntary statements to the agents which contained, among other things, their ages and the fact that they were served alcoholic beverages in defendants' licensed premises. Both Lillian Von Schrag, one of the defendant-licensees, and the bartender who had made the service of the beer to the minors, when asked by the ABC agents whether they cared to give a statement, declined to do so.

As to charge (2): An ABC agent testified that, after the agents had identified themselves, the three glasses containing a quantity of

beer which had been seized from the minors were placed on a window sill by him. The glasses remained there until the investigation was practically completed. When he (the agent) took two of the glasses from the sill, Lillian Von Schrag thereupon knocked one of the glasses from his hand. When Lillian Von Schrag was informed by him that the incident would be reported to the Director, she indicated that it was her private property and further stated, "I don't care. You have no right to come in here and disturb people; I have got a sick husband in the next room." Then, according to the witness' testimony, he took the third glass from the window sill and handed it to his fellow agent.

The aforesaid testimony describing the manner in which the glass was broken and the remarks made subsequent thereto by Lillian Von Schrag was corroborated by the other ABC agent who was with him at the time in question.

Lillian Von Schrag testified that as one of the agents "was packing his papers in his portfolio," she took the three glasses from the window sill. The agent took them away from her. However, according to her testimony, as she retrieved the glasses from him, one fell upon a radiator and broke. She denied that she made the statement as testified to by the agents, wherein she was alleged to have rebuked them for coming into the licensed premises and disturbing people. However, she did remember saying something about her property and the fact that she had a sick husband. She further denied that the agent had accused her of having knocked the glass from his hand. She did recall, however, the agent saying to her, "I am sorry you did that," and that she answered, "So am I, Bud."

Elizabeth Wetmore, who resides next door to the licensed premises, testified that when she and her husband arrived at defendants' tavern, she observed the ABC agents making out statements. When, on direct examination, she was asked what happened with reference to the glasses, she testified: "Well, the investigators was all finished with the investigation, and Mrs. Von Schrag was standing there at the table. She reached to take the glasses, and when she reached for the glasses -- she had them in her hand and Mr. H--- [naming an ABC agent] reached for them. When he reached for them one fell to the floor and broke; the other one -- just a minute -- she reached on the window sill for the glasses -- she reached for the glasses. Mr. H--- [the ABC agent] went to take them away from her, and he took them away from her. One broke, she had an empty one in her hand, and the other one he had." During cross-examination the witness at first denied that she and Lillian Von Schrag discussed the case prior to the instant hearing. However, subsequently she testified although there was some discussion, that the "whole thing" was not discussed with Lillian Von Schrag. When asked what Lillian Von Schrag did say, the witness stated, "She just said the way -- she told me the way it happened. I said that I saw the way it happened."

Robert Charles Wetmore testified that he and his wife were seated at the bar on the evening of March 14, 1953, when he heard the clink of glasses. When he looked around "they both seemed to have hold of the glasses." The witness testified that although he was "feeling good" at the time when the glass episode allegedly took place, he was sure of everything that took place.

A careful review of all the testimony adduced at the present hearing indicates that the incident concerning the glasses happened in the manner described by the two ABC agents. The agents' testimony was straightforward and truthful. Each agent testified that when he

left the defendants' licensed premises he had a glass containing a quantity of beer. Remarks admittedly made by Lillian Von Schrag about her property are an indication that she resented the agents' attempt to take glasses from the licensed premises. The testimony of the two patrons produced on behalf of the defendants appears to be ambiguous as to the manner in which the glass was broken. Furthermore, Elizabeth Wetmore denied emphatically at first that she and Lillian Von Schrag had discussed the case and then she admitted that such discussion took place. The testimony of Robert Charles Wetmore discloses that he did not know who initiated the situation which resulted in the glass being broken because when he first observed Lillian Von Schrag and the ABC agent they both appeared to him to have hold of the glasses. It is also significant that defendants' bartender, who was apparently present at the time the glass was broken, was not produced as a witness by the defendants, nor did they account for his absence.

I therefore find the defendants guilty of charge (2). They have already, as indicated herein, pleaded non vult to charge (1).

The defendants have no prior record. The minimum penalty for sale of alcoholic beverages to a minor 16 years of age is a 20-day suspension of the license. Re Gordon, Bulletin 906, Item 8. However, because of the number of minors involved I shall suspend defendants' license on charge (1) for twenty-five days (Re Poirier, Bulletin 970; Item 4), and on charge (2) for a period of fifteen days (Re Verrilli, Bulletin 969, Item 3), making a total suspension of forty days. Inasmuch as it was necessary to try the case fully on charge (2) there will be no remission for the entry of the plea of non vult as to charge (1). Re Victoria Bar, Inc., Bulletin 841, Item 5; Re Kaplan et al., Bulletin 955, Item 3.

Accordingly, it is, on this 11th day of June, 1953,

ORDERED that Plenary Retail Consumption License C-8, issued by the Township Committee of the Township of Howell to Lillian and August Von Schrag, t/a Windmill Bar & Grill, Junction State Highways Nos. 33 and 34, Howell Township, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. June 17, 1953, and it is further

ORDERED that if any license be issued to these licensees or to any other person for the premises in question for the 1953-54 licensing year, such license shall be under suspension until 2:00 a.m. July 27, 1953.

DOMINIC A. CAVICCHIA
Director.

4. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - ADDITIONAL CHARGE OF PERMITTING SALE OF ALCOHOLIC BEVERAGES TO NON-MEMBER DISMISSED - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against

JAMES BROKENBAUGH AMERICAN LEGION POST NO. 205 40 S. Smith Avenue Penns Grove, N. J.,

CONCLUSIONS AND ORDER

Holder of Club License CB-1, issued by the Borough Council of the Borough of Penns Grove.

James R. Brokenbaugh, Commander, appearing for Defendant-licensee. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charges:

"1. On Sunday, October 19, 1952, between 10:10 a.m. and 10:45 a.m. you sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and permitted the consumption of alcoholic beverages on your licensed premises; in violation of Section 5 of an Ordinance adopted by the Council of the Borough of Penns Grove on March 5, 1935; as amended by Ordinance adopted by said Council on May 16, 1950, which prohibits any such activity between 12:30 a.m. on Sunday and 7:00 a.m. on the following Monday.

"2. On Sunday, October 19, 1952 between 10:10 a.m. and 10:45 a.m. you sold, served and delivered and allowed, permitted and suffered, the sale, service and delivery of alcoholic beverages to a person not a bona fide member of your club or a bona fide guest of a member; in violation of Rule 8 of State Regulations No. 7."

At the hearing held herein Herman Little, who is now employed elsewhere but who on Sunday, October 19, 1952, was employed as a patrolman on the Penns Grove Police Department, testified that he entered defendant's premises on that day between 9:00 and 9:30 a.m.; that six or seven persons were in the premises and were drinking bottles of beer; that he purchased from Clifford Hayworth, who was then behind the bar, a bottle of beer, the contents of which he consumed; that he paid to Hayworth the sum of forty-five cents for the beer; that he left the premises and contacted Chief Fonto of the Penns Grove Police Department. Little further testified that he re-entered the premises between 10:30 and 11:00 a.m.; that the same people were there and were drinking beer or whiskey; that he purchased from Hayworth another bottle of beer for the sum of forty-five cents; that he was drinking this beer when Chief Fonto and other police officers entered, and that he turned over his bottle of beer to one of the police officers. Little denied that he was a member of any American Legion Post and, specifically, that he was a member of defendant Post, although he admitted on cross-examination that he had filed an application for membership in defendant Post "probably two or three weeks before the raid was." Rebutting the statement of Charles Caulk (see below), he denied that he had been told by anyone that his application had been approved.

Chief Fonto testified that, when he entered the licensed premises about 10:45 a.m., a number of people, who had bottles in front of them, were sitting around table or standing at the bar; that Hayworth was behind the bar, and that he and the other police officers seized six or seven bottles of beer.

On behalf of the defendant, Charles Caulk, steward of defendant Post, testified that when, according to the usual practice, the membership committee checks and finds a proposed member is a veteran, "we take the membership received from him and he becomes a member." Specifically he testified that he had notified Herman Little that he (Little) had been accepted and was a member.

Clifford Hayworth testified that on the morning of Sunday, October 19, 1952, he was behind the bar in defendant's licensed premises and that he was "cleaning up." He denied selling beer to Herman Little or to any other person, but admitted that Little was drinking a bottle of beer which he got "out of the box." He also admitted that there were bottles around but said that, if other persons were drinking, "they were drinking some beer that was left over." This witness testified that Little had "passed through the committee to be a member, other than that he wouldn't be in [the premises]."

James R. Brokenbaugh testified that Little submitted an application for membership in the Post "about two weeks" prior to October 19, 1952; that a committee approved the application and that the witness, as Commander of the Post, approved it about a week prior to October 19, 1952; that a membership card was prepared for Little, but that the witness "took it back and disapproved it after this incident." The Commander testified that a person "officially becomes a member as soon as we issue the card" but admitted that he "is not a member until he gets the card and pays his dues."

Local regulations prohibit the sale, service, delivery and consumption of alcoholic beverages between 12:30 a.m. on Sunday and 7:00 a.m. on the following Monday.

From the evidence I find that alcoholic beverages were sold to Little on Sunday, October 19, 1952. Moreover, it is clear that, aside from the question of sale, service or delivery, the consumption of alcoholic beverages on defendant's premises was permitted on that day. Hence I find defendant guilty as to charge 1. Since it is quite possible under the facts of this case that the officers of the Post may have believed that Little had become a member even if he had not been officially admitted to membership, I shall give defendant the benefit of the doubt and dismiss charge 2.

Defendant has a prior record. Effective May 19, 1952, the local issuing authority suspended its license for five days after it had pleaded guilty to a charge of permitting consumption of alcoholic beverages on its licensed premises on Sunday in violation of the local regulation. Since this is a second similar violation within the past five years, I shall double the minimum fifteen-day penalty imposed in cases of this kind and shall suspend defendant's license for thirty days.

Accordingly, it is, on this 1st day of June, 1953,

ORDERED that Club License CE-1, issued by the Borough Council of the Borough of Penns Grove to James Brokenbaugh American Legion Post No. 205, for premises 40 S. Smith Avenue, Penns Grove, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. June 8, 1953; and it is further

ORDERED that, if any license be issued to this licensee or to any other club for the premises in question for the 1953-54 licensing year, such license shall be under suspension until 2:00 a.m. July 8, 1953.

5. DISCIPLINARY PROCEEDINGS - ALLOWING OBSCENE LANGUAGE AND CONDUCT ON LICENSED PREMISES - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

V. GALEN MELLOTT
T/a ANGLERS' INN
Route #6 at Townsbury
Liberty Township, PO RD Oxford, N.J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Liberty.

V. Galen Mellott, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge (Charge 1) alleging that he allowed, permitted and suffered foul, filthy and obscene language and conduct in and upon his licensed premises, in violation of Rule 5 of State Regulations No. 20, and guilty to another charge (Charge 2) alleging that he sold alcoholic beverages in original containers for consumption off the licensed premises, during prohibited hours, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that, at approximately 1:00 a.m., on Saturday, May 2, 1953, two ABC agents entered the barroom of defendant's licensed premises to conduct an investigation. At approximately 1:30 a.m., three females entered the licensed premises and joined their respective husbands, who were at the bar. One of the females told obscene jokes and used foul, filthy and obscene language and performed certain acts which, because of their nature, will not be repeated or described herein. The licensee was tending bar and made no effort to prevent the aforementioned conduct. On the contrary, he himself related a filthy and obscene story.

Because they had been assigned to investigate other alleged violations, the agents did not disclose their identities at that time but returned with another agent at approximately 9:45 p.m., on Wednesday, May 6, 1953. At 10:30 p.m., the agents observed the bartender place six cans of beer in two brown paper bags and leave the premises. When he returned, the bartender accepted from a male patron \$1.00 which he rang up on the cash register. Ten minutes later the agents informed the bartender that they were leaving and requested six cans of beer "to take home". The bartender again placed six cans of beer in two brown paper bags and asked the agents whether or not they had a car with them. When they answered in the affirmative, the bartender handed the two bags to one of the agents and accepted \$1.00 in payment for the beer. The agent left the premises with the paper bags containing the beer but immediately returned, at which time all three agents identified themselves to the bartender, who admitted that he had sold canned beer to the agent. He also admitted that he had sold canned beer to another customer and had taken it from the licensed premises and placed it in the customer's automobile. He claimed, however, that he did not realize it was after 10:00 p.m.

State Regulations No. 38 prohibits the sale of alcoholic beverages in original containers for off-premises consumption after 10:00 p.m. on weekdays.

Defendant has no prior adjudicated record. I shall suspend his license for ten days on Charge (1) (Re Agnellino, Bulletin 933, Item 2), and for an additional fifteen days on Charge (2) (Re Scheib, Bulletin 971, Item 4), or a total of twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 4th day of June, 1953,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Liberty to V. Galen Mallott, t/a Anglers' Inn, Route #6 at Townsbury, Liberty Township, PO RD Oxford, N.J., be and the same is hereby suspended for a period of twenty (20) days, commencing at 3:00 a.m. June 11, 1953, and terminating at midnight, June 30, 1953.

DOMINIC A. CAVICCHIA
Director.

- 6. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS DURING PROHIBITED HOURS - PERMITTING PERSONS OTHER THAN ACTUAL EMPLOYEES AND AGENTS ON LICENSED PREMISES DURING PROHIBITED HOURS - FAILURE TO REMOVE OBSTRUCTIONS SO AS TO PERMIT CLEAR VIEW OF THE BAR DURING PROHIBITED HOURS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

RUSSIAN AMERICAN REGULAR)
DEMOCRAT CLUB, INC.)
264 Warren Street)
Jersey City 2, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-539, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
- - - - -)

Russian American Regular Democrat Club, Inc., Defendant-licensee, by John Minarick, President.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that it (1) conducted its licensed business during prohibited hours on Sunday, December 14, 1952; (2) permitted persons, other than actual employees and agents, in and upon the licensed premises during prohibited hours on that day; and (3) failed to remove all shades, screens and other obstructions so as to permit a clear view of the bar inside the premises during such prohibited hours; all in violation of a local regulation.

The file discloses that two ABC agents visited defendant's barroom (which is located on the second floor of the building) at approximately 1:00 a.m., Sunday, December 14, 1952. At 2:00 a.m., when there were fifteen patrons at the bar, the bartender extinguished the light in the advertising sign in a window facing the street. However, he continued to serve and sell various drinks of alcoholic beverages to the patrons, including the agents. At 2:30 a.m., the bartender announced, "It's 2:30 a.m. -- it's getting late,"

but still continued to serve the customers. After the agents purchased another drink at 2:45 a.m., they identified themselves to the bartender who, at the agents' request, told the other patrons to leave the premises. Although he declined to make a written statement, the bartender orally admitted that "as long as there is money on the bar, I stay open."

The agents report that entrance to the barroom is gained through a door at street level, containing no windows, and that the curtains in the windows of the barroom were drawn and were not open at any time after 2:00 a.m., so that there was no clear view of the bar inside the licensed premises.

The local regulation prohibits the conduct of the licensed business between 2:00 a.m. and 1:00 p.m. on Sundays, prohibits persons other than the licensee and his actual employees and agents to be in and upon the licensed premises between such hours, and requires the removal of all shades and screens and other obstructions so as to permit a clear view of the bar inside the licensed premises during such hours.

It is clear that defendant violated all three provisions of the local regulation.

Defendant has a prior record. Its license was suspended by the then State Commissioner for twenty days, effective January 21, 1947, for knowingly aiding and abetting non-licensees to exercise the privileges of the license (Re Russian American Reg. Democratic Club, Inc., Bulletin 741, Item 10). However, since said dissimilar offense occurred more than five years ago, I shall disregard it. Re Burday & Budowsky, Bulletin 970, Item 10. I shall suspend defendant's license for twenty days -- the minimum period for violations of this kind. Re Vecchione, Bulletin 967, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 5th day of June, 1953,

ORDERED that Plenary Retail Consumption License C-539, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Russian American Regular Democrat Club, Inc., 264 Warren Street, Jersey City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. June 15, 1953, and terminating at 2:00 a.m. June 30, 1953.

DOMINIC A. CAVICCHIA
Director.

7. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS DURING PROHIBITED HOURS AND PERMITTING PERSONS OTHER THAN ACTUAL EMPLOYEES AND AGENTS ON LICENSED PREMISES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL REGULATION - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN LUCIVJANSKY)
T/a JOHN'S TAVERN)
366 Bramhall Avenue)
Jersey City 4, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-484, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Jersey City.)

-----)
John Lucivjansky, Defendant-licensee, Pro Se.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that he (1) conducted his licensed business during prohibited hours, and (2) permitted persons, other than actual employees and agents, in and upon the licensed premises, during prohibited hours; both in violation of a local regulation.

The file herein discloses that, at approximately 1:50 a.m., Saturday, May 23, 1953, two ABC agents arrived in the vicinity of the defendant's licensed premises and kept the place under surveillance. Shortly after 2:20 a.m., the agents approached the premises and heard voices emanating from within. While they were unable to gain entry through the front door, the agents were able to get a view of the interior of the barroom where they observed a number of men seated or standing at the bar consuming what appeared to be beer. The agents then entered the building through a side door where they found, unlocked, another door which led into the licensed premises. As they entered they observed the bartender serving glasses of beer to two men seated at the end of the bar. However, when the agents ordered beer, the bartender said, "I am sorry, we are closing. It is too late." The agents observed that other patrons were drinking what appeared to be beer and identified themselves to the bartender, seizing the two glasses of beer which they had seen the bartender serve, as aforementioned. At the agents' direction, the bartender cleared the premises. He admitted that he knew it was then 2:25 a.m., as shown by the barroom clock, and said that he had been unable to get the patrons to leave the licensed premises.

The local regulation prohibits the conduct of the licensed business between 2:00 a.m. and 6:00 a.m. on weekdays and prohibits persons other than the licensee and his actual employees to be in and upon the licensed premises between such hours.

In alleged mitigation the licensee claims that his son, who was tending bar, "could not evict the customers into the storm at that time. No sale of liquor or beer was made after legal hours." The evidence appears to be to the contrary. Beer was delivered to customers after 2:00 a.m., and a delivery by a licensee constitutes a sale. R.S. 33:1-1(w). In any event it is clear that defendant violated both provisions of the local regulation by conducting the licensed business and permitting persons other than his actual employees and agents to be upon the licensed premises during prohibited hours.

The licensee has no prior adjudicated record. I shall suspend the license for fifteen days. Re Verrilli, Bulletin 969, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 5th day of June, 1953,

ORDERED that Plenary Retail Consumption License C-484, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to John Lucivjansky, t/a John's Tavern, 366 Bramhall Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m., June 15, 1953, and terminating at 2:00 a.m. June 25, 1953.

DOMINIC A. CAVICCHIA
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

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

CONCLUSIONS
AND ORDER

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

Stanley J. Polack, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages at his licensed premises to minors and allowed, permitted and suffered the consumption of alcoholic beverages by said minors in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that the Clifton Police Department notified this Division that it had information indicating that two minors (members of the armed forces) had been served and had consumed drinks of alcoholic beverages at defendant's licensed premises. Accordingly, investigators of this Division obtained signed sworn statements from Private Gussie W. --- and Private William M. --- and from their companions. From all of these statements it appears that Private Gussie W. ---, 18 years of age, and Private William M. ---, 20 years of age, visited defendant's licensed premises during the late afternoon and early evening of Saturday, May 9, 1953. The 18-year-old minor remained in the licensed premises for approximately two hours and consumed two glasses of beer. The 20-year-old minor remained in the licensed premises for approximately six hours and consumed eight or nine glasses of beer and two "shots" of whiskey. The 18-year-old minor did not know who purchased the beer which he drank but the 20-year-old minor stated that his drinks were paid for with money which he and others in his group had placed on the table at which they were seated. In any event it is clear that defendant allowed, permitted and suffered both minors to consume alcoholic beverages upon the licensed premises. Cf. Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup. Ct. 1947).

Defendant has no prior adjudicated record. I shall suspend defendant's license for ten days, the minimum penalty for an offense of this kind. Re Koschiuszko, Bulletin 964, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 2nd day of June, 1953,

ORDERED that Plenary Retail Consumption License C-154, issued by the Board of Commissioners of the City of Passaic to George Zipko, t/a Columbia House, 262 Passaic Street, Passaic, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m., June 8, 1953, and terminating at 3:00 a.m. June 13, 1953.

DOMINIC A. CAVICCHIA
Director.

9. DISCIPLINARY PROCEEDINGS - SUSPENSION REIMPOSED AFTER DEFENDANT FAILED TO PERFECT APPEAL TO APPELLATE DIVISION.

In the Matter of Disciplinary Proceedings against)

HARLEM CLUB, CORPORATION)
T/a HARLEM CLUB)
302 Brunswick Avenue)
Trenton 8, N. J.,)

ORDER REIMPOSING
SUSPENSION

Holder of Plenary Retail Consumption License C-53, issued by the Board of Commissioners of the City of Trenton.)

BY THE DIRECTOR:

On March 24, 1953, the defendant's license was suspended for a period of twenty days. See Bulletin 964, Item 5. The defendant then appealed to the Superior Court, Appellate Division, which entered an order staying the suspension pending the outcome of the appeal. The order further provided that, in the event the appeal was not perfected, or was otherwise abandoned, the stay should be considered void, and the Director was thereupon authorized to reimpose the suspension. The appeal has not been perfected because the defendant has failed to file a transcript of the testimony, and has failed to serve and file a brief and appendix, in accordance with the Court Rules in such case made and provided. The suspension, therefore, will now be reimposed.

Accordingly, it is, on this 4th day of June, 1953,

ORDERED that the twenty-day suspension heretofore entered against Plenary Retail Consumption License C-53, issued by the Board of Commissioners of the City of Trenton to Harlem Club, Corporation, t/a Harlem Club, for premises 302 Brunswick Avenue, Trenton, be and the same is hereby reimposed, commencing at 2:00 a.m. June 11, 1953, and terminating at midnight, June 30, 1953.

DOMINIC A. CAVICCHIA
Director.

10. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (RENTING ROOMS FOR IMMORAL PURPOSES) - POSSESSION AND SALE OF CONTRACEPTIVES - POSSESSION OF OBSCENE REPRESENTATION - LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary Proceedings against

CHAS. ROSSI & ETTORRE FENAROLI 362 Myrtle Avenue, Coytesville Fort Lee, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-37, issued by the Mayor and Council of the Borough of Fort Lee.

A. Michael Lepore and Anthony Giuliano, Esqs., Attorneys for Defendant-licensees.

Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

"1. On April 4, 7 and 15, 1953, and on divers days prior thereto, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the renting of rooms for the purpose of illicit sexual intercourse; in violation of Rule 5 of State Regulations No. 20.

"2. On April 15, 1953, you possessed and allowed, permitted and suffered the sale and distribution of prophylactics against venereal disease and contraceptive devices, in and upon your licensed premises; in violation of Rule 9 of State Regulations No. 20.

"3. On April 15, 1953, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing an obscene, indecent, filthy, lewd, lascivious and disgusting representation, in violation of Rule 17 of State Regulations No. 20."

For the most part, the file herein consists of reports of ABC agents and the statements obtained from licensee Charles Rossi, his brother Joseph (who is headwaiter and in charge of renting bedrooms at the licensed premises) and statements obtained from the occupants of such bedrooms.

The facts, as disclosed by the file, may be summarized as follows: At approximately 10:00 p.m., Saturday, April 4, 1953, two agents of this Division visited defendants' licensed premises, which consists of a brick building, containing a barroom, two dining rooms and a hallway (where there is a hotel register) on the first floor, two bedrooms (No. 1 and No. 2) in the basement, four bedrooms on the second floor and one on the third floor. The agents proceeded to the bar where they conversed with the bartender, who informed them that the headwaiter (later identified as Joseph Rossi) was the person to see if they wanted to rent rooms. The agents told Joseph Rossi that they were on their way to pick up their "girl friends" and that they might be back for something to eat and a "lay". Joseph told them that, if they needed rooms, he would take care of them. He declined further conversation on the subject except to tell the agents that they should see him when they needed the rooms. The agents left the premises at 10:45 p.m., and did not return that night.

On Tuesday, April 7, 1953, the same agents returned to the licensed premises at 10:00 p.m., and proceeded to the bar where they talked with Joseph Rossi with respect to obtaining a room which would be "absolutely safe". One of the agents said he didn't want to get caught as he had once before in other premises but Joseph assured him that the place was "out of the way" and "safe". The same agent told Joseph that his "girl" is married, has her own car and has to wait until her husband goes to work before meeting him. The other agent told Joseph that his "girl's" husband was very jealous and therefore they had to be careful. Joseph said that married women are best because they are "clean and careful" and added that the agent would be safe from "police interference" there. Joseph said that the price for each room would be \$4.00. The agent then told Joseph that he would want the room for the next day. When asked concerning luggage and signing the hotel register, Joseph told the agents that they did not need any luggage, that the register didn't matter, and that he sometimes signs the register for people.

The same two agents again entered defendants' licensed premises at 10:30 p.m., on Wednesday, April 15, 1953, taking with them ten one-dollar bills, the serial numbers of which had been noted. Licensee Charles Rossi, his brother Joseph and two other male employees were alone in the dining room. One of the agents called to Joseph and told him that they had their "girl friends" out in the car and wanted rooms for a "quick lay". Joseph led them to the hotel register in the hall and, while one agent signed for both, the other agent asked Joseph for "rubbers" (contraceptive devices), as a result of which Joseph went to the dining room, returned and handed him a metal container with three "rubbers". Joseph charged \$9.00 for both rooms and the contraceptives. Payment was made by means of the aforementioned marked one-dollar bills. Joseph handed the agents keys for rooms 1 and 2 in the basement and returned to the dining room while the agents went to their respective rooms.

At approximately 11:15 p.m., other ABC agents and representatives of the Bergen County Prosecutor's Office arrived in response to a telephone call from one of the agents. They took Joseph Rossi to the basement, where they found the two agents aforementioned in their respective rooms (Nos. 1 and 2). Each of the two agents related, in Joseph's presence, that he had rented the rooms from Joseph and was waiting for his "girl friend" to join him for sexual intercourse. Upon searching the remainder of the licensed premises, the officers found unmarried couples in each of three second-floor bedrooms. Statements were obtained from all of these persons and in each case the man and woman admitted that they were not married to each other but had rented and occupied a room together at defendants' licensed premises for the purpose of engaging in sexual intercourse with each other and that, either on that night or on previous occasions, or both, they had, in fact, indulged in such intercourse. Several of the couples admitted that they had engaged in such practice at defendants' licensed premises on numerous occasions covering periods of time up to a year. From these statements, it appears that some of the couples had drinks served in their respective rooms; that they rarely, if ever, were required to sign the hotel register; that they were never required to have luggage with them; that they occupied their respective rooms only for a few hours and that the rooms were rented by Joseph Rossi who received payment therefor.

Statements were also obtained from Charles and Joseph Rossi. Charles Rossi admitted that he is one of the licensees; that he and his partner have conducted the licensed business for fourteen years; that, in addition to their bar and restaurant business, they rent

bedrooms; that his brother (Joseph) "takes care of" renting the rooms; that he (Charles) makes "the rules for running this place"; that the price per room per night is \$4.00; that they have a hotel register but that he doesn't know whether or not it is signed; that he personally does not rent the rooms saying, "I don't bother"; that the money from the renting of rooms is placed in the cash register and that he and his partner make the beds. He attempted to claim that people who rented rooms stayed overnight and had breakfast the following morning, but could not remember the last time defendants had served breakfast. In addition, he admitted that they closed the place at midnight. He also admitted that he knows it is unlawful to rent rooms to couples not married to each other but sought to claim that "when they sign the register I think they are married." He could give no satisfactory answers when questioned as to the necessity for luggage and could not explain many curious entries in the hotel register. His most frequent explanation of everything was that he was not there all the time and that he left those matters to his brother (Joseph). In all, his answers were unresponsive and evasive and indicated a complete absence of personal supervision over the renting of rooms at the licensed premises on the part of himself and his partner.

In his statement, Joseph Rossi admitted that he is employed as a waiter by defendants; that he rents the rooms at the licensed premises for \$4.00 each and has been doing so for fourteen years; that the renting of rooms is his business and that the boss "doesn't interfere"; that the rent money is placed in defendants' cash register; that on the night in question he rented the rooms to the agents who had no luggage and also rented a room to one of the couples aforementioned (who had been there before and who did not sign the hotel register); that he supplied the "rubbers" (contraceptive devices) to one of the agents and charged him \$1.00 therefor; that he does not question the marital status of the people who rent rooms; that the agents told him, on the night in question, that "the girls" were outside; that he knows that it is unlawful to rent rooms to couples not married to each other; that he agreed to rent rooms to the agents so that, ostensibly, they could bring their "girls" to the licensed premises and stay until 11:00 p.m. or midnight for the purpose of having sexual intercourse; that he had told them the licensed premises was "a safe place to bring girls to, that nobody bothered anybody, it's one of the better places, everybody is safe," and that he had told them that they should "be careful" in telling anyone of their activities at the licensed premises because "it would spoil a good thing" and that "we don't want any young kids to come in there because they get into trouble and they talk." He further admitted that he had told the agents that, if people renting rooms failed to sign the hotel register, he signed for them; that he had accepted nine one-dollar bills from one of the agents for the two rooms and the contraceptives, and that he had placed one of these bills in his pocket and the remaining eight bills in defendants' cash register. He claimed that his brother (Charles) had told him to be careful, to see that people sign the register and look for luggage, but admitted that only "sometimes" he looks for luggage. He confirmed his brother's statement that they close the place at midnight and, like his brother, claimed that some people stayed overnight but, in contradiction of his brother, said that defendants do not serve breakfast.

A search of the licensed premises revealed a hotel register which contained numerous entries, some of which purported to be names and addresses of persons who rented rooms but many of which were obviously fictitious or ludicrous. The search also revealed an

obscene object made of rubber, concealed in the cigar stand. Both Charles and Joseph endeavored to explain its presence upon the licensed premises by claiming that someone brought it in as a joke. Joseph produced from his pocket one of the marked one-dollar bills used by the agents as aforementioned and six of the other marked bills were found in defendants' cash register in the barroom.

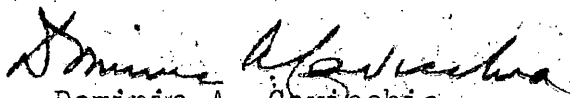
Immoral activities, of whatever nature, must be and are prohibited at licensed premises. Rule 5 of State Regulations No. 20. Certain types of immoral activities, including the shocking events and conditions hereinabove described, endanger society as a whole and, incidentally, constitute a grave threat to the alcoholic beverage industry itself. For a number of years the penalty for the renting of rooms to be used ostensibly for illicit sexual intercourse (and allied violations) has been a suspension of the license for 180 days. Re Schneider, Bulletin 892, Item 3; Re Hartman, Bulletin 904, Item 2; Re Molenaro, Bulletin 910, Item 1; Re Bertown Realty Corp., Bulletin 934, Item 6; Re Mazza, Bulletin 972, Item 1. Consequently, based upon such precedents, I shall suspend defendants' license for 180 days.

However, I am disturbed and distressed by the recent marked increase, as disclosed by the Division's records, in violations of this general nature. A prompt re-examination of the Division's policy with respect to the question of the adequacy of penalties imposed in such cases appears to be in order.

Accordingly, it is, on this 16th day of June, 1953,

ORDERED that Plenary Retail Consumption License C-37, issued by the Mayor and Council of the Borough of Fort Lee to Chas. Rossi & Ettore Fenaroli, for premises 362 Myrtle Avenue, Coytesville, Fort Lee, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. June 22, 1953; and it is further

ORDERED that if any license be issued to these licensees or to any other person for the premises in question for the 1953-54 licensing year, such license shall be under suspension until 3:00 a.m. December 19, 1953.


Dominic A. Cavicchia
Director.