

BULLETIN 1387

MAY 9, 1961

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

BULLETIN 1387

MAY 9, 1961

1. APPELLATE DECISIONS - GALASSO v. BLOOMFIELD.

EMMA GALASSO, trading as )  
PAULY'S, )  
Appellant )  
v. )  
TOWN COUNCIL OF THE TOWN OF )  
BLOOMFIELD. )  
Respondent. )

ON APPEAL  
CONCLUSIONS  
AND ORDER

-----  
Edmond J. Dwyer, Esq., Attorney for Appellant.  
Joseph D. Lintott, Esq., by Henry Sant'Ambrogio, Esq., Attorney  
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from respondent's action, on August 15, 1960, whereby it denied renewal of appellant's plenary retail consumption license for premises at 16 John Street, Bloomfield.

"Upon the filing of this appeal, the Director entered an order, dated August 23, 1960, extending the term of the 1959-60 license held by appellant pending entry of a further order herein. R.S. 33:1-22.

"After it had conducted a lengthy hearing upon written objections, respondent adopted the resolution denying the license for reasons which may be summarized as follows:

- (a) the licensee permitted disturbances, brawls and unnecessary noises in and upon the licensed premises.
- (b) the licensee permitted disturbances, brawls and unnecessary noises in and about the area surrounding the licensed premises.
- (c) patrons parked in front of private driveways and upon leaving the premises, used obscene language, awakened persons living in the neighborhood by loud and boisterous conduct and otherwise misconducted themselves.

"As to (a): A transcript of the evidence taken at the hearing below was introduced by respondent as an exhibit in this case. A review of said evidence and the additional evidence at the hearing herein discloses no evidence by the objectors that any disturbances or brawls occurred in and upon the licensed premises, although some objectors testified that they were occasionally disturbed by music from a juke-box. Various police officers (some of whom visited the premises almost every night) testified that they had never witnessed any disturbance or brawl or heard any unnecessary noises in and upon the premises. There is evidence that there was a serious brawl at 16 John Street on New Year's Eve, but I am satisfied that this occurred in a private apartment on the second floor of the building

and not upon appellant's premises.

"As to (b) and (c): Nearly all the evidence concerns alleged conditions on the outside but in the immediate vicinity of appellant's premises. These premises are located on a dead-end street, which has no curbs or sidewalks. The record shows that during the past year two or more of the objectors telephoned to the police on numerous occasions to complain that patrons' cars were blocking private driveways. This is primarily a policing problem and the police blotter shows that a summons was issued to the driver of the car on each of these occasions. The record also shows that eight persons, nearly all of whom have resided near the premises for many years, testified that, between October 1959 and July 1960, they have been frequently annoyed by the conduct of patrons leaving appellant's premises at or shortly before 2:00 a.m., the closing hour. Many of them testified that they have been awakened, particularly on week-ends, because of the excessive noises made by patrons as they walked from the premises to their cars. Many of them testified that the language then used by the patrons was filthy and obscene. Six of them testified that they frequently found empty beer bottles and whiskey bottles in the street or on private property. The police blotter discloses that a complaint of a disturbance near the premises was received on October 5, 1959 and that eleven similar complaints were received between April 25, 1960 and July 16, 1960. Nearly all of these complaints were received from the objectors herein. It is true that the police officers who were sent to investigate these complaints testified that, with one exception (on May 28, 1960), they found no evidence of any disturbance in the street. However, there was a lapse of time before the police officers arrived and the evidence is sufficient to establish that there were frequent disturbances on John Street near the premises and that these disturbances were caused by appellant's patrons.

"Various persons have held a license for the premises in question since Repeal. Appellant has held the license for said premises only since July 1959. She employs her husband, Paul Galasso, as manager. He testified at the hearing below that no disciplinary proceedings have ever been brought against the licensee; that one neighbor complained to him about his patrons and he told the patrons to be quiet as they leave; that one neighbor complained about noise from the juke-box and he turned it down; that he has no knowledge as to the alleged disturbances outside the premises.

"A licensee must keep his place and his patronage under control and is responsible for conditions outside and inside his premises. Seidel v. Upper, Bulletin 1246, Item 1. There is a possibility that appellant did not realize her responsibility for the conduct of her patrons while they are leaving the licensed premises. After reviewing all the evidence, I conclude that the situation in this case is quite similar to that found to exist in Freeland v. Roselle, Bulletin 352, Item 5; Vasto v. Highlands, Bulletin 622, Item 4; Monessen v. Lakewood, Bulletin 657, Item 1, and Salmanowitz v. Hightstown, Bulletin 807, Item 2, in all of which a denial of renewal was reversed. Appellant should be given one more opportunity to demonstrate her worthiness to hold a license. The objectors may request respondent to institute disciplinary proceedings at any time and may also object to renewal for the next licensing year if unsatisfactory conditions result from the further operation of appellant's premises.

"For the reasons aforesaid, it is recommended that an order be entered reversing the action of respondent, so that appellant may be given one more opportunity to demonstrate her worthiness to hold a license."

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

Having carefully examined the evidence and exhibits herein, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 23d day of March 1961,

ORDERED that the action of respondent be and the same is hereby reversed, and respondent is directed to issued a renewal of appellant's license in accordance with the application for renewal filed by appellant.

WILLIAM HOWE DAVIS  
DIRECTOR

2. APPELLATE DECISIONS - SHILOH BAPTIST CHURCH v. ATLANTIC CITY AND SHORE LANES, INC.

SHILOH BAPTIST CHURCH OF ATLANTIC CITY, )

Appellant, )

v. )

BOARD OF COMMISSIONERS OF THE CITY OF ATLANTIC CITY, and SHORE LANES, INC., t/a SHORE LANES, )

Respondents. )

ON APPEAL  
CONCLUSIONS  
AND ORDER

-----  
L. Milton Freed, Esq., Attorney for Appellant.  
Chaïm H. Sandler, Esq., Associate City Solicitor, Attorney for Respondent Board of Commissioners.  
Benjamin C. Kligerman, Esq., Attorney for Respondent Shore Lanes, Inc.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Board on September 20, 1960, whereby it granted a transfer of plenary retail consumption license C-232 from V.M. & S. Inc., t/a Famous Bar, to respondent Shore Lanes, Inc., and from premises 501 Pacific Avenue to a designated area in a building having an entrance at 1841 Garfield Place, Atlantic City. The transfer was granted subject to the conditions that the license shall not be transferred until Shore Lanes, Inc. is in full and legal possession of the premises and until said premises are completely renovated in accordance with plans and specifications filed with the application for transfer.

"The petition of appeal alleges that the action of the Board was erroneous for various reasons which may be summarized as follows:

- (a) there is no need for another plenary retail consumption license in the neighborhood;
- (b) the licensed premises would be near the Shiloh Baptist Church and Indiana Avenue public school;
- (c) a traffic hazard would result;

- (d) a large number of minors will patronize the proposed bowling alleys and it will be difficult to confine the sale and consumption of alcoholic beverages to a special room;
- (e) the same building was previously licensed to another licensee and residents of the neighborhood were annoyed by the manner in which said licensee conducted the business.

"The evidence given herein by Lawrence Sprecker, Secretary and Treasurer of Shore Lanes, Inc., discloses that said corporation has purchased a large one-story, dilapidated, building which has frontage on N. Ohio Avenue and also on Garfield Place; that extensive alterations are being made; that, when said alterations are completed, the building will contain fourteen bowling alleys, an enclosed cocktail lounge with "one-way" glass, and a children's recreation room. It appears from the evidence that the licensed premises will consist solely of the cocktail lounge, which will contain the bar and tables where patrons may eat. It further appears that persons entering the building at 1814 Garfield Place must go through the main lobby of the building and, if they desire something to eat or drink, must pass through another door in order to enter the enclosed cocktail lounge. Under these conditions it is clear that alcoholic beverages may not lawfully be served or consumed on the portion of the building occupied by the bowling alleys or the children's recreation room.

"On behalf of appellant, Rev. Thomas O. Mills (Pastor of Shiloh Baptist Church) testified that his church is near the proposed premises; that the members of his congregation are opposed to the transfer because of the number of licensed places in the area, the proximity of the church and the Indiana Avenue school, and the traffic congestion which may result because N. Ohio Avenue has heavy traffic at times and Garfield Place is very narrow. Theodore Threadgill testified that he is a trustee of Shiloh Baptist Church and that his objections are the same.

"Rev. William A. Blackwell, Pastor of Christ Memorial Church (located on N. Ohio Avenue, one block from the proposed premises), testified that he is opposed to the transfer because it will not contribute to the betterment of the neighborhood, which has juvenile delinquency problems.

"Rev. Matthew E. Neil, Pastor of Union Baptist Church (located about five blocks from the proposed premises), testified that he is opposed to the transfer because of the large number of bars 'on the North Side.'

"Herod E. McLeod, who resides about two blocks from the proposed premises, testified that he and his wife (a retired teacher) are opposed to the transfer. He testified that their objections are based upon the large number of taverns in the North Side area, the proximity of the school, the traffic hazard and the manner in which a licensed business was conducted by a former licensee in the same building.

"On behalf of respondent Board, Bernard F. Murphy (Supervisor of alcoholic beverage applications in Atlantic City) testified that a liquor license for the same building had been held by Waltz Dream Bar and Liquor Store from 1935 to 1955 when said license was transferred to premises located across the street on N. Ohio Avenue. He testified that in the same vicinity there are three other premises for which licenses have been issued, and that all may be classified as neighborhood bars.

"John A. O'Donnell (a member of respondent Board) testified

that a public hearing, at which the Mayor and the four Commissioners were present, was held after written objections to the application for transfer had been filed. He further testified that a conference was held immediately after the hearing and the application granted by unanimous vote. He testified that the members of the Board felt that 'in this type of operation the North Side would gain through what would be considered a fine sport set-up' and considered the plans which indicated that there would be no direct entrance from the street to the licensed premises.

"Considerations of undue concentration of licensed liquor premises in the area, possible traffic hazard and proximity to churches or schools, are matters entrusted to the sound discretion of the issuing authority. Miles et al. v. Paterson et al., Bulletin 1306, Item 2. The contention as to undue concentration of licenses would carry much more weight if it appeared that the proposed premises were to be operated as a neighborhood bar but, since there is no direct entrance from the street, it appears that the licensed premises will be used principally by those visiting the premises to bowl. There is no evidence that the proposed premises are within two hundred feet of any church or school and no evidence from which it may be concluded that the premises will be improperly conducted by respondent licensee.

"After reviewing all the evidence and the exhibits herein I conclude that appellant has failed to sustain the burden of proof in showing that the action of respondent Board was erroneous. Rule 6 of State Regulation No. 15; Triangle Corporation et al v. Camden et al., Bulletin 1276, Item 1; Peska et al. v. Trenton, et al., Bulletin 1333, Item 5; Tozzi's Tavern, Inc. v. Plainfield et al., Bulletin 1349, Item 1 (affirmed 65 N.J. Super. 286 (App. Div. 1961).)

"For the reasons aforesaid, it is recommended that an order be entered affirming the action of respondent Board of Commissioners and dismissing the appeal."

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

Having carefully considered the evidence and exhibits herein, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 27th day of March 1961,

ORDERED that the action of the respondent Board of Commissioners be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS  
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES  
 (RENTING OF ROOMS FOR PURPOSE OF ILLICIT SEXUAL INTERCOURSE)  
 LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary	)	
Proceedings against	)	
MARTIN A. PETRUCELLI	)	CONCLUSIONS
t/a COLUMBIA HOTEL	)	AND ORDER
Corner Decatur St. & Columbia Ave.	)	
Knowlton Township	)	
P.O. Columbia, N. J.	)	
Holder of Plenary Retail Consumption	)	
License C-1 issued by the Knowlton	)	
Township Committee.	)	

-----  
 Robert W. Wolfe, Esq., Attorney for Defendant-licensee.  
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic  
 Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charge:

'On September 24, October 5 and 6, 1960, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of arrangements for the renting of rooms, the offering to rent and the renting of rooms for the purpose of illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20.'

"To substantiate the charge, the Division called as its witnesses the ABC agents who participated in the investigation of defendant's licensed business. They will be referred to hereinafter as Agents F, O, N and V. The testimony of Agents F and O is substantially the same and may be summarized as follows: At 12:30 a.m., Saturday, September 24, 1960, Agents F and O entered defendant's licensed premises and took seats at the bar about eight or ten feet from the nearest of nine patrons who were being served by Martin Petrucelli, the licensee. Petrucelli approached the agents and after filling their order, engaged them in friendly conversation during which Agent F asked him if he had any rooms available stating that 'we got a couple of married broads lined up and we are looking for a place where we could throw them a fast bang'. Petrucelli replied, 'Sure, I got plenty of rooms'. When asked what he charged for a room he said, 'You guys, \$3; anybody else, \$5'. Agent F then informed him that the women didn't want to be seen in the barroom and inquired if there was any other way of getting upstairs other than coming through the barroom. Petrucelli said, 'Well, we have a front entrance which leads into the hotel'. As they were leaving, Agent F then asked Petrucelli what the best time of night was to get there and he replied, 'Monday we're closed and I'm off Saturdays. Whenever you're ready, you come to see me'.

"At 11:45 p.m., Wednesday, October 5, 1960, the aforesaid agents together with Agents N and V, the local police chief and a patrolman, arrived in the vicinity of defendant's premises. Agents F and O entered the barroom and were greeted by Petrucelli with 'Where have you fellows been. I have been expecting you'. Agent F explained

that they had been very busy but that they had made arrangements with the two married 'broad's' to meet them at the hotel that night. Petrucelli then escorted the agents upstairs and handed each of them a towel and assigned them to Rooms 6 and 7 remarking, 'They are not fancy, fellows, but at least they are clean'. Thereafter the trio returned to the barroom where each agent purchased two drinks, one plain whiskey and the other a fancy concoction, and each handed Petrucelli three dollar-bills, the serial numbers of which had been previously recorded. Petrucelli put the money on the back bar. As the agents, one of whom was carrying a tray with the four drinks, were proceeding up the stairs to their assigned rooms, Agent O asked Petrucelli who was unlatching the door leading into the lobby, if they had to register and Petrucelli replied, 'You're supposed to, but it's all right, forget about it', and when Agent O asked him if he had any 'rubbers' he said, 'No, I don't'. At 12:20 a.m., Agent F, responding to a knock on the door of Room 7, saw in the hallway Agents N and V, the police chief, the patrolman and Petrucelli. Agent N interrogated Agent F as to what he was doing there; for what purpose he rented the room; from whom he rented the room; the price he paid for the room; and if he told Petrucelli that he was taking a woman other than his wife to the room. Agent F replied that he was waiting for his 'broad' to have sexual relations with her; that he paid Petrucelli \$3 for the room and told him that he was taking his girlfriend there. The aforesaid group and Agent F then proceeded to Room 6 where Agent N interrogated Agent O in like manner and received answers similar to those given by Agent F. The group, including Agent O, proceeded downstairs where Petrucelli produced the agents' rental money but refused to give a signed statement saying, 'No, I'd rather consult my attorney'.

"Witnesses appearing on behalf of defendant were Ward Kinney, Michael Gometro, Eula Stone and the licensee himself. Mr. Kinney testified that he was a patron in defendant's establishment on the night of October 5, 1960; that he saw the agents there and heard them ask Petrucelli if he had rooms; that Petrucelli said that he had and 'that's all I heard because it wasn't any of my business what he was doing. He talked to them a little while and he came back and took care of some more customers'.

"Mr. Gometro and Miss Stone testified that they were in defendant's barroom on the night of October 5, 1960 and saw the agents there but didn't hear any of the conversation between Petrucelli and the agents.

"Martin Petrucelli testified that the agents on their first visit asked him if he had rooms and when he told them that he had rooms they 'asked me if it would be possible to have rooms at a later date to which I said yes, mentioning nothing about coming up with the purpose to use my rooms for intercourse, sexual intercourse'; that when the agents visited his premises on October 5, 1960, 'I greeted them and asked them what they would like to drink'; that when he served them, 'they asked me if I had rooms. I said, "Yes, I have" and they said, "Well, can we get a couple of rooms tonight?" and I said, "Sure you can"; that thereafter he showed them two rooms and one bathroom upstairs and when they returned to the barroom one of the agents asked if they should register and 'I said, "Well, you can register later on"'. The agents then told him that they knew these married women and were expecting them to come over and they asked if he had a front door; that he told them he had and that it was open 'and then I told them if the girls did come, if they come, I would go up and call them from their rooms. They gave me \$3 apiece for two single rooms and ordered two drinks, one I knew was Creme de Menthe and the other Blackberry Brandy and lemon soda'; and that he gave them a tray to put the drinks on. He testified further that there are fifteen rooms in the hotel; that he charges \$5 for double rooms and \$3 for

single rooms; that he rented two single rooms each having a single bed to the agents and that he didn't rent the rooms for the purpose of illicit sexual intercourse.

"Having carefully considered the evidence adduced herein and having had the opportunity to judge the credibility of the witnesses, I find that the testimony of the agents rather than that of the licensee, convincingly portrays the incidents and conversations which occurred in and upon the licensed premises on the dates alleged, and that the agents imparted to the licensee that they ostensibly intended to use the rooms for the purpose of engaging in sexual intercourse therein. The violation charged herein, viz., permitting and suffering lewdness and immoral activity in and upon the licensed premises, was complete when the rooms were rented with the knowledge on the part of the licensee that they were (ostensibly) to be used for the purpose of illicit sexual intercourse and it is immaterial that the apprehended evil was not actually consummated.

"In affirming an order of suspension by the Director in a case involving a similar factual situation, Judge Jayne, In the Matter of the Appeal of Sam Schneider, 12 N.J. Super. 449 (App.Div. 1950) 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.' Judge Jayne further states therein: '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.'

"In view of the aforesaid, I conclude that the Division has established the truth of the charge alleged herein by more than a fair preponderance of the believable evidence and I recommend that an order be entered finding defendant guilty as charged, and suspending his license for a period of one hundred eighty days. Re Juhls, Bulletin 1337, Item 3."

Written exceptions to the Hearer's Report and written argument with respect thereto were filed with me by defendant's attorney within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of testimony, the Hearer's Report and the written exceptions and argument filed herein, I concur in the Hearer's findings and conclusions and shall adopt his recommendation.

Accordingly, it is, on this 27th day of March, 1961,

ORDERED that Plenary Retail Consumption License C-1, for the 1960-61 licensing year, issued by the Knowlton Township Committee to Martin A. Petrucelli, t/a Columbia Hotel, for premises Corner Decatur St. and Columbia Ave., Knowlton Township, be and the same is hereby suspended for one hundred and eighty (180) days, to commence at 7:00 a.m., Monday, April 3, 1961, and to remain in effect until the expiration of said license at midnight, June 30, 1961; and it is further

ORDERED that any renewal or transfer of said license shall be and remain under suspension until 7:00 a.m., Saturday, September 30, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

4. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1960 TO MARCH 31, 1961 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Number Surrendered Revoked Expired	Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	486	\$ 208,160.00	72	\$ 27,625.00	28	\$ 2,595.00						586	\$ 238,380.00
Bergen	812	308,002.67	301	88,457.00	126	11,593.21	52	\$ 2,451.50	5	\$ 1,398.75	5	1291	411,903.13
Burlington	189	83,377.50	42	13,103.34	47	6,650.00	1	50.00				279	103,180.84
Camden	454	222,130.55	82	35,165.00	80	7,694.66			1	375.00	2	615	265,365.21
Cape May	137	77,200.00	12	4,500.00	18	2,150.00					1	166	83,850.00
Cumberland	79	40,250.00	15	4,200.00	30	4,060.00						124	48,510.00
Essex	1341	759,710.00	350	210,212.00	167	14,683.49	28	1,400.00	2	1,500.00	1	1827	987,505.49
Gloucester	108	38,650.00	15	3,820.00	23	2,027.26						146	44,497.26
Hudson	1524	689,724.00	298	122,400.00	84	10,051.64	63	2,700.00			2	1967	824,875.64
Hunterdon	79	28,100.00	11	3,810.00	10	1,100.00						100	33,010.00
Mercer	421	261,210.00	51	22,020.00	58	8,288.22			1	123.93	1	530	291,642.15
Middlesex	631	312,605.00	80	26,045.00	108	9,317.39	4	200.00				823	348,167.39
Monmouth	556	289,827.08	122	42,970.00	49	5,413.99	10	435.00	26	11,906.13	27	736	350,552.20
Morris	355	137,215.00	103	35,935.68	60	5,341.79	16	800.00	4	1,200.00	4	534	180,492.47
Ocean	194	106,601.21	48	20,005.00	31	3,600.00					1	272	130,206.21
Passaic	863	354,787.33	168	51,535.28	41	5,115.00	6	300.00			1	1077	411,737.61
Salem	50	19,400.00	8	1,600.00	20	1,675.00						78	22,675.00
Somerset	188	85,565.00	41	12,695.00	30	3,500.00						259	101,760.00
Sussex	165	45,205.00	21	4,185.00	11	645.00	1	50.00	1	225.00	1	198	50,310.00
Union	550	312,340.00	144	67,320.00	75	8,485.59	29	1,425.00				798	389,570.59
Warren	149	44,311.70	21	5,270.00	27	3,025.00					2	197	52,944.44
Total	9331	\$ 4,424,372.04	2005	\$ 802,873.30	1063	\$117,012.24	210	\$9,811.50	42	\$17,066.55	48	12603	\$5,371,135.63

William Howe Davis  
Director

April 17, 1961

5. STATE BEVERAGE DISTRIBUTOR'S LICENSE - OBJECTIONS TO TRANSFER - TRANSFER GRANTED SUBJECT TO CONDITIONS IMPOSED.

In the Matter of Objections to the Extension of State Beverage Distributor's License No. 97 held by )

SANFORD KALB )  
t/a KALB BEVERAGE COMPANY )  
Addison Lane )  
Howell Township, N. J. )

CONCLUSIONS

-----  
Leo J. Berg, Esq., Attorney for Applicant.  
Joseph H. Cook, Howard C. Julian, and Emma Julian, Objectors, Pro se.  
James P. Jeck, Esq., Attorney entering appearance for objectors subsequent to hearing.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Because written objections had been filed to the transfer of applicant's state beverage distributor's license to include a salesroom at his residence on Addison Lane, Howell Township, a hearing was held at this Division.

"It appears that applicant has a warehouse and salesroom at Route 9, Howell Township, but desires the salesroom be transferred to his private dwelling on Addison Lane, Howell Township, so that he may use the telephone in his home to accept orders for alcoholic beverages.

"Two objectors who reside in the area testified that if the application in question were granted, they were of the opinion that it would constitute a violation of an existing zoning ordinance.

"The Township Committee of the Township of Howell, after receipt of notice from this Division of the nature of the application in question, filed a certified copy of a resolution of said governing body which reads as follows:

'WHEREAS, Sanford Kalb has made application to the Division of Alcoholic Beverage Control for transfer of a presently held State Beverage Distributors License #97 to include a sales room at Addison Lane, Howell Township, Monmouth County, New Jersey (said address being the residence of the said Sanford Kalb), and

WHEREAS, numerous objections have been made to the Township Committee of the Township of Howell with respect to said request, and

WHEREAS, under the existing license now held by Sanford Kalb, he has permission to have a warehouse and sales room under said license at Route 9, Howell Township, Monmouth County, New Jersey, where said business is permitted by the zoning ordinances of the Township, and

WHEREAS, the Division of Alcoholic Beverage Control has requested the sentiment of the governing body of the Township of Howell with respect to the present application now pending before it,

NOW, THEREFORE, BE IT RESOLVED, that the governing body of the Township of Howell feels that it should be called to the attention of the Division of Alcoholic Beverage Control, which is the final authority in respect to the issuance of the license requested, that the residence of the said Sanford Kalb is located in a residential zone of the Township, at which no business is permitted except the existing business of the said Sanford Kalb located thereat for the sale of soda water and soft drinks, which is permitted as a non-conforming use, and that the permission to carry on any business at said residence other than this would appear to, perhaps, give to the applicant more than one sales room, contrary to R.S. 33:1-11.

BE IT FURTHER RESOLVED that a copy of this Resolution, certified as such under the seal of the Township and the hand of the Township Clerk, be forthwith transmitted to the Division of Alcoholic Beverage Control, and a copy be forwarded to Sanford Kalb, the applicant.'

"At the hearing herein, no one appeared for or on behalf of the Township Committee.

"Applicant's request to have his license extended to his residence for the purposes indicated is strictly technical in order to comply with the provisions of the statute. Applicant presently uses the telephone in his home for accepting orders for his soft drink business. There appears to be no valid reason why he should not be permitted to use the telephone in his home to accept orders in connection with his state beverage distributor's license.

"I recommend applicant's state beverage distributor's license be extended to include his residence on Addison Lane, Howell Township, as a salesroom with an express condition inserted in his license that no storage of or traffic in alcoholic beverages used in his business be permitted at such residence.

"In view of the aforesaid recommendation and insufficiency of the evidence, it appears unnecessary to pass on the applicability of the zoning ordinance."

Written exceptions and written argument with reference thereto were filed with me by the attorney for and on behalf of the objectors, and written answering argument was filed with me by the attorney for the applicant.

I have carefully considered the entire record in this case, including the transcript of testimony, the Hearer's Report, the exceptions filed herein and the written arguments of the attorneys. I concur in and adopt the conclusions set forth in the Hearer's Report as my conclusions and as recommended by the Hearer, I shall approve applicant's application for the transfer in question to extend applicant's present license so as to include his residence on Addison Lane, Howell Township, for use as a salesroom with a specific condition to be inserted in his license that said salesroom be used solely for the purpose of accepting orders for alcoholic beverages by telephone and for no other purpose whatsoever insofar as the privileges of his license are concerned.

WILLIAM HOWE DAVIS  
DIRECTOR

Dated: March 22, 1961

6. DISCIPLINARY PROCEEDINGS - SELLING AND FAILING TO CLOSE PREMISES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

GEORGE W. TONKS t/a TURK'S 315 Main Street Little Ferry, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Mayor and Council of the Borough of Little Ferry. )

----- John F. McCann, Esq., Attorney for Defendant-licensee. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On Saturday, February 25, 1961, between 3:00 A.M. and 3:30 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 upon your licensed premises; in violation of an Ordinance adopted by the Mayor and Council of the Borough of Little Ferry on January 29, 1945.
"2. On Saturday, February 25, 1961, between 3:00 A.M. and 3:30 A.M. you failed to close your entire licensed premises and have them remain closed; in violation of Section 1 of an Ordinance adopted by the Mayor and Council of the Borough of Little Ferry on January 29, 1945.
"3. On Saturday, February 25, 1961, at about 3:28 A.M. you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., a pint bottle of Four Roses Whiskey, at retail, in its original container for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverage in its original container from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

At about 1:15 a.m. on Saturday, February 25, 1961, two ABC agents entered the defendant's licensed premises wherein they observed eight males and one couple seated at the bar. Shortly thereafter the licensee (George W. Tonks) relieved Jerry (the regular bartender) and proceeded to serve drinks to the patrons present.

At 3 a.m. the agents ordered drinks which were served by the licensee who continued to serve other patrons at the bar. At 3:15 and at 3:20 the agents ordered additional drinks and the licensee continued to serve them. At 3:28 Agent R purchased a pint of Four Roses Whiskey from the licensee and left the premises with the whiskey. Two other ABC agents observed this purchase from outside the premises. Agent R and the other agent entered the premises and identified themselves. The licensee at this point orally admitted

the violation to the agents, but refused to execute a written statement.

The local ordinance establishes the closing hour for the sale of alcoholic beverages at 3 a.m., prohibits the sale thereof after 3 a.m., and provides that the premises must remain closed after that time. Rule 1 of State Regulation No. 38 prohibits the sale of alcoholic beverages in their original containers for off-premises consumption after 10 p.m. on weekdays.

Defendant has no prior adjudicated record. Where, as here, there are separate violations of the local ordinance and State Regulation, a separate penalty for each violation is imposed. I shall suspend defendant's license for fifteen days on Charges 1 and 2 (Re Cappy's Hideaway Inc., Bulletin 1377, Item 9), and for fifteen days on Charge 3 (Re Constantino and Lynch, Bulletin 1285, Item 2). Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 27th day of March 1961,

ORDERED that Plenary Retail Consumption License C-9, issued by the Mayor and Council of the Borough of Little Ferry to George W. Tonks, t/a Turk's, for premises 315 Main Street, Little Ferry, be and the same is hereby suspended for twenty-five (25) days, commencing at 3 a.m. Monday, April 3, 1961, and terminating at 3 a.m. Friday, April 28, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

- 7. DISCIPLINARY PROCEEDINGS - SALE FOR OFF-PREMISES CONSUMPTION IN OTHER THAN PUBLIC BARROOM BY HOLDER OF PLENARY RETAIL CONSUMPTION LICENSE WITHOUT BROAD PACKAGE PRIVILEGE - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO APPLY FOR LIFTING OF SUSPENSION AFTER UNLAWFUL SITUATION CORRECTED.

In the Matter of Disciplinary Proceedings against  
SPARTA ASSOCIATES, INC.  
3 Center Street  
Sparta, N. J.  
Holder of Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Sparta.

CONCLUSIONS  
AND ORDER

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James F. McGovern, Jr., Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On May 6, 1960 and prior thereto you, the holder of a plenary retail consumption license, sold and displayed for sale alcoholic beverages in original containers for off-premises consumption not from and in a public barroom of your licensed premises without having the so-called broad package privilege notation on your then current license certificate and a statement in the application for your then current license as respectively set forth in Rules 4 and 2 of State Regulation No. 32; in violation of Rule 6 of State Regulation No. 32."

At 7:25 p.m. on Friday, May 6, 1960 an ABC agent arrived in the immediate vicinity of premises operated by defendant by virtue of a plenary retail consumption license (without the broad package privilege) issued to him by the Township Committee of Sparta. The agent observed that between the time of his arrival and 9:19 p.m. a clerk in defendant's premises made sales of alcoholic beverages for off-premises consumption to fifteen persons, while during that time no one purchased alcoholic beverages for consumption on the premises. At 9:30 p.m. the agent entered the establishment and purchased a quart bottle of beer from Erwin Valle, president of defendant corporate-licensee. The agent left the premises but returned immediately and identified himself to Valle, who advised him that defendant has operated the premises since October 11, 1959; that an eight-foot V shaped bar formerly located to the right of the front entrance was removed and that a six-foot straight bar was installed at the rear of the premises.

The agent observed that there were no stools at the bar and that there were no bar taps behind the bar. Adjacent to the front entrance there is a comparatively large window where bottles of alcoholic beverages are displayed and beginning at the entrance the two side walls have six tiers of shelving running to the rear of the premises upon which shelves are displayed various kinds of wines and liquor. Although there is a sink with faucets of hot and cold water under the bar, the agent stated that the so-called bar appeared to be in the nature of a service counter found in package-goods stores.

It is apparent that defendant by the alteration in the premises had attempted to minimize the fact that alcoholic beverages could be obtained for on-premises consumption and to emphasize that the establishment catered to those wishing to purchase alcoholic beverages in original containers for off-premises consumption.

Defendant has no prior adjudicated record. Since it appears that the unlawful situation continues to exist, I have no alternative except to suspend the license for the balance of the term. However, I shall entertain an application by verified petition to lift the suspension herein imposed if and when the unlawful condition is corrected, but under no circumstances will said suspension be lifted until after ten days from the effective date thereof. Re Kessler, Bulletin 1283, Item 10; Re Faller Bowl O'Drome, Inc., Bulletin 959, Item 8.

Accordingly, it is, on this 27th day of March, 1961,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Sparta to Sparta Associates, Inc., for premises 3 Center Street, Sparta, be and the same is hereby suspended for the balance of its term, expiring at midnight, June 30, 1961, effective at 2:00 a.m., Monday, April 3, 1961, with leave to file, as aforesaid, a petition to lift said suspension.

WILLIAM HOWE DAVIS  
DIRECTOR



participated in the gambling activity. There is no doubt, however, that he permitted the gambling activity on his premises. Under these circumstances, I shall suspend defendant's license for twenty days. Re J. & W. Bar, a Corp., Bulletin 1359, Item 3, and cases therein cited. Five days will be remitted for the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 28th day of March 1961,

ORDERED that Plenary Retail Consumption License C-278, issued by the Board of Commissioners of the City of Trenton to Nicholas Delgaudio, t/a Willow Grill, for premises 156 North Willow Street, Trenton, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Tuesday, April 4, 1961, and terminating at 2 a.m. Wednesday, April 19, 1961.

WILLIAM HOWE DAVIS  
DIRECTOR

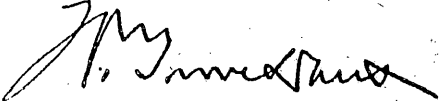
9. STATE LICENSES - NEW APPLICATIONS FILED.

Burns-Hullings Beverage Company  
Southeast Side Route #130 & Hartford Road  
Delran Township, Riverside, New Jersey  
Application filed April 26, 1961 for person-to-person transfer of State Beverage Distributor's License SBD-213 from Roy Hullings, Incorporated.

Narragansett Brewing Company  
t/a G. Krueger Brewing Company  
744 Broad Street  
Newark, New Jersey  
Application filed April 28, 1961 for place-to-place transfer of Limited Wholesale License WL-22 from Cranston Street at Garfield Avenue, Cranston, Rhode Island.

William Prendergast  
t/a Suburban Beverage Distributors Co.  
631 West Christopher Street  
Orange, New Jersey  
Application filed May 2, 1961 for person-to-person transfer of State Beverage Distributor's License SBD-42 from Rocco A. Spano and Arthur Manno, t/a Suburban Beverage Distributors Co.

American B. D. Company  
62 Fifth Avenue  
Hawthorne, New Jersey  
Application filed May 8, 1961 for place-to-place transfer of Plenary Wholesale License W-52 from 337 Market Street, Paterson, New Jersey

  
William Howe Davis  
Director

New Jersey State Liquor