

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

BULLETIN 1536

NOVEMBER 13, 1963

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1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY
(ROOM RENTING) - SALE IN VIOLATION OF STATE REGULATION
NO. 38 - ALLEGED ENTRAPMENT - PRIOR DISSIMILAR RECORD -
LICENSE SUSPENDED FOR 200 DAYS.

In the Matter of Disciplinary)
Proceedings against)

MELLO-D-CLUB, INC.)
t/a Mello-D-Club)
606 Livingston St.)
Elizabeth, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-82, issued by the City)
Council of the City of Elizabeth.)

Sarcone & Mascia, Esqs., by Emil E. Mascia, Esq., Attorneys for
Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"Licensee pleaded not guilty to the following charges:

- '1. On May 14 and 29, 1963, 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.
- '2. On Tuesday, May 14, 1963 at about 11:35 p.m. and Wednesday, May 29, 1963, at about 11:30 p.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, at retail, in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38.'

"Three ABC agents participated in the investigation of licensee's licensed premises which resulted in the preferment of the above charges for alleged violation of the Alcoholic Beverage Law. Testimony of Agent D may be summarized as follows: On May 14, 1963, he entered the subject premises in the company of Agent H and they seated themselves at the bar in the rear room where the dance floor is located. Agent S remained on the outside of the premises.

"The tavern consists of two rooms. The front room contains the barroom which has an oval-shaped bar, organ, tables and chairs, television set, a coat checkroom and a juke box. This is separated by a foyer from the rear room which is known as the club room. This room contains an L-shaped bar, a raised platform where an orchestra performs, a small dance area, tables and chairs.

"The witness engaged in a conversation with Joseph Oliveri, the president and the major stockholder of the corporate licensee (hereinafter known as Joe), with whom he had become friendly as a result of previous visits at the licensed premises. He informed Joe that he and his friend had dates with two married women for that night and had planned to take them to a motel. Joe then advised him that five of the rooms in the adjacent building owned by him had now been completely renovated and that perhaps he would prefer taking them to this house rather than to a motel.

"The agent then excused himself and made what purported to be a telephone call. Upon returning, he told Joe that the girls were prepared to come to this house but that final arrangements could not be made until after eleven o'clock at night because their husbands left for work at that time. Shortly thereafter Joe returned and again informed him that these rooms were ready but that the halls were littered and the plaster on the walls was still wet. It was agreed that they would take a 'rain check' and return at a subsequent occasion. Before departing at about 11:45 p.m., Joe sold this agent a bottle of gin for off-premises consumption. They thereupon departed the premises on this occasion at 11:50 p.m.

"This agent returned to the premises at 10:30 p.m. on May 29 in the company of Agents S and H. Agent S remained at a nearby phone booth on the outside of the premises, and this agent entered the premises with Agent H. He came fortified with two five-dollar bills, the serial numbers of which had been previously recorded on that day. Each agent had one of these marked bills in his possession. They seated themselves at the bar in the front room of the premises and were serviced by a woman, later identified as Clare Ciambuschini (hereinafter Clare). There were about twelve persons in the barroom and the patronage thereafter increased to about fifteen.

"Shortly thereafter Joe entered this room and engaged in conversation with the agent. Joe informed them that the rooms in the house were now fully completed and invited them to inspect them, which they did. Upon their return to the barroom Agent S confided that he and his 'friend' had dates with two married women, and Joe suggested that it would be better that he meet these women in the house rather than at the bar. The agent then left to make a telephone call and communicated with Agent S, who was at a prearranged phone booth nearby, to inform him of the plans.

"When he returned, he assured Joe that everything had been arranged and was then advised that Rooms #3 and #4 in the adjacent rooming-house had been made available. The agent then paid Joe for a bottle of gin which Joe promised to send over to the room. Both agents paid the \$5 marked bills and were told that it was not necessary to sign a register; that in fact Joe had no register for the house. It was also clearly stated to Joe that the purpose of engaging the rooms was to have intercourse with these two married females, and that they would

probably be there for a very short time.

"Clare, who was then tending bar, participated in the conversation and was made aware of the fact that these rooms were intended to be used for the purpose aforesaid.

"The agent shortly thereafter went to Room #3 and found a bottle of gin, four glasses and a cold bottle of orange soda on the dresser. About ten minutes later Agent S opened the door of this room and stood there in the presence of Detective McGuire of the local Police Department, and Joe. He was questioned as to the reason for his being there and, when he explained that he was waiting for a married 'date', he was asked to point out who rented the room to him. He pointed to Joe, and Joe made no comment.

"Agent S then questioned him as to the gin and this witness stated that he had purchased the gin from Joe at 11:30 that evening. Joe then interjected, 'Nine-fifteen.' They then proceeded to Room #4 and the same procedure was followed. When they thereupon identified themselves as ABC agents, Joe said, 'You set me up. You ruined me. You know this will cost me my business.' He added, in a melancholy voice, 'Why didn't you tell me?'

"On cross examination the agent's testimony was substantially unshaken and he re-asserted that the solicitation for the use of the house was at the invitation of Joe, and not at his own initiative. He admitted that, of course, no women came to his room nor did he intend to carry out the arrangement; he was merely following his instructions in pursuing the investigation as an ABC officer.

"It is stipulated that the testimony of Agent H, now called as a witness, would be the same as and corroborative of that of Agent D on direct examination. There was no significant cross examination of this witness.

"Agent S similarly corroborated in part the testimony of the prior two witnesses and added the following: On May 29, 1963, he remained on the outside of the premises while the other two agents entered and engaged in the activity heretofore delineated. He was shortly thereafter joined by Detective McGuire of the local Police Department, and at 11:45 p.m. he observed the two agents leave the licensed premises and enter the rooming-house. Immediately thereupon, in the company of Detective McGuire, he entered the licensed premises and interrogated Joe with reference to the other two agents and the renting of rooms. When questioned about the other two witnesses who entered the rooming-house, Joe explained as follows: 'Oh, those two guys! I did them a favor. They asked me if they could stay overnight, and I let them.'

"He was then asked to accompany Agent S and, in the parking lot adjacent to the rooming-house, he was asked to remove the two five-dollar bills from his pocket. An examination disclosed that they were the identical bills which had been previously marked and the serial numbers recorded. The three men then entered the rooming-house and a confrontation took place as hereinabove described. It was stipulated by counsel that this witness' testimony would be corroborative of the testimony of the prior witnesses with respect to the confrontation in the house.

"On cross examination this witness asserted that Joe had admitted to him that he had rented these rooms for immoral purposes. Joe was very much upset about this incident at police headquarters, and said, 'Why didn't you inform me about it? You could have. I am willing to shape up. I wouldn't get in this trouble.' He was, of course, informed that this would be against this Division's regulations.

"Joseph Oliveri (the president and major stockholder of the corporate licensee) substantially denied the allegations contained in the testimony of the Division's witnesses. He described in detail the large expenditures of money and effort in remodeling the two-family house and converting it into a furnished rooming-house. The fact is that, even as of the time of the hearing, the renovations were not fully completed.

"He admitted that he had no guest register for this house; that he advertised in the local press for tenants, and that he did indeed rent the rooms to the agents. His version regarding the rental to the agents is as follows: He had known these agents as the result of several visits that they had made to the licensed premises and became quite friendly with them. Agent D told him that he was having trouble at home and that he didn't want to go home on May 29. Accordingly he made arrangements for both agents to stay at the house. There was never any discussion about women, nor did he rent these rooms with the idea of having them entertain females. He further denied the conversations as testified to by Agent S. He categorically denied the conversations that took place regarding the purpose of his renting rooms to the agents, but admitted on cross examination delivering the bottle of gin to Agent D's room. However, he did not recall what time it was: 'If I looked at the time, that bottle would never have went out of the place.' He also stated that, in addition to taking the bottle of gin to this agent's room, he took a bottle of soda and two glasses (the agent had heretofore testified that he had taken four glasses to the room). He also admitted that each of these agents gave him \$5 apiece for the rental of the rooms. He was then asked the question 'Did you also say, "If they had only told me I was doing wrong I would have stopped it"?'
A I wasn't doing anything wrong. Q Did you say that to S---?
A I don't know if I said anything like that.'

"At the conclusion of the hearing counsel for licensee requested an opportunity to present a written memorandum in lieu of oral summation. However, by letter dated July 26, 1963, counsel informed me that he does not desire to present a memorandum but would 'like to reserve the right to offer a letter in mitigation of the punishment that will be given to this licensee.' It should, in fairness, be noted, of course, that the letter sets forth the position of licensee that the Division has 'failed to establish, under the rules and regulations of the ABC, that licensee did permit the renting of rooms for immoral purposes in violation of Rule 5 of State Regulation No. 20.'

"The testimony herein presents a conflict between the testimony of the Division's witnesses and that of Joseph Oliveri, the witness on behalf of the corporate licensee. I am fully satisfied and find as a fact that the testimony of the Division's witnesses is credible, forthright and accurately portrays the situation that existed on the dates alleged in the charges. I do not believe that the ABC agents who testified

were in a conspiracy, and I am convinced that their version is a true version of what actually transpired.

"I have observed the demeanor of the witness for the licensee on the stand and am convinced that he was less than forthright. My analysis of his testimony convinces me further that his testimony is a most incredible one and inconsistent with human experience.

"It is also important to observe that Clare, who was present at the time alleged in the charge and who participated in some of the alleged conversations, was not called upon to testify by the licensee although she was actually present in the court room during these proceedings. The failure of the licensee to call her to so testify might reasonably raise an inference that she could not truthfully deny the charge of the incidents as testified to by the Division's witnesses.

"Counsel, during the hearing and in his letter hereinabove referred to, energetically contends that '...there definitely was no cause for the investigators to set this licensee up the way they did, in the interest of fair play and justice.' The facts as developed strongly argue to the contrary. There is nothing that the agents did that entrapped the licensee. The clear fact is that Joe invited the agents to use his facilities with the full knowledge that the agents intended to use them for immoral purposes. He was interested in renting the rooms for the price set by himself, and clearly acted on his own initiative. Accordingly this argument must be rejected. Cf. Re Highlander Hotel Corp., Bulletin 1475, Item 1.

"Another argument advocated by counsel during the hearing was that no women were actually present in the rooms nor did the agents have any intention of engaging in illicit intercourse. A similar factual situation was disposed of In the Matter of the Appeal of Sam Schneider, 12 N.J. Super. 449 (App.Div. 1950) wherein Judge Jayne, speaking for the Court, 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....

* * * *

'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.'

"With respect to the second charge, Joe frankly admitted that he delivered the bottle of gin to Agent D's room after-hours and stated that, had he noted the time, he would not have

made that delivery.

"I am satisfied that the Division has proved these charges by a fair preponderance of the believable evidence, and indeed by substantial evidence. I therefore recommend that an order be entered adjudging the licensee guilty of the two charges preferred herein.

"The licensee has a prior adjudicated record. Effective February 3, 1958, its license was suspended by the Director for ten days for permitting indecent (double entendre) recordings to be played on the premises. Re Mello-D-Club, Inc., Bulletin 1213, Item 6. Effective January 3, 1961, its license was suspended by the Director for thirty-five days for (a) sales to an intoxicated person and (b) conducting business as a nuisance, including 'B' girl, hostess activity, 'clipping' and 'bad' language. Re Mello-D-Club, Inc., Bulletin 1380, Item 6.

"It is further recommended that an order be entered suspending the license on charge (1) for a period of one hundred eighty days (Re Highlander Hotel Corp., supra), and for an additional fifteen days on charge (2) (Re Krainski, Bulletin 1525, Item 6), to which should be added five days for the record of suspension for the previous dissimilar violation within the past five years (Re Brookside Tavern, Inc., Bulletin 1518, Item 6), making a total suspension of two hundred days."

No exceptions were taken to the Hearer's Report within the time limited by Rule 6 of State Regulation No. 16.

After carefully considering the evidence in the case, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 19th day of September, 1963,

ORDERED that Plenary Retail Consumption License C-82, issued by the City Council of the City of Elizabeth to Mello-D-Club, Inc., t/a Mello-D-Club, for premises 606 Livingston Street, Elizabeth, be and the same is hereby suspended for two hundred (200) days, commencing at 2:00 a.m. Thursday, September 26, 1963, and terminating at 2:00 a.m. Monday, April 13, 1964.

EMERSON A. TSCHUPP
ACTING DIRECTOR

2. APPELLATE DECISIONS - ROSENFELD AND ZABERER v. NORTH WILDWOOD AND RAPPAPORT.

SYLVAN ROSENFELD AND EDWIN J. ZABERER,)

Appellants,)

v.)

MAYOR AND COMMON COUNCIL OF THE CITY OF NORTH WILDWOOD, AND STANLEY RAPPAPORT, t/a THUNDERBIRD MOTEL,)

Respondents.)

ON APPEAL CONCLUSIONS AND ORDER

Perskie & Perskie, Esqs., by Marvin D. Perskie, Esq., Attorneys for Appellants. James Stephen Cafiero, Esq., Attorney for Respondent Mayor and Common Council. Nathan C. Staller, Esq., Attorney for Respondent Stanley Rappaport.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of the respondent Mayor and Common Council of the City of North Wildwood (hereinafter Council) whereby it granted an application for a new plenary retail consumption license on plans and specifications of a proposed construction by respondent Rappaport for premises located at Lots 3 to 22, Block 290 on the East side of Surf Avenue from 23rd to 24th Avenues, in the City of North Wildwood. The said application was granted following the passage of an amendment to the existing ordinance, adopted by the Council on December 18, 1962. This amendment, entitled Ordinance No. 434, permitted the Council to issue a plenary retail consumption license in connection with the construction of a restaurant, cafe and cocktail lounge within a motel having sixty or more rooms.

"By resolution dated January 11, 1963, the Council unanimously approved an application made by the respondent Rappaport for a plenary retail consumption license at the said premises in accordance with Ordinance No. 434. The resolution of the Council, in its operative part, reads as follows:

'NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the City of North Wildwood, Alcoholic Beverage Issuing Authority, that a plenary retail consumption license be and it is hereby granted unto Stanley Rappaport in accordance with his representations and application therefor and pursuant and subject to the provisions of Ordinance No. 434 of the City of North Wildwood for the operation of a bona fide hotel or motel on Lots 3 to 22 inclusive, Block 290, being on the Easterly side of Surf Avenue between 23rd Avenue and 24th Avenue; and

'BE IT FURTHER RESOLVED that such license shall not issue unto the said Stanley Rappaport unless and until the hotel or motel shall have been constructed in accordance with the plans and specifications on file with the City Clerk.'

"This appeal was based on several grounds, none of which need be considered in view of certain facts appearing at this hearing de novo, held pursuant to Rule 6 of State Regulation No. 15.

"The evidence disclosed that Robert Moore, a councilman of the respondent Council, has an interest in a plenary retail consumption license as an officer or director of a corporation holding such license. His interest in a liquor license was further admitted by Mayor Catanoso appearing on behalf of the respondent, and such interest is undenied. Notwithstanding such interest, the minutes of the respondent reflect the fact that he participated in and voted for the amendatory ordinance known as Ordinance No. 434, which is the subject in issue. The minutes also reflect that, although he did not vote for the actual issuance of the liquor license, he was present in the conference room and participated in the discussion.

"Our case law and the Division decisions and rulings have consistently held that the participation by such parties taints the entire action with illegality.

"As stated in the opinion by Mr. Justice Heher in Stevens v. Haussermann, 113 N.J.L. 162:

'Generally, public policy forbids the participation of a member of a municipal governing body in any matter before it which directly or immediately affects him individually...And it is likewise a firmly established rule that it is immaterial that the result reached is not produced by the vote of the disqualified member...It is supported by a two-fold reason, viz., first, the participation of the disqualified member in the discussion may have influenced the opinion of the other members; and secondly, such participation may cast suspicion on the impartiality of the decision...It being impossible to determine whether the virus of self-interest affected the result, it must needs be assumed that it dominated the body's deliberations, and that the judgment was its product.'

"A public office is a public trust, and the holder thereof may not use it directly or indirectly for a personal profit; and officials are not permitted to place themselves in a position in which personal interest may come into conflict with a duty which they owe to the public. 67 C.J.S. 406 and cases cited therein.

"Also, an official who exercises judicial or quasi-judicial functions may not act in a matter in which he is not wholly free, disinterested and impartial. Neider v. Homan, 89 Pac. 2d 136, 32 Cal. App. 2d 11.

"While it may be argued that Moore was voting against his own interest, there is no way that we can know what probable gain or profit he may derive from the existence of this

particular license at this particular location. In any event, it would be an unfair burden, if not impossible, for the Director to inquire whether a public official who has an interest in a liquor license is actually voting for or against his own interest in a particular situation.

"If the principle is sound, it needs no refinement in its application. Certainly the Director cannot in each case probe the multitudinous possibilities of self-interest in all of their varying degrees.

"If this principle is recognized, then the interest of such official in a liquor license should automatically be considered a disqualifying interest where he participates either in the adoption of the ordinance or the granting of the license. This principle has special vitality in alcoholic beverage matters because the law recognizes the uniqueness of the alcoholic beverage industry. Thus the Director is given an almost unlimited power to regulate and control the liquor traffic, and to 'do, perform, take and adopt all other acts, procedures and methods designed to insure the fair, impartial, stringent and comprehensive administration of this chapter.' R.S. 33:1-23.

"The crucial test herein is whether the councilman had a disqualifying interest in the subject matter of the ordinance. As the court stated in McNamara v. Saddle River Borough, 64 N.J. Super. 426, at p. 429:

'...His motives in voting for it, absent fraud or bad faith, which no one asserts, are immaterial. If there is "interest," there is disqualification automatically, entirely without regard to actual motive, as the purpose of the rule is prophylactic, that is, to prevent the possibility of an official in a position of self-interest being influenced thereby to deviate from his sworn duty to be guided only by the public interest in voting as such official. Van Itallie v. Franklin Lakes, 28 N.J. 258, 268 (1958); Griggs v. Princeton Borough, 33 N.J. 207, 219 (1960). The question whether disqualifying interest exists in any particular case is necessarily factual and depends upon the circumstances of the particular case. Ibid. See cases collected in S. & L. Associates Inc. v. Washington Twp., 61 N.J. Super. 312, 329, 330, 335 (App. Div. 1960).'

"The principle of abstaining, where one has a direct or indirect interest in a liquor license, from the action of the governing body and the issuing authority, is a sound one. Therefore, as stated in Re Siracusa, Bulletin 89, Item 9:

'[A councilman having any such interest] must withdraw entirely from the proceeding for otherwise the purpose of the disqualification will in large part be nullified...'

To 'withdraw entirely' means precisely that. See Highlands Tavern Owners Assn. et als. v. Highlands and Cohen, Bulletin 868, Item 11.

"In Re Brundage, Bulletin 84, Item 17, question was raised as to whether a solicitor for a brewery was eligible as a member of the issuing authority to pass on the issuance

of retail licenses. The then Commissioner, citing Stevens v. Haussermann, supra, held that he was ineligible, stating:

'The object...was to break up unholy alliances with the alcoholic beverage industry by those charged with the enforcement of the laws governing the same.'

This policy has been consistently followed throughout the administration of the Alcoholic Beverage Law. As a matter of fact, the same principle has been adopted in other areas, such as zoning. In Zell v. Borough of Roseland, 42 N.J. Super. 75, the court held a zoning ordinance invalid where a councilman was a member of a church which would benefit from the adoption of such ordinance. Said the court:

'There is thus evidenced an intent that the bar is not confined to instances of possible material gain but that it extends to any situation in which the personal interest of a board member in the "matter" before it, direct or indirect, may have the capacity to exert an influence on his action in the matter...' Cf. Meyers v. East Paterson, 21 N.J. 357, 360 (1956).

'That the "interested" member of the public body is in fact completely free of any improper or pecuniary motivation for his official action is immaterial if he has what in law amounts to an interest in the transaction. Ames v. Montclair, 97 N.J. Eq. 60, 64 (Ch. 1925). The purpose of the statute is prophylaxis against misconduct and its effect can be exerted fully only if it is applied indiscriminatingly where applicable.'

"The participation of Councilman Moore in the adoption of the enabling amendatory ordinance and the discussion of the application for the license granted pursuant thereto tainted the grant of the license with fatal illegality. I, therefore, recommend that the action of the respondent Council in granting the license to respondent Rappaport be reversed. Cf. Blanck v. Magnolia, 38 N.J. 484."

Pursuant to Rule 14 of State Regulation No. 15, written exceptions to the Hearer's Report and written argument in support thereof were filed with me jointly by the attorneys for the respondents. An answer to the exceptions and written argument in support thereof were thereupon filed with me by the attorneys for the appellants.

In argument supporting the answer to the exceptions the attorneys for the appellants inter alia request that the Director decide the various other legal issues raised by the appellants in this appeal. Since the central issue recommended to be determined is dispositive of this appeal, the request for consideration of the other legal issues raised in the appeal is denied.

After careful consideration of the record herein, including the transcript of the testimony, the exhibits, the arguments of counsel, the Hearer's Report, the written exceptions and arguments thereto, and the answer to the said exceptions and argument thereto, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Atlantic City to Louis E. Cherkas and Martha R. Cherkas, t/a Brass Rail Bar, for premises 12 S. Mt. Vernon Avenue, Atlantic City, be and the same is hereby suspended for fifty-five (55) days, commencing at 7 a.m. Tuesday, October 8, 1963, and terminating at 7 a.m. Monday, December 2, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

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

In the Matter of Disciplinary Proceedings against

THREE STAR TAVERN, INC.
t/a HIGH LIFE BAR & GRILL
Cor. Calais Road & Sussex Turnpike
Randolph Township
PO RD 2, Dover, N. J.

)
)
) CONCLUSIONS
) AND ORDER
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)

Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Randolph

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

BY THE ACTING DIRECTOR:

Licensee pleads non vult to charges alleging that on March 23, 1963, it (1) sold drinks of beer to two minors, both age 20, in violation of Rule 1 of State Regulation No. 20, and (2) hindered investigation (verbal interference by a principal stockholder in the obtaining of information), in violation of R.S. 33:1-35.

Licensee has a previous record of suspension of license by the Director for two days, effective July 24, 1951, for mislabeled beer tap, and again for twenty-two days, effective November 15, 1954, for sale below minimum price and during prohibited hours. Re Three Star Tavern, Inc., Bulletin 914, Item 6; Bulletin 1041, Item 5. In addition, the license was suspended by the municipal issuing authority for five days, effective January 14, 1962, for sale to minors.

The prior record of suspension for the dissimilar violations occurring more than five years ago disregarded but considering the record of suspension for similar violation occurring within the past five years, the license will be suspended on the first charge for twenty days (Re Club Bar, Bulletin 1511, Item 8; Re Freedman, Bulletin 1436, Item 4) and on the second charge for ten days (cf. Re Superior Lodge #215 I.B.P.O.E. of W., Bulletin 1527, Item 9) or a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 30th day of September, 1963,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Randolph to Three Star Tavern, Inc., t/a High Life Bar & Grill, for premises corner of Calais Road and Sussex Turnpike, Randolph Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, October 7, 1963, and terminating at 2:00 a.m. Friday, November 1, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

HERMAN MANDEL AND SIDNEY LICHENSTEIN
t/a HALFWAY HOUSE
450 Grand Street
Jersey City, N. J.)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-241, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Licensees, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensees plead non vult to a charge alleging that on September 13, 1963, they sold a pint bottle of whiskey for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensees have a previous record of suspension of license by the Director for fifteen days effective July 16, 1962, for similar violation coupled with "screen" violation. Re Mandel and Lichenstein, Bulletin 1470, Item 8. In addition, license then held by Sidney Lichenstein, for premises 317 Market Street, Paterson, was revoked by the Commissioner effective June 1, 1943, for hostess activity, sale to intoxicated persons and permitting female impersonator on licensed premises. Re Lichenstein, Bulletin 571, Item 1, wherein is recited his then previous record of suspension of license for five days in December 1940 for possession of a device in the nature of a slot machine, and for four days in November 1941 for local "hours" violation.

The prior record of revocation and suspension for dissimilar and similar violations occurring, respectively, more than five and ten years ago disregarded, but considering the prior record of suspension of license for similar violation occurring within the past five years, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Mattern, Bulletin 1528, Item 3.

Accordingly, it is, on this 30th day of September 1963,

ORDERED that Plenary Retail Consumption License C-241, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Herman Mandel and Sidney Lichenstein, t/a Halfway House, for premises 450 Grand Street, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, October 7, 1963, and terminating at 2 a.m. Friday, November 1, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

6. SEIZURE - FORFEITURE PROCEEDINGS - SUPPLEMENTAL ORDER
RESCINDING PRIOR ORDER UPON FAILURE TO PAY COSTS OF SEIZURE -
MOTOR VEHICLE FORFEITED.

In the Matter of the Seizure)
on June 26, 1963 of a Chevrolet) CASE NO. 11,078
coupe in a garage at the rear of a) SUPPLEMENTAL
dwelling on East Atlantic Avenue, in) ORDER
the Township of Waterford, County of)
Camden and State of New Jersey.)

Paul D'Ulio, claimant, Pro se.
I. Edward Amada, Esq., appearing for the Division of Alcoholic
Beverage Control.

BY THE ACTING DIRECTOR:

On August 28, 1963 an Order was entered in this case wherein it was directed that a Chevrolet coupe be returned to Paul D'Ulio (a/k/a Paul Di Ulio) if, on or before September 10, 1963, he paid the costs of seizure and storage of the said motor vehicle.

On August 28th a copy of such Order was mailed to Paul D'Ulio. On September 16, 1963 the said Paul D'Ulio was advised by certified mail of the exact amount of the costs and was further advised that if said costs were not received by this Division by Monday, September 23, 1963, a Supplemental Order forfeiting the said Chevrolet coupe would be entered. To date the costs have not been paid.

Accordingly, the said Order directing the return of the Chevrolet coupe shall be and is hereby rescinded and instead it is

DETERMINED and ORDERED that the Chevrolet coupe, Serial No. B-53B096456, New Jersey Registration plates GVF211 be and the same is hereby forfeited, in accordance with the provisions of R.S. 33:1-66, and shall be sold at public sale for the use of the State in accordance with State Regulation No. 29, or retained for the use of hospitals and state, county and municipal institutions at the direction of the Acting Director of the Division of Alcoholic Beverage Control.

EMERSON A. TSCHUPP
ACTING DIRECTOR

Dated: October 3, 1963

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
Labeled - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

HELEN FRANCES TALUNAS
t/a PAT & HELEN'S TAVERN
Black Horse Pike, Cecil
Monroe Township
PO RD 1, Williamstown, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Monroe, County of Gloucester.)

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

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 22, 1963, she possessed an alcoholic beverage in one bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Jocon Bar & Grill, Inc., Bulletin 1528, Item 10.

Accordingly, it is, on this 30th day of September, 1963,

ORDERED that Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Monroe, County of Gloucester, to Helen Frances Talunas, t/a Pat & Helen's Tavern, for premises on Black Horse Pike, Cecil, Monroe Township, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. Monday, October 7, 1963, and terminating at 2:00 a.m. Saturday, October 12, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
Labeled - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
CANOPY CLUB, INC.)
t/a CANOPY CLUB)
322 Market Street)
Paterson 1, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-295, issued by the Board)
of Alcoholic Beverage Control for the)
City of Paterson.)

Robert I. Goodman, Esq., Attorney for Licensee.
David S. Piltzer, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on
September 5, 1963, it possessed an alcoholic beverage in one
bottle bearing a label which did not truly describe its
contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for
ten days, with remission of five days for the plea entered,
leaving a net suspension of five days. Re Jocon Bar & Grill,
Inc., Bulletin 1528, Item 10.

Accordingly, it is, on this 30th day of September 1963,

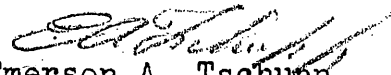
ORDERED that Plenary Retail Consumption License C-295,
issued by the Board of Alcoholic Beverage Control for the City
of Paterson to Canopy Club, Inc., t/a Canopy Club, for
premises 322 Market Street, Paterson, be and the same is
hereby suspended for five (5) days, commencing at 3 a.m. Monday,
October 7, 1963, and terminating at 3 a.m. Saturday, October
12, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

9. STATE LICENSES - NEW APPLICATION FILED.

Trenton Beverage Company
80 Parker Avenue
Trenton, N. J.

Application filed November 12, 1963 for Limited Wholesale
License.


Emerson A. Tschupp
Acting Director