

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

BULLETIN 1625

July 29, 1965

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

BULLETIN 1625

July 29, 1965

1. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - ALLEGED  
ENTRAPMENT - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary )  
Proceedings against )

FRANK A. KOCHANOWICZ )  
232-234 Stevens St., )  
255-57-59-301 So. 3rd St., )  
Camden, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-169, issued by the Municipal )  
Board of Alcoholic Beverage Control of )  
the City of Camden. )

-----  
David Novack, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensee pleade not guilty to the following charges:

"1. On February 11, 1965, and on divers days prior thereto, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery, commonly known as the 'numbers game'; in violation of Rule 7 of State Regulation No. 20.

"2. On February 11, 1965, and on divers days prior thereto, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises, and on said date of February 11, 1965, you possessed, had custody of and allowed, permitted and suffered such tickets and participation rights in and upon your licensed premises, in violation of Rule 6 of State Regulation No. 20."

The Division offered the testimony of Agents J and B in substantiation of the charges.

Agent J's testimony may be summarized as follows: He has been an agent of the Division "going on eight years." He had participated in numerous gambling investigations involving numbers bets; had learned the techniques and method of play of the numbers gambling activity; that he was specifically assigned to investigate gambling activity at the licensed premises. On February 11, 1965, at about 1:25 p.m., he entered the licensed premises and sat next to Agent B who was seated at the bar. Tending bar was Mrs. Lucille Taylor. He had on his person two one-dollar bills, the serial numbers of which had been previously recorded.

He asked Mrs. Taylor as to whether or not any of the fellows were around because he had some numbers he wanted to play. She responded that he had left and that the agent should come in earlier. She then offered to take the numbers bets and give them to him and furnished the agent with a pad and pencil. Mrs. Taylor wrote down some numbers play upon being apprized by the agent that he did not know how to write numbers and accepted two one-dollar bills from the agent.

Agent J's testimony did not vary on cross examination. However, he did testify additionally that on February 3 he placed a numbers bet in the licensed premises with a male person whose identity was unknown to him.

Agent B testified that he entered the licensed premises on February 11, 1965 at twelve o'clock noon and went to the bar; that Agent J entered the licensed premises at 1:25 p.m. and stood at the bar alongside him and to his left; that Lucille Taylor was tending bar. He then corroborated the details of the numbers transactions that occurred on February 11, 1965 between Agent J and Mrs. Taylor, and added that she ripped the top piece of paper with the numbers written on it from the pad, folded it up with the two one-dollar bills, placed a rubber band around it and put the entire package in her pocketbook which was on a box on the floor near the cash register.

After two members of the Camden Police Department came in at about 1:38 p.m., Agent B identified himself to Mrs. Taylor and, upon request, she gave up possession of the numbers slip and the two marked one-dollar bills in her pocketbook. A search of the premises revealed no other numbers slips.

In behalf of the licensee, Lucille Taylor testified that she had written no numbers other than the incident of February 11, 1965; that she had no knowledge of any numbers writers coming into the place; that she had never seen Agent J prior to the incident of February 11, 1965.

Agent J, called in rebuttal, testified that he spoke to Mrs. Taylor about numbers on two occasions prior to February 11, 1965, to wit: on February 5 and again on February 10, and that the following conversation took place:

"Q Do you remember what those dates were?

A The 10th and 5th.

Q What did you talk about?

A Numbers.

Q What did you say to her?

A On one occasion I went, the 10th, I had some numbers to play, were any fellows around.

Q What did she say?

A She said, 'Not now.'

Q How about the prior occasion you say of the 5th?

A She said some one had been in before but she hadn't seen him for a while.

Q February 11 was the other time you had spoken to her in the tavern about numbers?

A Yes."

At the hearing and in his memorandum the licensee's attorney relied upon the defense of entrapment. As to this, a

full consideration of the evidence impels me to reject this defense. The testimony clearly indicated that the licensee's employee had a predisposition and actually engaged in, allowed, permitted and suffered gambling in and upon the licensed premises, specifically relating to the "numbers game", in violation of Rules 6 and 7 of State Regulation No. 20.

The solicitation by the representatives of the Division was readily accepted; their activity, although planned in advance, merely afforded the licensee's employee the opportunity to perpetrate in specific instances what the evidence indicates she was prepared to do as a matter of routine practice. See State v. Rosenberg, 37 N.J. Super. 197 (App.Div. 1955), certif. denied 20 N.J. 303 (1956). See also Highlander Hotel Corp. v. Div. of Al. Bev. Con., (App.Div. 1963), not officially reported, reprinted in Bulletin 1533, Item 1.

I find no evidence from which it could be inferred that the agents implanted an unlawful design in the mind of the licensee's employee or that they practiced any trickery, persuasion or fraud to induce her to commit a wrongful act. The agents did not envisage the offense, plan it, and activate its commission by one not theretofore intending its perpetration. They did not lure or entrap the employee into committing an offense which she otherwise would not have committed. Rather, the agents, acting in good faith and in the pursuit of their duties, merely furnished the opportunity for the commission of the offense. The mere solicitation to place numbers bets was not in itself an entrapment. The rationale of Masciale v. United States, 356 U.S. 386, 78 S. Ct. 827 (1958), affirming 236 F. 2nd 601 (2 Cir. 1956), rehearing denied 357 U.S. 933, 78 S.Ct. 1367 (1958), is applicable. Hence, under the principles of established law, as above indicated, there was no entrapment herein.

In disciplinary proceedings the licensee is fully accountable for all violations committed or permitted by his servants, agents or employees. Rule 33 of State Regulation No. 20.

Licensee's attorney advanced the argument that there was a lack of proof beyond a reasonable doubt of the commission of a crime and that the doubt should be resolved in favor of the licensee.

This argument is not well founded. It is a well established principle of law that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956); Hornauer v. Division of Alcoholic Beverage Control, 40 N.J. Super. 501 (1956). This principle was restated in the case of Howard Tavern, Inc. v. Division of Alcoholic Beverage Control (App.Div. 1962), not officially reported, reprinted in Bulletin 1491, Item 1, where the court said:

"The truth of charges in a proceeding before an administrative agency need be established only by a preponderance of the believable evidence, not beyond a reasonable doubt. Atkinson v. Parsekian, 37 N.J. 143, 149 (1962)."

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

My evaluation and consideration of the testimony lead me to the conclusion that the Division has established the truth of the charges herein by a fair preponderance of the evidence. I recommend that the licensee be found guilty of said charges.

The licensee has no prior adjudicated record of suspension of license. I further recommend that the licensee be suspended for sixty days. Re Kushpa, Bulletin 1608, Item 5.

#### Conclusions and Order

Written exceptions to the Hearer's Report and argument thereto were filed by the licensee's attorney, pursuant to Rule 6 of State Regulation No. 16.

I find that the matters contained in the exceptions had been considered in detail by the Hearer in his report and that they are without merit.

Consequently, having considered the entire record herein, including the exceptions filed, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions. I shall therefore impose the penalty recommended by the Hearer, namely, a license suspension of sixty (60) days.

Accordingly, it is, on this 17th day of May, 1965,

ORDERED that Plenary Retail Consumption License C-169, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Frank A. Kochanowicz for premises 232-234 Stevens Street and 255-57-59-301 South 3rd Street, Camden, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1965, commencing at 7:00 a.m. Monday, May 24, 1965; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 7:00 a.m. Friday, July 23, 1965.

JOSEPH P. LORDI  
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - NUISANCE (APPARENT HOMOSEXUALS) - FOUL LANGUAGE - LICENSE SUSPENDED FOR 50 DAYS.

In the Matter of Disciplinary Proceedings against

JO-STEM CORPORATION  
t/a RON-DAY-VOO  
3905 Federal Street  
Pennsauken Township, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-25, issued by the Township Committee of the Township of Pennsauken.

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David Novack, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensee pleads not guilty to the following charges:

"1. On Tuesday night January 19, Wednesday night January 20 and early Thursday morning January 21, 1965, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered persons who appeared to be homosexuals, e.g., males impersonating females, in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.

"2. On Wednesday night January 20 and early Thursday morning January 21, 1965, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20."

The factual setting for the Division's case was developed through the testimony of two ABC agents. Acting upon a specific assignment to investigate the alleged homosexual activities at the above licensed premises, they visited the said premises on the evenings of January 19 and January 20, 1965 (the last visit terminated at about 1:50 a.m. on January 21, 1965).

With respect to their visit to these premises on Tuesday evening, January 19, 1965, they entered the premises at about 10:45 p.m. and seated themselves at the bar. Robert Stemmer (the son of the principal officers of the corporate licensee) was then employed as a bartender and was engaged in serving seven male patrons seated together and conversing at the far end of the bar.

Three of these individuals attracted the attention of the agents because of certain peculiar characteristics reflected in their mannerisms: they were holding "their glasses like females, held their cigarettes like females, pinky extended from the glass like females would." They spoke in high-pitched voices and "when they would talk they would put their hands on each other short times, reach out and touch them on the shoulder." They also would raise their eyeballs, roll their eyes in conversation, and from their actions and mannerisms appeared to be male homosexuals.

The conversation overheard by these agents, which took place also within the immediate hearing of the bartender who was "directly in front of these people", consisted of dissertations about different dates and sexual adventures with males. One of the men rejoiced about his particular perverted sexual experiences with males, and several of the other participants delineated their own similar experiences.

Shortly thereafter another patron came in to the tavern, "bouncing in lightly, walking on the balls of his feet, swishing and swaying, as a woman would" and joined the conversation. He was dressed in tight chino pants, with low cut shoes, and his hair was combed upward "somewhat like an up-sweep that women wear." He appeared to be a male impersonating a female, an apparent homosexual. After engaging in conversation with these afore-described patrons, he kissed one of them on the cheek, put his arm around him and then departed. As he departed he informed the group, in the presence of Stemmer (the bartender) that he had to keep a date with "a guy this night who was real handsome, what a man he was, he could really satisfy him."

The agents returned at 10:45 p.m. on the evening of January 20 and immediately seated themselves at the bar. A man, who later was identified as Ernest F. Barnett, was working as a bartender and shortly thereafter he was relieved by Stemmer who continued to work until the agents departed.

At this time there were approximately twenty-five males and two female patrons in the tavern. The females were seated with two male companions at a table near the rear of the bar. Seven patrons, seated at the rear end of the bar in the same location where the other patrons hereinabove described were seated on the night before, attracted the attention of these agents because of their peculiar mannerisms. They spoke in high-pitched voices, held their glasses and cigarettes in the same manner described hereinabove, and they "walked on the balls of their feet, they walked -- they swished and swayed, throwing their hips from side to side.... When they conversed they put their hands on each other, rested their hands on thighs, on the shoulders, around necks. They used endearing terms, 'Honey' and things like that." One of these persons, a male later identified as D---, was heavily made up, with much powder on his face and mascara, and wore red shirt, very tight chino-type trousers. These patrons appeared to be males impersonating females, and male homosexuals, and were later specifically identified as being Messrs. F---, M---, and D---. The agent who, as stated, was seated close to this group, detailed the conversation which took place among these apparent homosexuals, in which the bartender (Stemmer) participated. Much of the conversation was quite audible and could obviously be heard by the other patrons in the establishment. Some of this conversation took the form of autobiographical confessions of the genesis and motivations for their homosexual behavior. D--- also boasted that two of his brothers were also homosexuals. They delighted in

describing their particular perverted sexual activities with other males. In the course of these narratives of their said perverted sexual activities, these alleged homosexuals spoke in loud voices and used filthy, obscene and offensive language almost constantly. No purpose would be served in repeating these words except to state that they were disgusting, vile and offensive and were spoken loudly so that they could be and were clearly audible to all of the patrons in the premises.

When Robert Stemmer (the bartender) was first observed at approximately 12:30 a.m. on January 21, he wore face powder and a considerable amount of facial make-up, including mascara on his eyebrows. He "bounced in walking on the balls of his feet, really swishing and swaying" and appeared to the agents to be a male homosexual. Agent J commented on the appearance of Stemmer with Barnett (the other bartender), and Barnett readily described him, "Yes, he is a real gay."

Shortly thereafter the agents identified themselves and summoned the bartenders and some of the alleged male homosexuals to the kitchen adjoining the barroom. Barnett readily admitted that the group of patrons referred to were all homosexuals with the exception of M---. However, he added "But they don't get too far out of line. Many homosexuals, gay people, as he put it, come into the place."

Stemmer then entered the kitchen and also admitted that those patrons were homosexuals. He acknowledged that he looked like a homosexual but he added, "I act that way, I look that way, I talk that way. Many people think I am gay but I am not."

On cross examination Agent J admitted that some homosexuals may be married and even have children, but nevertheless pursue homosexual activities. He reiterated that this group of apparent homosexuals carried on a loud conversation, replete with filthy and offensive language throughout the evening of January 20 and the early morning of January 21.

The concordant testimony of Agent C was, by stipulation, corroborative of the testimony of Agent J. He added that C--- (one of the patrons) explained that, while he was not ashamed of being "gay", he felt that it was better to dress as a straight male and save embarrassment to his family. He also added that Barnett insisted that, while these persons were "gay" and many such persons frequented the premises, they "did not bother anybody."

Ernest F. Barnett (the bartender employed by the corporate licensee), testifying on its behalf, stated that he had been employed at these premises for about four or five months prior thereto, and that he participated "off and on" in the conversation of the patrons congregated at the rear of the bar; "if somebody says something I usually say something back." He redounded the conversation that took place in the kitchen after the confrontation by the agents, and stated that only D--- admitted that he was a male homosexual.

He was then asked whether he had heard any cursing or obscene or foul language. His answer: "There might have been some. If it gets out of control, if I think it would be heard on the other side of the bar, somebody screaming and yelling, I will control it and tell them to quiet down."

John L. Stemmer, Sr. testified that he is one of the principal stockholders of the corporate licensee, and was present on the evening of January 19. He was asked whether he observed any impropriety on the part of any of the patrons, and his reply was "No more than any other time", and "I didn't hear any loud talk or anything no more than I would any other time going on." He then stated that, when the agents summoned the bartenders and this group of patrons into the kitchen, he asked the two bartenders what was happening. However, he did not participate in the conversation with the agents, make any inquiries of them, nor did he seek to explain any of the activities to them. He stoutly denied that his son is "queer;" "they did say this and say that but that ain't the thing; got to prove these things, you know." He explained that the reason his son puts a lot of powder on his face is that he has a very heavy beard but, "as far as mascara, that is out." I then asked him why, as a principal stockholder, he didn't concern himself with the interrogation that was taking place in the kitchen. He merely stated that "I didn't both to question them."

Mrs. Agnes Stemmer (a principal stockholder of the corporate licensee with her husband) also vigorously denied that her son Robert is a homosexual, and explained that he uses powder on his face because he has a heavy beard.

I have detailed much of the testimony of both the witnesses for the Division and for the licensee in order to develop an objective perspective of the facts upon which the charges herein are based. My careful analysis and evaluation of all of the testimony, together with my observation of the demeanor of the witnesses as they testified at this hearing, lead me to the considered conviction that these charges have been amply supported by the credible and forthright testimony of the agents. I am also persuaded that much of their testimony has been corroborated by the direct admissions of Barnett. His attitude, which appears to reflect the attitude of the principal stockholders herein, is that, so long as these apparent homosexuals who congregate at these premises do not create a disturbance, their presence is perfectly permissible. This reasoning has also been advocated in the memorandum submitted by counsel for the licensee wherein he states that "I know of no provision in the Law which makes such conduct a crime nor am I aware of any provision in the rules or regulations of the Division of Alcoholic Beverage Control which makes it unlawful to serve beverages to such an individual or individuals. There is no testimony that these people annoyed any others. The Inspector, apparently, joined in some conversations with them."

Counsel for the licensee argues that his conception of a male homosexual is a man who "dressed as a woman and acted as a woman." Female garb is not necessary for such a finding. Re Rutgers Cocktail Bar, a corp., Bulletin 1133, Item 2; Re Cappuccio, Bulletin 1543, Item 3. Here the testimony established without doubt that these males in question, by their actions, mannerisms and demeanor, were males impersonating females, and were persons "who appeared to be homosexuals."

As the court pointed out in Paddock Bar, Inc. v. Division of Alcoholic Beverage Control, 46 N.J. Super. 405 (App. Div. 1957):

"If the evidence here failed adequately to prove that the described patrons were in fact homosexuals, it certainly proved that they had the conspicuous guise,

demeanor, carriage, and appearance of such personalities. It is often in the plumage that we identify the bird. The psychiatrist constructs his deductive conclusions largely upon the ostensible personality behavior and unnatural mannerisms of the patient."

In the matter sub judice, we are fortified with the inculpatory admissions of several of these patrons.

The authority is so well established as not to require citation for the premise that overt acts need not be committed nor are they the true measure in determining whether the pertinent rule has been violated. It has been consistently held that the congregation of such persons on liquor licensed premises constitutes a nuisance and, as such, is in violation of Rule 5 of Regulation No. 20. As was stated in Re Hoover, Bulletin 1521, Item 1:

"Proper liquor control, bearing in mind that our primary responsibility is to protect the public welfare, dictates that the congregating of homosexuals or apparent homosexuals or males impersonating females on licensed premises be staunchly prohibited. The situation disclosed by the records in this case constitutes a nuisance and, as such, is a clear violation of Rule 5 of State Regulation No. 20 as alleged in the charge."

See also Carelis v. Division of Alcoholic Beverage Control, Bulletin 1393, Item 2 (aff'd by Appellate Division on December 21, 1961, not officially reported; reprinted in Bulletin 1430, Item 1); also Murphy's Tavern, Inc. v. Davis, 70 N.J. Super. 87 (App. Div. 1961), reprinted in Bulletin 1395, Item 3, wherein the court stated:

"In the first place, the testimony outlined above undeniably demonstrates that an inordinate number of the patrons habitually congregating at the tavern displayed the dress, mannerisms, speech and gestures commonly associated with homosexuals. We have previously held that such concentrated mingling of persons manifesting these characteristics is sufficient foundation for an inference as to their actual condition and tendencies, and warrants punishment of any licensee who acquiesces in their assemblage upon his premises, Paddock Bar, Inc. v. Alcoholic Beverage Control Division, 46 N.J. Super. 405 (App. Div. 1957). Such a result is justified by the Division's policy, supported in law and in its own long-term practice, of thwarting reasonably apprehended sexual misconduct upon licensed premises in its embryonic stages. Cf. In re Schneider, 12 N.J. Super. 449 (App. Div. 1951)."

One further comment with respect thereto: There has been ample testimony that the conversations consisted of a profusion of filthy, obscene and disgusting language spoken quite audibly so that they were obviously heard by the other patrons. The presence of this large group of apparent homosexuals and the loud conversation must have had an unfortunate reaction upon the other patrons. The public is entitled to protection from these sordid activities. To permit such persons to congregate in large numbers on licensed premises is itself detrimental to the public welfare and tends to encourage them to carry on their unnatural practice. In addition, members of the public frequenting these premises, by being exposed to these conditions may well be adversely affected. In the light of

such congregation and the language used, it is futile to suggest, as counsel stated, that, so long as other patrons are not annoyed, these activities may be condoned. The proof in this case argues forcefully to the contrary.

Counsel also argues that, so long as these persons conduct themselves in a proper manner, having due regard for the rights of others, the licensee is obligated to serve them. He also states that a bartender was not "intended to be an eavesdropper and censor of the conversations of patrons in a bar.... It is certainly common knowledge that certain individuals are given to the use of various forms of expressions which may not appeal to persons of finer upbringing."

As I concluded from the testimony herein, the fact is that the offensive language used by these patrons did disturb the peace of the other patrons, even though none of them made any direct or formal complaint to the management. There is, indeed, no duty devolving upon the other innocent patrons to make such complaints to the management. Furthermore, licensed premises are private property, and offensive persons may be prohibited from congregating on these premises. It is clearly the obligation of a licensee to prohibit the attendance of persons of the kind in question on liquor licensed premises, and any claimed inability to prevent this type of patronage is rejected in Re Bader, Bulletin 1073, Item 4, wherein it is stated:

"In any event it is simple common sense that a licensee is not helpless to rid himself of undesirable patrons; he is master in his own house if he sincerely wishes so to be. This principle has been referred to and publicized in the early days of this Division. Commissioner Burnett, in Re Dorsey, Bulletin 226, Item 11, quoted from the opinion of Judge, afterwards Justice, Fort, in State v. Lynch, 23 N.J.L.J. 45, wherein he said:

'A saloon is not a public place. No one has a right to be or remain therein if the proprietor objects to his being there. Persons there, as in any other place of business, are mere licensees, subject to be ejected at the will of the proprietor.'

"Decisions of this Division to the same effect are Re Rollka, Bulletin 142, Item 4, Re Plaza Hotel-O'Leary, Bulletin 188, Item 9, and Re Griffin, Bulletin 200, Item 7.

"A similar contention that homosexuals cannot be barred from licensed premises has recently been rejected. Re Kaczka & Trobiano, Bulletin 1063, Item 1."

In answer to the assertion that a bartender is not intended to be an eavesdropper and censor of tavern language, this challenge was met in Re Lafayette Bar, Inc., Bulletin 1282, Item 6, wherein the Director stated:

"Defendant's attorneys submitted a letter in which they contend, by way of mitigation of the the penalty to be imposed herein, 'that patrons served by our client are not genteel ones, and their own particular mores are a fact of life that must be recognized. The language of this kind of patron

might not be appropriate in a more 'exclusive' bar, but generally it is of the type that these patrons are accustomed to, and to them it is not offensive.

"Sordid and filthy language and conduct in and upon licensed premises cannot be condoned or ignored because of the aforesaid alleged mitigating circumstances, for, as Judge Jayne said 'Experience has firmly established that taverns where wine, men, women and song centralize should be conducted with circumspect respectability. Such is a reasonable and justifiable demand of our social and moral welfare intelligently to be recongized by our licensed tavern proprietors in the maintenance and continuation of their individualized privilege and concession.' *McFadden's Lounge, Inc. v. Division of Alcoholic Beverage Control*, 33 N.J. Super. 61."

After reviewing the evidence herein and the written arguments of counsel in summation, I conclude that the Division has established the truth of the charges by a fair preponderance of the believable evidence. I therefore recommend that the licensee be found guilty of such charges.

The licensee has no prior adjudicated record. The attorney for the licensee argues that, in view of the past record of the licensee, the worst penalty that should be imposed is a warning that the "licensee comply with whatever mandate the Division deems is proper in avoiding any repetition of any impropriety which may be found by the Division", adding that he is confident that his client will comply with the ruling. In this connection it should be noted that on March 18, 1964 the licensee was sent a warning letter with respect to permitting "fairies" and alleged homosexuals on his premises, and by letter dated April 3, 1964 the licensee acknowledged receipt of such warning.

The established minimum penalty for an unaggravated first offense involving congregation of a relatively small number of apparent homosexuals, as alleged in Charge 1, is suspension of the license for forty days. Re 32 Club, Inc., Bulletin 1444, Item 3; Re Club Delite, Inc., Bulletin 1495, Item 6; Re Cambar, Inc., Bulletin 1620, Item 7. I further recommend that, in addition thereto, its license should be suspended for an additional ten days on Charge 2 (Re Lafayette Bar, Inc., Bulletin 1603, Item 7), making a total suspension of fifty days.

#### Conclusions and Order

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

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

Accordingly, it is, on this 17th day of May 1965,

ORDERED that Plenary Retail Consumption License C-25, issued by the Township Committee of the Township of Pennsauken to Jo-Stem Corporation, t/a Ron-Day-Voo, for premises 3905 Federal Street, Pennsauken Township, be and the same is hereby suspended for the balance of its term, viz., until midnight

June 30, 1965, commencing at 2 a.m. Monday, May 24, 1965; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2 a.m. Tuesday, July 13, 1965.

JOSEPH P. LORDI  
DIRECTOR

3. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto.Susp.#260	)	
In the Matter of a Petition to Lift	)	
the Automatic Suspension of Plenary	)	
Retail Consumption License C-117,	)	ON PETITION
issued by the Board of Commissioners	)	SUPPLEMENTAL
of the City of Passaic to	)	ORDER
	)	
STEIN'S CAFE, INC.	)	
t/a Stein's Cafe	)	
197 Monroe Street	)	
Passaic, N. J.	)	

-----  
Joseph M. Keegan, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

On March 17, 1965, an order was entered temporarily staying statutory automatic suspension of license of licensee-petitioner pending determination of disciplinary proceedings against it.

It now appears from supplemental petition and the records of the Division that in disciplinary proceedings conducted by the municipal issuing authority, the license was suspended for four days commencing at 3:00 a.m. May 9, 1965, after confessional plea to a charge alleging sale of alcoholic beverages to the same minor, which sale was the subject of the previous criminal conviction. It appearing that the municipal suspension has been served, I shall lift the automatic suspension. Re Jackson Liquors, Inc., Bulletin 1558, Item 9.

Accordingly, it is, on this 19th day of May, 1965,

ORDERED that the statutory automatic suspension of said license C-117 be and the same is hereby lifted, effective immediately.

JOSEPH P. LORDI  
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR DISSIMILAR RECORD OF LICENSEE - PRIOR SIMILAR RECORD OF OFFICER OF LICENSEE CORPORATION - LICENSE SUSPENDED FOR 40 DAYS - NO REMISSION FOR PLEA ENTERED AT HEARING.

In the Matter of Disciplinary Proceedings against WOODLAND GROVE, INC. Jernee Mill Road Sayreville, New Jersey Holder of Plenary Retail Consumption License C-35, issued by the Borough Council of the Borough of Sayreville.

CONCLUSIONS AND ORDER

Joseph T. Karcher, Esq., Attorney for Licensee. Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

At the hearing herein, licensee pleaded non vult to a charge alleging that on April 24, 1965, it sold drinks of beer to two minors, ages 19 and 20, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for three days effective January 26, 1960, for permitting a brawl on the licensed premises; by the director for forty-five days effective June 19, 1961, for sale to minors and false statement in the license application (Re Woodland Grove, Inc., Bulletin 1401, Item 3); and by the municipal issuing authority for thirty-five days, effective November 11, 1963, for sale to minors. In addition, the license then held by Matteo Valenti (president of the licensee corporation), for premises 500 Washington Street, South Amboy, was suspended by the municipal issuing authority for ten days effective March 18, 1946, and for thirty days effective October 1, 1957, both for sale to minors, and by the Director for forty days effective August 3, 1959, for undisclosed interests in the license, false statements in the license application and possession of indecent matter (Re Valenti, Bulletin 1294, Item I).

The prior record of suspension of license for dissimilar violation occurring more than five years ago, and for similar violation occurring more than ten years ago disregarded, the license will be suspended for fifteen days (Re Petrucelli, Bulletin 1601, Item 10), to which will be added twenty days because of the record of two suspensions for similar violation, occurring in 1961 and 1963, within the past five years (Re Cappy's Hideaway, Inc., Bulletin 1504, Item 2) and five days because of the record of suspension of Matteo Valenti for similar violation occurring in 1957, more than five but less than ten years ago (Re Talk of the Town, Inc., Bulletin 1614, Item 3; Re Lafayette Bar, Inc., Bulletin 1603, Item 7), or a total of forty days, without remission for the plea untimely entered at the hearing (Re Fluckiger, Bulletin 1590, Item 5).

Accordingly, it is, on this 26th day of May, 1965,

ORDERED that Plenary Retail Consumption License C-35, issued by the Borough Council of the Borough of Sayreville to Woodland Grove, Inc., for premises on Jernee Mill Road, Sayreville,

be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1965, commencing at 3:00 a.m. Wednesday, June 2, 1965; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 3:00 a.m. Monday, July 12, 1965.

JOSEPH P. LORDI  
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

AL'S CAFE BAR, INC. )  
138 New Street )  
New Brunswick, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-10, issued by the Board of Commissioners of the City of New Brunswick. )

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Licensee, by Jack Robbins, President, Pro se.  
Morton B. Zemel, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on April 1, 1965, it possessed alcoholic beverages in four bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Although the licensee has no previous record of suspension, the license then held by Rialto Cafe, Inc. for premises 472 Broadway, Bayonne (in which corporation Jack Robbins, president of the licensee-corporation, was the principal stockholder) was suspended by the municipal issuing authority for five days effective July 10, 1944, for sale in violation of State Regulation No. 38.

The prior record of suspension for dissimilar violation occurring more than five years ago disregarded, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re White Poodle, Inc., Bulletin 1601, Item 11.

Accordingly, it is, on this 26th day of May, 1965,

ORDERED that Plenary Retail Consumption License C-10, issued by the Board of Commissioners of the City of New Brunswick to Al's Cafe Bar, Inc. for premises 138 New Street, New Brunswick, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Wednesday, June 2, 1965, and terminating at 2:00 a.m. Thursday, June 17, 1965.

JOSEPH P. LORDI  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR SIMILAR RECORD OF ANOTHER CORPORATION WITH COMMON STOCKHOLDER - ALLEGED MITIGATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against	)	
	)	
FUN FAIR BOWL (A CORPORATION)	)	CONCLUSIONS
1319 North Broad Street	)	AND ORDER
Hillside, N. J.	)	
	)	
Holder of Plenary Retail Consumption License C-1, issued by the Municipal Board of Alcoholic Beverage Control of the Township of Hillside.	)	

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 Licensee, by Seymour Roth, President, Pro se.  
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 13, 1965, it sold drinks of beer to two minors, ages 19 and 20, in violation of Rule 1 of State Regulation No. 20.

Although the licensee has no previous record of suspension of license, the license of Strike & Spare Lanes Corp., Route 22, Green Brook Township (in which Bowling Corp. of America was a 98% stockholder, as it is in the licensee corporation), was suspended by the Director for ten days effective February 26, 1963, for sale to minors. Re Strike & Spare Lanes Corp., Bulletin 1503, Item 5.

In alleged mitigation of penalty to be imposed, licensee points out that "the management of these two premises is not the same. Greenbrook, New Jersey was and is managed by Mr. William Behr, while Fun Fair Bowl, Hillside, New Jersey is under the present management of Mr. Joseph Bloom."

Were this to be considered as an exculpatory factor warranting disregard of a previous record of suspension, licensees could avoid the impact of their past misdeeds by the simple expedient of changing managers after every suspension of license. To state the proposition is to refute it. Necessarily, responsibility must rest with ownership rather than management.

The prior record of suspension of license of Strike & Spare Lanes Corp. for similar violation occurring within the past five years considered (Re Jervic, Bulletin 1603, Item 6), the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Cappy's Hideaway, Inc., Bulletin 1446, Item 11.

Accordingly, it is, on this 26th day of May, 1965,

ORDERED that Plenary Retail Consumption License C-1, issued by the Municipal Board of Alcoholic Beverage Control of the Township of Hillside to Fun Fair Bowl (A Corporation) for premises 1319 North Broad Street, Hillside, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Wednesday, June 2, 1965, and terminating at 2:00 a.m. Tuesday, June 22, 1965.

JOSEPH P. LORDI  
 DIRECTOR

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

LE JEM BAR-LIQUORS, INC. )  
249 Bruce Street )  
Newark, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-318, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )

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Licensee, by Leonard Rodburg, President, Pro se.  
Morton B. Zemel, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 5, 1965, it possessed alcoholic beverages in two bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Zambolla, Bulletin 1605, Item 10.

Accordingly, it is, on this 28th day of May 1965,

ORDERED that Plenary Retail Consumption License C-318, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Le Jem Bar-Liquors, Inc., for premises 249 Bruce Street, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, June 7, 1965, and terminating at 2 a.m. Thursday, June 17, 1965.

JOSEPH P. LORDI  
DIRECTOR

8. STATE LICENSES - NEW APPLICATIONS FILED.

Almaden Vineyards, Inc.  
39 Drumm Street  
San Francisco, California  
Application filed July 26, 1965  
for Wine Wholesale License.

  
Joseph P. Lordi  
Director