

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

BULLETIN 1852

May 1, 1969

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entered an order dated July 12, 1968, staying respondent's order of suspension until further order herein.

Appellant in his petition of appeal seeks reversal of the respondent's action because it "did not merit a finding of guilty, nor, the imposition of suspension imposed."

The answer filed by respondent denies the aforesaid allegation and asserts that "the suspension was reasonable and proper and in the best interest of public welfare."

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, at which time both parties had the opportunity to produce testimony and cross-examine witnesses.

Officer Andrew Gentile testified that at about 1 p.m. on May 2, 1968, while he was seated in his police car, two females, namely, Joan --- and Yvonne ---, advised him concerning an incident allegedly taking place in the appellant's licensed premises. As a result thereof he and Officer Roger Baran went to the licensed premises and, upon entering, observed in the rear of the tavern in front of the bar two persons (Lorraine --- and Louis ---) standing close to one another. Officer Gentile noticed that the slacks which Lorraine was wearing were unzipped on the side and that, by reason thereof, he could see her underwear; that, when she saw him and his partner, she "attempted to pull her pants up. She turned around and went towards the ladies' room, you know, zippering up her slacks, and as she was going I stopped her and I asked her, "What are you doing with your slacks like that;" that in response thereto she cursed at him and directed at him obscene language (the repetition of which would serve no useful purpose); that, when they entered, Lorraine appeared to be extremely nervous; that, because of her attitude, he placed her under arrest and took her to police headquarters. On cross examination he was asked whether or not he recognized Louis and, in response to a question as to his reputation, Officer Gentile said that "he is a little retarded, on the simple side."

It was stipulated by the attorneys for the respective parties that Officer Roger Baran's testimony would be similar to that given by Officer Gentile.

Joan --- testified that on May 2, 1968, accompanied by Yvonne ---, she stopped Officers Gentile and Baran and told them about the incident they had observed in the appellant's licensed premises during lunch hour where she and Yvonne had gone after she (Joan) had learned that her mother and Lorraine --- had an argument over the price of an egg sandwich; that, "when I walked in the door [Lorraine] was standing between two bar stools just around the curve of the bar, and [Louis] was -- appeared to be or he was having relationship with her, and there was a man sitting behind

them on a stool;" that, when asked what she did about it, Joan testified "Nothing. I just looked in shock, and I kept on walking down to the end of the bar" and, as a reason, said that she was not concerned about this incident but merely wanted to ask Lorraine about the argument with her mother; that she had no opportunity to speak to Lorraine because the latter started "yelling and screaming and hollering, and I said -- I asked her why did she raise her voice. Then she really got loud then. She told me to get the hell out of the place. We started towards the door. She came to the other end of the bar. She had a beer bottle and threw that and hit the door, the wood part of the door. We left and seen Officer Gentile and went back."

Joan further testified that, while on her way to obtain change for her mother, she stopped at appellant's establishment which was a few doors down on the same side of the street.

On cross examination, when asked whether or not she was extremely angry because of the attitude of Lorraine toward her mother, she answered "No. I wasn't fit to be tied, if that is what you mean."

Lorraine --- testified that she is employed as barmaid in appellant's licensed premises and manages the establishment; that on the day in question Louis, who did porter work in appellant's premises, was there; that "he was carrying cases of beer and taking out empties. He is a simple person. There was something wrong with him. I used to pay him two or three dollars a week just for helping me. He would sweep and mop the floor;" that the trouble with Joan resulted from an argument which she (Lorraine) had with Joan's mother; that, when Joan and another girl came into the establishment, she (Joan) "just kept yelling, giving me a hard time, and I started to lose my temper, and I did start yelling back at her;" that, as she was leaving, Joan threatened her saying, "Come out from behind the bar" but she refused because there were two girls there; that, as Joan left the premises, she said "I'll get even with you. I'll fix you." Moreover, Lorraine testified that there was no one in the place other than Louis at the time, and that she (Lorraine) was wearing maroon slacks, the zipper of which she had trouble keeping fastened. Lorraine admitted that, when Officer Gentile said, "What are you doing", she became very upset and did "yell and curse at him. I don't remember what I said but I was upset."

Lorraine denied that she was close to Louis at the time when she was accused by Joan to have committed an immoral act.

Appellant (Aaron Levine) testified that he was not present at the time in question but on said day, at the Passaic Police headquarters, Joan spoke to him saying, "Aaron, if it wasn't your joint we were going to wreck it." Moreover, Joan then said, "Aaron, I'm sorry about the whole thing. I want to drop the case against you...."

Joseph Nixon testified that he is a customer at appellant's tavern and, prior to May 2, 1968, observed that Lorraine was wearing maroon slacks; that on two occasions he noticed "the zipper worked down every time she would pick a bottle up from the cooler" and, because of this, "we kidded her, told her her zipper is down and could see her panties."

Edward Wallis testified that he is a patron of the appellant and recalled that on at least fifteen occasions, when Lorraine was wearing maroon slacks, "at any time she served me a beer or anything she bent down, and I noticed her zipper come down on the left-hand side;" that he commented to her about these incidents and "she put on another blouse, you know, try to cover it. Any time she did bend down her blouse might come up and the zipper go down."

Joan --- was called in rebuttal and asked concerning her conversation with appellant at police headquarters, and she said that "I told him I would like to drop the case because we both had a lot of words in anguish. You know the neighborhood."

I have set forth somewhat in detail the testimony presented at the hearing herein by the various witnesses of both the appellant and respondent.

We are dealing here with purely disciplinary measures and their alleged infractions. Such proceedings are civil in nature and not criminal. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948). Thus the respondent was required to establish its case only by a fair preponderance of the credible evidence. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956). In other words, the finding must be based upon a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042.

Since there appears to be a sharp conflict in the testimony concerning the alleged immoral act, it becomes the function of the Director to evaluate the testimony after observing the demeanor of the witnesses and giving weight to such testimony as is found credible. There is no dispute that Lorraine did direct obscene remarks toward the police officers when they came into appellant's establishment on May 2, 1968, to investigate the story told to them by Joan and Yvonne. It is axiomatic that evidence, to be believed, must not only proceed from the mouths of credible witnesses but must be credible in itself and must be such as common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App.Div. 1961). It is apparent in this matter that the members of the respondent Board chose to believe the testimony of the police officers and that of Joan. There is no indication from the record herein that Yvonne testified below and she was not called as a witness at the instant hearing. From my

examination of the testimony, and having observed both Lorraine and Joan when they testified at this hearing, I am satisfied that the story told by Joan because of the argument with Lorraine was clearly exaggerated. I cannot conceive that Lorraine, while in charge of the appellant's establishment, resorted to any such immoral conduct of which she is accused. Moreover, it is apparent that Joan's testimony was not at all positive concerning her accusation as she testified that Lorraine and Louis "appeared to be or he was having relationship with her, and there was a man sitting behind them on a stool" which, in my opinion, was a figment of her imagination. I further believe the testimony that the zipper on Lorraine's slacks was defective, which fact was corroborated by two patrons at the hearing.

Under the circumstances it clearly appears that the implicit finding of guilt of so much of the charge as alleges the occurrence of lewdness and immoral activity and conduct (the alleged incident involving Lorraine and Louis) was unwarranted. Therefore, it is recommended that an order be entered reversing the action of respondent as to that portion of the charge and sustaining its action as to that portion which refers to allowing, permitting and suffering foul, filthy and obscene language on the licensed premises in violation of Rule 5 of State Regulation No. 20.

In view of my recommendations to reverse the action of respondent on the major allegation in the charge and affirm its action as to the use of indecent language, I recommend that the matter be remanded to the respondent for reconsideration as to the appropriate quantum of the suspension to be imposed. Cf. Heck v. Hammonton, Bulletin 1140, Item 3; Clarence's Music World, Inc. v. Newark, Bulletin 1681, Item 2.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, I concur in the Hearer's findings and conclusions and adopt his recommendations.

Accordingly, it is, on this 10th day of March, 1969,

ORDERED that the action of the respondent in finding appellant guilty as to the portion of the charge alleging the occurrence of lewdness and immoral activity and conduct on the licensed premises be and the same is hereby reversed; and it is further

ORDERED that the action of the respondent in finding appellant guilty as to the portion of the charge alleging that appellant allowed, permitted and suffered foul, filthy and obscene language on the licensed premises be and the same is hereby affirmed; and it is further

ORDERED that the matter be remanded to respondent

for reconsideration and reimposition of penalty in accordance with the decision herein.

JOSEPH M. KEEGAN
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) -
LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary)
Proceedings against)
TUBE BAR, INC.)
t/a TUBE BAR)
12 Tube Concourse)
Jersey City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-184, issued by the Municipal)
Board of Alcoholic Beverage Control of)
the City of Jersey City.)
-----)

Michael Halpern, Esq., by Robert H. Wall, Esq., Attorney
for Licensee
Edward F. Ambrose, Esq., Appearing for Division of
Alcoholic Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

- "1. On October 27, November 4 and 9, 1967, 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 October 27, November 4 and 9, 1967, 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; in violation of Rule 6 of State Regulation No. 20."

A careful consideration of the testimony herein leads me to the inevitable conclusion that numbers bets were accepted by a numbers writer on the licensed premises on the dates alleged. However, the testimony concerning the circumstances surrounding the placing and acceptance of the bets considered raises serious doubt as to whether the Division has established that the licensee "allowed,

permitted and suffered" the acceptance of the bets as alleged. Since there appears to be a lack of the necessary preponderance of the evidence to find the licensee guilty of the charges, I recommend that the licensee be found not guilty and that the charges be dismissed.

Conclusions and Order

Exceptions to the Hearer's report were filed by the prosecuting attorney appearing for the Division pursuant to Rule 6 of State Regulation No. 16. Answering argument was filed by the licensee's attorney. On my own motion oral argument was held before me.

The Division presented its case through the testimony of three of its investigative agents and documentary evidence consisting of a copy of the licensee's 1967-68 license application, which show that the entire building at 12 Tube Concourse, Jersey City, constitutes the licensed premises.

ABC Agent G testified as follows: He visited the licensed premises in question on several occasions, including October 27 and November 4, 9 and 11, 1967, for the purpose of ascertaining whether gambling, particularly numbers betting, was taking place therein. He stated that he was well acquainted with such type of gambling, having participated in almost a hundred investigations of "numbers" betting. He described the licensed premises as a single narrow barroom, with a long bar running along one wall, a shelf and small lunch counter on the opposite wall, and rest rooms to the rear. He characterized the business conducted as "transient trade; quick business", the premises being located near the tube trains at Journal Square.

On Friday, October 27, at about 10:30 a.m., he entered the barroom with ABC Agents S and R and they took positions at the bar being tended by two bartenders, one of whom was later identified as Joseph Faccone. In charge of the premises was a man later identified as Louis Deutsch (president and principal stockholder of the corporate licensee). Among the approximately twenty male patrons at the bar was a man known to the agent as Jimmy Beaver, who was talking to a patron, while writing on a small pad and accepting money from this patron. As Beaver passed the agents, Agents G and R told him they wished to place numbers bets, whereupon Beaver took out a paper pad upon which the agent observed were written numerous numbers bets, and he wrote on the pad the two numbers bets then stated by the agents, accepting one dollar from each as the amount of the bet. This transaction took place directly in front of one of the bartenders, the width of the bar separating the bartender from the agents and Beaver. This bartender looked directly at the agents and Beaver. Beaver told the agents "You're in" and then departed the premises.

On Saturday, November 4 at about 10:40 a.m., Agents G and S returned to the licensed premises and took

positions near the rear of the bar being tended by Faccone and another bartender, identity unknown. Deutsch was again in charge of the premises. Agent G asked Faccone if Jimmy Beaver was in as "I wanted to get my bets in for today." Faccone replied that "He's probably outside. He's around. He's in and out. He should be in." Shortly thereafter the agent observed a man, later identified as Jimmy Calabrese, approach several male patrons at the bar, converse with them, write on a pad of paper and accept money from them, all openly, without any attempt to conceal this activity. As Calabrese was about to leave the premises, Agent G stopped him and placed a numbers bet with him.

At about 11:05 a.m. Beaver entered, proceeded to the end of the bar, stopped at about four male patrons who were standing at the bar, made notations in his pad and openly accepted money from each of these patrons. As Beaver had passed the agents the bartender said to them, "There's Jimmy Beaver now. Did you get him?" Agent G replied, "No. I'm going to get him now." He then proceeded down the bar to where Beaver was accepting money from a male patron, while writing on the pad. Directly across the bar from Beaver was Deutsch. The agent then told Beaver he wanted to place a numbers bet with him. Beaver said, "318 for a dollar straight?" referring to the same number played by the agent on the prior visit, and the agent replied, "Yes." Beaver recorded the bet on the pad, upon which the agent observed other numbers bets, and accepted a dollar from the agent, Deutsch remaining directly in front of both men during the transaction.

On Thursday, November 9 at about 11:05 a.m., Agents G and S returned to the licensed premises and again took positions at the bar being tended by Faccone, Deutsch and an unidentified bartender. Agent G asked Faccone whether Jimmy Beaver was in and Faccone replied, "He's been in and out all day. He's not here right now. If you had come a little earlier, there was four bookies in here. You could have had anything you want in." Shortly thereafter Faccone asked an unidentified male patron to go outside to find Jimmy Beaver and "Tell him there's two guys here want to see him." This patron then left the premises and in a short while returned with Beaver to where the agents were positioned at the bar. While Faccone stood in front of the agents directly across the bar, Agent G said to Beaver, "I wanted to place a bet - 318 for a dollar straight" and Agent S played number 711 for a dollar "straight." Beaver recorded these bets on a small white pad and accepted one dollar from each of the agents. Beaver then accepted one or two more apparent bets from patrons at the bar and departed. Faccone then told the agents that, if they win, they could pick up their money in the barroom the next day. At about 12:25 p.m. the agents left the premises.

On November 11 Agents G, S and R visited the

licensed premises, disclosing their identities to Deutsch and Faccone. When questioned by Agent S, Faccone verbally admitted that he had seen the agents betting with bookies on the previous visits and that he "knew what was going on."

On cross examination Agent G's testimony essentially remained unshaken, although he admitted a certain confusion as to certain dates of the investigation.

It was stipulated that the testimony of Agents S and R would relate the same facts as Agent G's testimony both on direct and cross examination as to the respective dates these agents accompanied Agent G to the licensed premises.

The licensee produced as defense witnesses Faccone, Deutsch, and Chester G. Babula (a detective of the Jersey City Police Department). Faccone testified that at no time did he observe Beaver accept any bets from any of the agents, nor did they at any time ask or tell him that they wanted to place a bet with Beaver. He was not aware that Beaver took numbers. He admitted that Beaver frequented the premises and that on one occasion the agents asked about Beaver and he told them "He's probably outside." He could not pinpoint the particular dates on which Beaver was at the premises. He denied the occurrence of the hereinabove stated conversations of the agents with him concerning betting on the premises and denied admitting on November 11 that he knew gambling was occurring at the premises.

Deutsch testified that he did not see any of the three agents in his establishment until the day they identified themselves to him as officers; that Beaver regularly came into the premises, but that he had no information that he ever took numbers bets. He also testified that he stated to the agents that bookmakers were all over the area -- "There's a load of them on the Square."

Detective Babula testified that his duties included the patrol of the Journal Square area; that his job included chasing "the bookies off the Square;" and that he had never seen a "bookie" in the Tube Bar although, in talking to other detectives, he had heard that Beaver and Calabrese might be "numbers guys" and "to look out for them."

After carefully considering the entire record herein I find that on the licensed premises in question Beaver accepted numbers bets from Agent G on each of the three days charged and he accepted such bets from Agent S on October 27 and November 9, 1967; that on October 27 and November 4, 1967, Beaver accepted such bets at the bar from one male patron and four male patrons, respectively, and on the other date in question (November 9, 1967) he engaged in activity at the bar which created the impression that he was accepting similar bets from other patrons; and that on November 4, 1967 Calabrese accepted a numbers bet from Agent G in the barroom after engaging in activity

at the bar which created the impression that he was accepting similar bets from other patrons. I further find that such gambling involved the offering for sale and the sale of participation rights in a lottery commonly known as the "numbers game." Question therefore arises whether the licensee "allowed, permitted or suffered" this activity to take place.

The licensee in its written argument contends that the Division has the burden of establishing knowledge by the agents of the gambling in question: "The mere fact that they could have knowledge is not enough. It is necessary to prove knowledge in order to find the licensee responsible for such an alleged violation."

However, the law is to the contrary. Failure to prevent the prohibited activity is to "suffer" its occurrence. Essex House Holding Corp. v. Hock, 136 N.J.L. 28, 31 (Sup.Ct. 1947). If the licensee's agents knew or should have known of the proscribed gambling on the licensed premises, and took no steps to prevent or stop such occurrence, it is guilty of the charges in question.

I find from the proofs adduced that, at the very least, Faccone, Deutsch and the unidentified bartenders should have been aware of the described gambling which was taking place openly and in plain view in the public area of the licensed premises. They should have been alerted by the suspicious activity in which Beaver and Calabrese were engaged at the bar. It is undisputed that neither Deutsch nor the bartenders took any steps to prevent or stop the gambling. Moreover, the conversations of the agents with Faccone, which I find accurately related by the agents, convince me that he had actual knowledge of the numbers betting, particularly since most of it took place in his immediate presence. Faccone's admission on November 11, 1967 that he "knew what was going on" is amply supported by the evidence. I do not accept Faccone's complete disclaimer of knowledge of the open gambling. And, of course, the licensee is responsible in this proceeding for the violations of its agents. Rule 33 of State Regulation No. 20.

Under the circumstances I conclude that the licensee's guilt of each of the two charges has been established by more than a fair preponderance of the believable evidence. Since, according to the Division records, the licensee's only adjudicated record consists of suspension of its license by the Division for twenty-five days effective March 14, 1960, for violations dissimilar to the instant offense (Re Tube Bar, Inc., Bulletin 1292, Item 4, Bulletin 1315, Item 5, aff'd Tube Bar, Inc. v. Division of Alcoholic Beverage Control (App.Div. 1960), not officially reported, reprinted in Bulletin 1330, Item 1; Re Tube Bar, Inc., Bulletin 1334, Item 2), I shall disregard such record because of the lapse of more than five years and shall impose a penalty of sixty days license suspension. Re Ben's Place, Inc., Bulletin 1836, Item 3.

Accordingly, it is, on this 6th day of March 1969,

ORDERED that Plenary Retail Consumption License C-184, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Tube Bar, Inc., t/a Tube Bar, for premises 12 Tube Concourse, Jersey City, be and the same is hereby suspended for sixty (60) days, commencing at 2 a.m. Thursday, March 13, 1969, and terminating at 2 a.m. Monday, May 12, 1969.

JOSEPH M. KEEGAN
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary Proceedings against)

ROBERT TAICLET)
t/a BLUE RIBBON CAFE)
207 Straight Street)
Paterson, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-26, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)
-----)

Licensee, Pro se
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to a charge alleging that on August 30, 1968 he possessed alcoholic beverages in fourteen bottles of various brands bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Agent N testified that he visited the licensed premises for the purpose of gauging open bottles of alcoholic beverages on August 30, 1968.

Of the thirty-eight open bottles of alcoholic beverages located on shelves behind the bar, he seized fifteen of them because a preliminary test indicated to him that the contents of the bottles were either low in proof or off in color, and brought the bottles to the Division laboratory for testing by the Division chemist.

Fourteen of the seized bottles and a duly

certified report of analysis of those bottles made by John P. Brady (a graduate chemist regularly employed by the Division) were received in evidence. Brady's report clearly indicated that the contents of the fourteen bottles were not genuine as labeled. Specifically, his findings were that all were below the labeled proof and, in addition, four were discrepant from genuine samples in solids, acids and/or color.

In defending the charge the licensee alleged that he in nowise tampered with the bottles and he had no knowledge of any tampering.

In arriving at a determination in this matter I find that the unchallenged report of the chemist indicating that the bottles bore labels which did not truly describe their contents is fully dispositive of that issue.

Knowledge on the part of the licensee that the contents of a bottle are not genuine as labeled is not a prerequisite to a finding of guilt. See Cedar Restaurant & Cafe Co. v. Hock, 135 N.J.L. 156 (Sup.Ct. 1947).

I am persuaded that the evidence is clear and convincing that the licensee is guilty of said charge, and I therefore recommend that the licensee be found guilty thereof.

Licensee has a previous record of suspension of license then held for premises 791 Main Street, Paterson, by the municipal issuing authority for ten days effective August 31, 1954, for sale during prohibited hours.

It is further recommended that the prior record of suspension of license for dissimilar violation in 1954 occurring more than five years ago be disregarded, and that the license be suspended for forty-five days. Re Bowl More Restaurant Corp., Bulletin 1410, Item 4.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

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

Accordingly, it is, on this 10th day of March 1969,

ORDERED that Plenary Retail Consumption License C-26, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Robert Taiclet, t/a Blue Ribbon Cafe, for premises 207 Straight Street, Paterson,

be and the same is hereby suspended for forty-five (45) days, commencing at 3 a.m. Monday, March 17, 1969, and terminating at 3 a.m. Thursday, May 1, 1969.

JOSEPH M. KEEGAN
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (INDECENT ENTERTAINMENT) - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CAGGY'S INC.)
t/a CAGGY'S CORTILLION LOUNGE)
100 E. Elizabeth Avenue)
Linden, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-8, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden.)

-----)
Licensee, by Ray Caggiano, Treasurer, Pro se
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 18, 1969 it permitted lewdness and immoral activity (indecent entertainment) on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Reports of investigation disclose that on the date alleged a female belly dancer embellished her performance by including bumps and bodily movements simulating sexual intercourse in not only standing and kneeling positions but also supine on the stage, and at one point inducing a male patron to participate in the performance as the object of her gyrations, meanwhile interspersing suggestive remarks with respect to her performance and his reactions.

Absent prior record, the license will be suspended for forty-five days, with remission of five days for the plea entered, leaving a net suspension of forty days. Cf. Re Kopinski, Bulletin 1672, Item 3.

Accordingly, it is, on this 6th day of March 1969,

ORDERED that Plenary Retail Consumption License C-8, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to Caggy's Inc., t/a Caggy's Cortillion Lounge, for premises 100 E. Elizabeth Avenue, Linden, be and the same is hereby suspended for forty (40) days, commencing at 2 a.m. Thursday, March 20, 1969, and terminating at 2 a.m. Tuesday, April 29, 1969.

JOSEPH M. KEEGAN
DIRECTOR

5. CANCELLATION PROCEEDINGS - ORDER TO SHOW CAUSE
DISCHARGED ON CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Cancellation)
Proceedings against)

ANTHONY J. MASSA)
563 Avenue A)
Bayonne, New Jersey)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-103 issued by the Municipal)
Council of the City of Bayonne)
-----)

John J. Pagano, Esq., Attorney for Licensee
Walter H. Cleaver, Esq., Appearing for Division of
Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee does not contest an order to show cause why his license should not be cancelled because improvidently issued in violation of R.S. 33:1-25 in view of the fact that he was ineligible for license by reason of his conviction on July 30, 1964 of the crime of possession of lottery slips, a crime involving moral turpitude.

The fact of the conviction was set forth in the current application for license and was not concealed by any false statement therein.

During the pendency of this proceeding, the license was transferred to John DiCesare. Hence, the unlawful situation no longer exists and the order to show cause will be discharged. Cf. Re Mussara, Bulletin 1844, Item 4.

Accordingly, it is, on this 5th day of March, 1969,

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

JOSEPH M. KEEGAN
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (INDECENT ENTERTAINMENT) - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against SUNSET STRIP, INC. t/a THE INTERLUDE 934 So. Orange Ave. Newark, N. J. Holder of Plenary Retail Consumption License C-168 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark

CONCLUSIONS AND ORDER

Norman E. Scull, Esq., Attorney for Licensee Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on divers dates between November 22, 1968 and January 15, 1969, it permitted lewdness and immoral activity (indecent entertainment) on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Reports of investigation disclose that on the dates alleged, female go-go dancers performed in topless manner, without benefit of bra albeit accoutered in pasties.

Although the licensee corporation has no previous record of suspension of license, the license then held by William Poland (an officer and director of the corporation), t/a Malibar Lounge, for premises 420 North Broad Street, Elizabeth, was suspended by the municipal issuing authority for ten days effective October 7, 1957, for sale to minors.

The prior record of suspension of license for dissimilar violation occurring more than five years ago disregarded, 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 Play Pen Incorporation, Bulletin 1778, Item 5.

Accordingly, it is, on this 3d day of March, 1969,

ORDERED that Plenary Retail Consumption License C-168, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Sunset Strip, Inc., t/a The Interlude, for premises 934 South Orange Avenue, Newark, be and the same is hereby suspended for twenty-five (25) days, commencing *at 2:00 a.m. Monday, March 10, 1969, and terminating at 2:00 a.m. Friday, April 4, 1969.

JOSEPH M. KEEGAN DIRECTOR

*By order dated March 7, 1968, the suspension was deferred to commence at 2:00 a.m. Monday, March 31, 1969 and terminating at 2:00 a.m. Friday, April 25, 1969.

7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against 284 CLUB, A CORP. t/a 284 CLUB 284 Halladay Street Jersey City, New Jersey

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-253 issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City

Licensee, by Jorge Dawybida, Pro se Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on Sunday, December 22, 1968, it sold a pint bottle of gin for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Director for thirty-five days effective October 9, 1961, for permitting acceptance of numbers bets, wagering on a card game and possession of contraptives. Re 284 Club, Bulletin 1421, Item 4.

The prior record of suspension of license for dissimilar violation occurring more than five years ago disregarded, 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 Alois, Bulletin 1825, Item 11.

Accordingly, it is, on this 3d day of March, 1969,

ORDERED that Plenary Retail Consumption License C-253, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to 284 Club, A Corp., t/a 284 Club, for premises 284 Halladay Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, March 10, 1969, and terminating at 2:00 a.m. Thursday, March 20, 1969.

Handwritten signature of Joseph M. Keegan, Director