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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 1985

July 13, 1971

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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 1985

July 13, 1971

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY  
(SOLICITATION FOR PROSTITUTION) - LICENSE SUSPENDED FOR  
95 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

CLUB MAYFAIR LOUNGE, INC. )  
t/a Club Mayfair )  
11 Lafayette Street )  
Newark, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-711 issued by the Municipal )  
Board of Alcoholic Beverage Control of )  
the City of Newark. )

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Herman Blank, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on  
November 4, December 10, 17, 1970 and January 13, 1971, it  
permitted lewdness and immoral activity (solicitation for  
prostitution) on licensed premises, in violation of Rule 5  
of State Regulation No. 20.

Licensee has no adjudicated record; however, one Charles  
Caruso, presently holder of its capital stock and holder of all  
of its capital stock of a certain licensee designated as O.K.  
Coral, Inc. was found to have been concealed as its true and  
beneficial owner resulting in suspension of the plenary retail  
consumption license of the O.K. Coral, Inc. for thirty five  
days effective November 21, 1968. The prior violations of said  
O.K. Coral, Inc. will not here be chargeable against this  
licensee. Re O.K. Coral, Inc., Bulletin 1932, Item 6.

The prior record of companion license considered and  
absent prior record against this licensee, the license will be  
suspended for ninety-five (95) days, with remission of five  
days for the plea entered, leaving a net suspension of ninety  
days. Re Ri-Bo, Inc., Bulletin 1965, Item 3.

Accordingly, it is, on this 18th day of May, 1971,

ORDERED that Plenary Retail Consumption License C-711,  
issued by the Municipal Board of Alcoholic Beverage Control of  
the City of Newark to Club Mayfair Lounge, Inc. t/a Club Mayfair,  
for premises 11 Lafayette Street, Newark, be and the same is  
hereby suspended for the balance of its term, viz., until  
midnight, June 30, 1971, commencing at 2:00 a.m. Wednesday, June  
2, 1971, and it is further

ORDERED that any renewal license that may be granted shall  
be and the same is hereby suspended until 2:00 a.m. Tuesday,  
September 7, 1971.

Richard C. McDonough  
Director

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

In the Matter of Disciplinary Proceedings against

Three Joe's Tavern, Inc.  
97-99 Lang Street  
Newark, N. J.,

)  
)  
) *See above*  
) *205-12*  
)  
)

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption License C-407, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

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Oppenheim & Oppenheim, Esqs., by Carl J. Yagoda, Esq., Attorneys  
for Licensee  
Francis P. Meehan, Jr., Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

- "1. On November 17 and 21, 1970, 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", and further on said date of November 21, 1970, you allowed, permitted and suffered in and upon your licensed premises, slips, tickets, records, documents, memoranda and other writings pertaining to the aforementioned gambling activity; in violation of Rule 7 of State Regulation No. 20.
- "2. On November 17 and 21, 1970, 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."

ABC agent V testified on behalf of the Division and it was stipulated that he qualified as having expertise in the investigation of gambling and lottery operations.

On Tuesday, November 17, 1970, pursuant to a specific assignment, agent V entered the licensed premises at approximately 12:05 p.m. unaccompanied and took a seat at the bar near a telephone booth. He conversed with a patron known to him only as Gene. The conversation eventually came around to the subject of gambling, and Gene assured agent V that he could place a bet for him with one Mazur who was then in the phone booth.

During the conversation the bartender later identified as Charles Milan, served drinks to Gene and agent V.

After some five to seven minutes, Mazur exited the phone booth. Agent V then asked Gene to place a "fifty cents straight and

fifty cents box" bet. Gene approached Mazur, returned and said he had placed the bet with Mazur.

Agent V observed several male patrons approach Mazur, give him money and slips and after each transaction Mazur would disappear briefly into a side room. After agent V placed his bet through Gene, Milan served Gene and agent V a drink at which time agent V advised Milan of the bet. Milan wished him better luck than he (Milan) had. He asked what number agent V played. Agent V stated it was number 275 and Milan commented that it was a good number.

Agent V also noted some seven telephone calls, each of which was answered by Mazur, after each of which Mazur would then enter the side room briefly and return. Agent V departed the premises at approximately 1:25 p.m.

On Saturday, November 21, 1970, agent V returned to the licensed premises in the company of agents G and N. A "marked money" list was prepared, as was an original and carbon copy of a slip of paper containing three numbers bets. The marked money list contained the serial numbers of three - \$1 bills. The list and carbon copy of the bet slip was retained by agent N.

Agents V and G entered at 11:15 a.m., while agent N remained outside at a post of observation; they placed themselves at the bar near the phone booth. Gene and Mazur were again present and numerous phone calls were again received by Mazur who would briefly enter the side room after each call. Several calls were taken by patrons while Mazur was in the side room and in each case the patron would summon Mazur to the phone.

Milan was tending bar upon their arrival but was soon relieved by one David Ramos. On one occasion Ramos answered a phone call on an extension at the bar and relayed a message to Mazur. Additionally, Mazur accepted slips of paper and money from patrons, and on one occasion a patron was overheard by agent V to say to Mazur "Give me a dollar straight and a dollar on the second race", while handing currency to Mazur. In the opinion of agent V this was a numbers bet. Agent V handed the slip and the three "marked" one dollar bills to Mazur who accepted them and said "... if you hit I'll see you."

Agent V thereafter returned to the bar, purchased a drink and advised Ramos that he had placed a bet with Mazur. Ramos responded "Yeah" and walked away.

Shortly thereafter Ramos asked Mazur for change of a ten dollar bill and Mazur complied with ten \$1 bills, which Ramos placed in the cash register.

At 12:30 p.m. agent N entered the premises in the company of Detective No of the Newark Police Department. Agents V, G, N and Detective No then identified themselves to Mazur and Ramos, and searched the premises and the person of Mazur. No betting slips were found and the three "marked" bills were found in the register. Ramos and Mazur denied any gambling activity. Joseph Kilian, principal stockholder of the corporate licensee was summoned and arrived shortly thereafter. Agent V added that a separate phone with a separate number had been found upon inspection of the side room to which Mazur had often retreated.

On cross examination, he testified that the patron Gene was a local butcher who frequented the premises at lunch time, and that, on both dates, Gene was still on the premises when he departed; he was not aware on November 21, that the telephone in the side room was part of a burglary alarm system; Mazur is employed nights as a truck loader; after Ramos delivered the phone message to Mazur, Mazur then went into the side room and he did not witness the seizure of the "marked" bills from the register.

On November 17, he gave Gene money and told him to bet number 275; the side room was empty except for a few cases of beer with a small kitchen and bathroom unit to the rear.

Agent G testified that he arrived at the premises with agent V at approximately 11:15 a.m., and substantially corroborated the testimony of agent V, relative to the preparation of "marked" money and bet slips. He entered with agent V and they took seats side by side at the bar near the phone booth. He corroborated the testimony of agent V with respect to the events which took place prior to the identification of the agents and Detective No to Ramos and Mazur, and thereafter through the search of the person of Mazur and the search of the side room. He and Detective No made the search of the cash register and seized the marked bills.

He concluded that no bet slips were found on Mazur, that there was a separate functioning telephone in the side room and Kilian arrived during the course of the search.

On cross examination he testified that the betting activity was engaged in openly; the bartender was in the area when most of the betting took place and Mazur went to the side room every time he took a bet.

Joseph Kilian testified in defense that he is president of the corporate licensee; Charles Milan is employed at the said premises as bartender and Ramos helps out occasionally. The search of the premises was still in progress when he arrived.

He stated that the area of the side room which contains the kitchen and telephone is separated from the remainder of the side room by a gate and that "Normally, you have to let the bartender open the gate to let you back there;" but the gate was open when he arrived. The phone is part of a burglar alarm system which automatically phones the police, the alarm company and his home if there is a forcible entry. The phone may also be used for outgoing calls and this alarm system arrangement is activated before closing time at night.

He concluded that he knows Mazur as a patron and that he has never observed any illegal activity on the premises.

On cross examination he testified that the gate to the kitchen is normally closed; Milan's normal hours are 8:00 a.m. to 5:30 p.m. weekdays, and 8:00 a.m. till noon Saturday, and noon to 5:30 p.m. Sunday; and the telephone in the side room has a separate listed number.

Charles Milan testified that he is seventy-one years of age and has been employed at the licensed premises for more than two years. Gene is a local butcher who frequents the premises for lunch, but that Gene's lunch hour varies. He does not recall Gene being

present on November 17, nor does he recall the alleged conversation with agent V with respect to a bet placed on that date. He does not remember seeing agent G on November 21. He knows Mazur as a patron but has not seen Mazur engage in gambling activity.

On cross examination he testified that he has seen Mazur accept telephone calls on the premises.

David Ramos testified he is a salesman; he helps out three or four times a month; Mazur was present on the 21st; the telephone message he communicated to Mazur was from a woman acquaintance and had no reference to gambling. He admitted that he did ask Mazur for ten singles; he was present when Mazur was searched; he saw no betting transactions; and he does not recall the alleged conversation with agent V regarding a bet.

In evaluating the testimony and its legal impact we are guided by the firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and not criminal 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).

I have had an opportunity to observe the demeanor of the witnesses as they testified and have made a careful analysis and evaluation of their testimony.

The testimony of agents V and G indicate beyond question that considerable gambling activity took place on the licensed premises. The testimony of the agents as to that activity is in no way refuted by the testimony of any of the witnesses for the licensee.

Kilian was not present and Milan and Ramos betray an indifference to the proscribed activity. Further, it is reasonable to conclude that the "marked" money traveled a course from agent V, through Mazur and into the cash register, when Ramos asked Mazur for ten singles. Indeed, there is no other plausible explanation. I therefore, find as a fact, that gambling on a large scale took place in the licensed premises.

I further find knowledge of the activity on the part of the licensee. The conversation between agent V and Milan which, if true, constitutes a communication of the activity to the licensee through its agent is not convincingly refuted by Milan. Further, the familiarity with which Mazur made use of the side room and its facilities indicates that this was not an isolated instance, but rather clearly indicates a pattern of regular incidents.

I find that, under the facts and circumstances herein, the licensee allowed, permitted and suffered gambling in and upon the licensed premises. I conclude that the Division has established the truth of the charges by a fair preponderance of the believable evidence.

Accordingly, it is recommended that an order be entered finding the licensee guilty of the said charges.

Licensee has no prior adjudicated record. It is further recommended that an order be entered suspending the license for sixty days. Re Rudolph Brothers, Bulletin 1967, Item 5.

Conclusions and Order

No exceptions were filed to the Hearer's report 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 them as my own herein.

Accordingly, it is, on this 24th day of May 1971,

ORDERED that Plenary Retail Consumption License C-407, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Three Joe's Tavern, Inc., for premises 97-99 Lang Street, Newark, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1971, effective 2:00 a.m. Monday, June 7, 1971; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Friday, August 6, 1971.

Richard C. McDonough  
Director

- 3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - (NOLLE PROSSED) - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 10 DAYS - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against )

The Stonehouse, Inc. )  
t/a The Stonehouse )  
Route 206, Byram Township )  
PO R.D. 2, Stanhope, N.J. )

CONCLUSIONS  
and  
ORDER

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

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Trapasso, Dolan & Hollander, Esqs., by Frank A. Dolan, Esq., Attorneys for Licensee.  
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

- "1. On Friday, September 11, 1970, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Richard ---, age 17, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

- "2. On Friday, September 11, 1970, between the hours of 10:50 P.M. and 11:05 P.M., you, directly or indirectly, through a person employed on your licensed premises as a doorman and bartender, failed to facilitate, hindered, delayed and caused the hindrance and delay and attempted to hinder, delay and cause the hindrance and delay of an investigation and inspection of the licensed business and premises and of a search thereof then and there being conducted by an Inspector and an Investigator of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of Rule 35 of State Regulation No. 20."

A nolle pros was entered by the Division on Charge 1. Thus, any reference herein to the word "minor" or "apparent minor" shall mean "alleged minor", no proof being adduced that the person to whom reference is made was in fact a minor.

Agent V testified that on September 11, 1970 about 9:35 p.m., accompanied by agent N, he entered the premises pursuant to a specific assignment. They went to the bar and ordered a drink. Soon after their attention was attracted to the entry of an adult accompanied by a minor. The bartender, who they later learned was Gerald D. Mazzei (principal stockholder of the corporate licensee) served the adult with two alcoholic beverages, one of which he gave to the minor who consumed it. Thereafter the minor reordered and received a glass containing an alcoholic beverage from which he took a sip. Thereupon agent V asked the minor his age, confiscated the glass and ascertained that the minor was 17 years of age. Both agents brought the minor before Mazzei, to whom each showed his identification and notified him of the alleged infraction. It was then that Mazzei said "Get out of here; this is my business" and "How do I know who you guys are?" and when the identification cards were again produced said "They don't mean a ... thing to me." He became loud and excited. A threatening crowd gathered as he became abusive to the minor as well as the agents, insisting to the minor that he had been given a Seven-up instead of an alcoholic drink. He was replaced behind the bar by a helper who was later identified as Samuel DeMarco.

DeMarco served a patron behind the bar and as the agent, who was holding the offending glass of alcoholic beverage used by the minor, turned slightly to address the minor, DeMarco grabbed the glass held by the agent. The agent simultaneously grabbed the wrist of DeMarco and, as a result, the contents of the glass spilled on the bar. DeMarco told the agent "You better be sure this arrest sticks." Agent V admitted, however, on cross examination that DeMarco may not have known at that time that he and his associate were ABC agents.

It was stipulated by counsel that the direct testimony of agent N would be corroborative of that of agent V with the addition that agent N made a telephone call to summon the State police.

Gerald D. Mazzei testified that he owns ninety-nine of one hundred shares of the licensee corporation, the remaining share belonging to his wife. He operates a combination bar and

restaurant. On the occasion alleged herein, he was very busy. He recalled that agent N had a scotch and water and agent V had a Bacardi and coke. He believed that two adults came with the minor and that the adults consumed alcoholic beverages but insisted that the minor drank a Seven-up. His attention was directed to the other side of the bar, but he recalled that the agents made a move to go and that was followed by being shown their identification card. He had no doubt that the agents were agents and even showed one of them where the phone was. He was informed by agent V that the minor had been served in such a manner that three men, coming out of the men's room, began advancing to help him; but he waved them off. He quoted the agent as saying "That is going to cost you fifteen days; you are under arrest." He confirmed that the agent advised him that Sam (DeMarco) had knocked the glass from his hand. He got excited as the place was crowded but he saw no physical contact between the agents and anyone.

On cross examination he remembered telling the agents he served the minor with a soft drink, and did not recall what he said after as he was provoked. He wouldn't deny saying "get out of here, this is my business;" admitted raising his voice and perhaps saying "How do I know who you guys are." He admitted a verbal confrontation with agent V and his excitement rose sufficiently that agent N displayed his ID card again. Calm was not restored until the State police arrived.

Samuel DeMarco testified that he has the kitchen concession at the licensed premises; he has his own food license and as such is self-employed. He does assist Mazzei by helping out. On September 9 he was assisting at the door but, when asked, took Mazzei's place behind the bar and began to serve drinks. He was not told the men were agents, but he saw one wave his arms around and thought that there might be some trouble so he "cleaned the bar" (presumably of glasses). In the process he probably cleared off the glass the agent was talking about, but he didn't recall. He had no altercation with either agent and was behind the bar only about five minutes when he was called to the kitchen. He admitted that there were loud voices at the bar and that he anticipated possible trouble, but he denied knocking anything from the hand of the agent.

In adjudicating this matter it is observed that, in evaluating the testimony and its legal impact, we are guided by the firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956); Freud v. Davis, 64 N.J. Super. 242 (App.Div. 1960).

In appraising the factual picture presented in the proceedings, the credibility of witnesses must be weighed. Testimony, to be believed, must not only proceed from the mouth of a credible witness but must be credible in itself. It 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).

Reduced to its elements, the basic differences between the testimony given by the Division and that given by the witnesses for the licensee concern the destruction of the evidence the agent had secured. The agent claimed the glass was grabbed out of his hand by DeMarco. This was denied. The other area of disparity in testimony concerns the attitude of the licensee's employees toward the agents. The agents described a situation where there was confrontation and hostility. The existence of hostility was denied.

The pertinent part of the statute controlling, N.J.S.A. 33:1-35, provides:

"Every ... licensee ... shall ... facilitate, as far as may be in their power to do so, in any such investigation, examination or inspection, and they shall not in any way hinder or delay or cause the hindrance or delay of same, in any manner whatsoever...." (emphasis added)

The mere identification of the agents to the licensee's agent caused him to become excited, as he admitted, and such excitement immediately translated itself into a gathering and, as he admitted, a threatening situation. With the atmosphere so charged with the electricity generated by Mazzei, one of the consequences was the destruction of the evidence collected by the agents. While this was denied, such denial is not credible nor was the testimony of DeMarco. The agent had the glass which was to have been poured into a container brought for that purpose. He was an experienced agent; the evidence was taken from him by DeMarco.

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.

Neither witnesses for the licensee had any recollection concerning the glass containing the minor's drink. Mazzei never saw what happened to it, and DeMarco might have cleared it off the bar. It is odd that their recollections are so dim about this drink, yet can be accurate enough to identify the drinks ordered by the agents when they came in. Such variations in testimony strain credulity.

The fact is that such activity clearly hinders an investigation and law enforcement agents are not required to submit to such hanky-panky on the part of employees of licensees. Re Gitter, Bulletin 1575, Item 2.

"A licensee cannot escape the consequences of his acts, particularly when he physically interferes with the orderly investigation of officers of the law while in the course of their sworn duty." Re Vogellus, Bulletin 1519, Item 3.

Accordingly, it is recommended that an order be entered adjudging licensee guilty of the said charge.

The said license was suspended for a period of fifteen days effective January 18, 1971 on charges of exhibiting indecent photoview pictures. Re The Stonehouse, Inc., Bulletin 1956, Item 2. Since this matter is on appeal to the Appellate Division of the Superior Court, it will not be considered for penalty purposes.

It is further recommended that the license be suspended for a period of ten days. Re Jemick Corp., Bulletin 1941, Item 5.

#### 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 report.

The suspension herein would normally be for a period of ten days. However, licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept the offer in compromise by the licensee to pay a fine of \$400 in lieu of such suspension.

Accordingly, it is, on this 20th day of May 1971,

ORDERED that the payment of a \$400 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Richard C. McDonough  
Director

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

In the Matter of Disciplinary Proceedings against

BONDED SUITE CORPORATION  
t/a Hof-Brau Tavern  
441 Crooks Avenue  
Clifton, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-33, issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton.

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Nuzzo & Nuzzo, Esqs., by Joseph C. Nuzzo, Esq., Attorneys for the Licensee.  
Walter H. Cleaver, Esq., Appearing for the Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that, on January 4, 1971, 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.

Absent prior record, 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 Dor & Al Inc., Bulletin 1917, Item 3.

Accordingly, it is, on this 18th day of May, 1971,

ORDERED that Plenary Retail Consumption License C-33, issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton to Bonded Suite Corporation, t/a Hof-Brau Tavern, for premises 441 Crooks Avenue, Clifton, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. Wednesday, June 2, 1971 and terminating at 3:00 a.m. Thursday, June 17, 1971.

Richard C. McDonough  
Director

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

*and Justice*

In the Matter of Disciplinary Proceedings against )

Shades Lounge, Inc. )  
t/a Zoo Lounge )  
1820 Willow Avenue )  
Weehawken, N. J. )

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption License C-13 issued by the Township Committee of Weehawken Township. )

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Licensee, Pro Se.  
Edward F. Ambrose, Esq., Appearing for the Division.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on March 23 and April 16, 1971 it permitted lewdness and immoral activity (indecent entertainment) on its licensed premises in violation of Rule 5 of State Regulation No. 20.

Reports of investigation disclosed that, on the dates alleged, a female "go-go" dancer performed in the licensed area by exposing her breasts in a manner described as "topless", dancing in a suggestive obscene pose and placing hands on private parts.

Absent prior record, this license will be suspended for forty-five (45) days, with remission of five days for the plea entered, leaving a net suspension of forty (40) days. Re Band Box (A Corp.), Bulletin 1899, Item 3.

Accordingly, it is, on this 19th day of May, 1971

ORDERED that Plenary Retail Consumption License C-13, issued by the Township Committee of Weehawken Township to Shades Lounge, Inc., t/a Zoo Lounge, for premises 1820 Willow Avenue, Weehawken be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1971 commencing at 2:00 a.m. Thursday, June 3, 1971; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Tuesday, July 13, 1971.

Richard C. McDonough,  
Director

6. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER.

In the Matter of Disciplinary Proceedings against

Converst Cuttino t/a Springwood Bar & Grill 26 Valley Street Union Township (Union County) PO Vaux Hall, N. J.,

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-43, issued by the Township Committee of the Township of Union.

Kein, Pollatschek & Iacopino, Esqs., by Julius R. Pollatschek, Esq., Attorneys for Licensee Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

On April 7, 1971 Conclusions and Order were entered suspending the subject license for forty-five days effective April 21, 1971, upon licensee's plea of non vult to charges alleging that (1) on January 18, 1971 he possessed an alcoholic beverage in a bottle which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20, and (2) in application for current license he failed to disclose a prior suspension, in violation of R.S. 33:1-25. Re Cuttino, Bulletin 1974, Item 7.

Prior to the effectuation of the said suspension, in accordance with the provisions of Chapter 9 of the Laws of 1971 licensee made application for the imposition of a fine in lieu of said suspension and, by order dated May 12, 1971, the said suspension theretofore imposed was stayed until the entry of a further order herein.

After consideration of the facts and circumstances herein, and in the exercise of my discretion, I have determined to deny the said application for the imposition of a fine in lieu of suspension. However, for good cause appearing, I have determined to reduce the suspension imposed therein from forty-five to thirty days.

Accordingly, it is, on this 24th day of May 1971,

ORDERED that the order dated May 12, 1971 staying the suspension heretofore imposed be and the same is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-43, issued by the Township Committee of the Township of Union to Converst Cuttino, t/a Springwood Bar & Grill, for premises 26 Valley Street, Union Township, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1971, commencing at 2 a.m. Tuesday, June 8, 1971; 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. Thursday, July 8, 1971.

Richard C. McDonough, Director.

DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (INDECENT ENTERTAINMENT) - PRIOR SIMILAR RECORD - PENALTY TO RUN CONCURRENTLY WITH PENALTY PRESENTLY IN EFFECT - LICENSE SUSPENDED FOR 40 DAYS.

In the Matter of Disciplinary Proceedings against

570 Main, Inc. t/a Paradise Lounge 570 Main Avenue Passaic, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-152, heretofore issued by the Municipal Board of Alcoholic Beverage Control of the City of Passaic for the 1969-70 licensing period and extended by the Director of the Division of Alcoholic Beverage Control for the 1970-71 licensing period.

Feder & Rinzler, Esqs., by Joseph A. Feder, Esq., Attorneys for Licensee. Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 16 and February 8, 1970 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 a female "go-go" dancer, scantily attired, at times "topless", and her vaginal area covered by only a three-inch wide patch, performed on a platform in the barroom and on top of the bar, in close proximity to the male patrons, during which she engaged in bumps, grinds and other bodily movements, in standing position and supine on the floor of the platform, simulating and suggesting sexual intercourse, raised her bare breasts to her lips, lowered the covering over the vaginal area exposing the pubic hair, and at the same time rubbed her vagina with her hands, in association with the bumps, grinds and other bodily movements, as aforementioned, to the tempo of the music.

Licensee has a previous record of suspension of license by the municipal issuing authority for one hundred twenty days effective May 11, 1970 for similar violation of permitting lewdness and immoral activity (indecent entertainment) on the licensed premises. Upon appeal to this Division, the action was affirmed on April 21, 1971. 570 Main, Inc., v. Passaic, Bulletin 1978, Item 2. By amended order dated April 26, 1971, the suspension was reimposed effective May 6, 1971.

The prior record of license disregarded for penalty purposes since determination on appeal was reached after the date of said charges (Re Suppa, Bulletin 1775, Item 4), 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. Re Lafayette Bar, Inc., Bulletin 1889, Item 3.

The suspension herein was based upon a similar violation of permitting lewdness and immoral activity (indecent entertainment)

on the licensed premises as that for which the order of suspension of one hundred twenty days was imposed in Appeal #3492 and occurred in close proximity in time, i.e., within one month from the date of the violation set forth therein, and involved the same entertainer.

I have determined that the penalty therein imposed of one hundred twenty days suspension should embrace the penalty to be imposed herein and, in fairness to the licensee, I shall impose a concurrent period of suspension herein.

Accordingly, it is, on this 24th day of May 1971,

ORDERED that the last two paragraphs of the order dated April 21, 1971, be amended as follows:

ORDERED that Plenary Retail Consumption License C-152, issued by the Municipal Board of Alcoholic Beverage Control of the City of Passaic to 570 Main, Inc., t/a Paradise Lounge, for premises 570 Main Avenue, Passaic, for the license period as extended by order dated June 29, 1970, as hereinabove set forth, be and the same is hereby suspended nunc pro tunc for forty (40) days, commencing at 3 a.m. Thursday, May 6, 1971, and terminating at 3 a.m. Tuesday, June 15, 1971.

Richard C. McDonough  
Director

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
570 MAIN, INC.  
t/a Paradise Lounge  
570 Main Avenue  
Passaic, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-152, heretofore issued by the Municipal Board of Alcoholic Beverage Control of the City of Passaic for the 1969-70 licensing period and extended by the Director of the Division of Alcoholic Beverage Control for the 1970-71 licensing period.

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Feder & Rinzler, Esqs., by Joseph A. Feder, Esq., Attorneys for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 22, 1970 it possessed alcoholic beverages in five bottles bearing labels that did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a prior record of suspensions. Effective May 11, 1970 its license was suspended for one hundred twenty days by the municipal issuing authority for permitting immoral activity on the licensed premises (upon appeal filed, this penalty was stayed by the Director; the action of the local issuing authority was affirmed, the stay was vacated and the suspension was reimposed

by the Director effective May 6, 1971 for like period). License was further suspended for permitting lewdness on premises for forty days by the Director effective September 3, 1971, in the event that a renewal or extension of said license shall be granted by the local issuing authority. Re 570 Main, Inc., Bulletin 1978, Item 2.

The prior record disregarded for penalty purposes (Re Suppa, Bulletin 1775, Item 3), 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 Stark, Bulletin 1555, Item 4.

Accordingly, it is, on this 24th day of May 1971,

ORDERED that any renewal or extension that may be granted by the Municipal Board of Alcoholic Beverage Control of the City of Passaic of Plenary Retail Consumption License C-152 to 570 Main, Inc., t/a Paradise Lounge, for premises 570 Main Avenue, Passaic, be and the same is hereby suspended for twenty-five (25) days, commencing at 3 a.m. Friday, September 3, 1971, and terminating at 3 a.m. Tuesday, September 28, 1971.

Richard C. McDonough  
Director

- 9. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - FALSE STATEMENT IN APPLICATION - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against

Tioga Tavern, Inc.  
t/a Tioga Tavern  
1055-57 Central Ave.  
Camden, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-173, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

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Licensee, by Lucy Roberts, President, Pro se.  
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on Sunday, November 1, 1970 it sold twelve cans of beer, in violation of a municipal ordinance; to charge (3) alleging that such sale was also in violation of Rule 1 of State Regulation No. 38, being for off-premises consumption, and to charge (4) alleging that in application for its current license it failed to reveal a record of a previous suspension of license, in violation of R.S. 33:1-25.

Licensee has a previous record of suspension of license by the municipal issuing authority for twenty days effective September 20, 1965 for sale of alcoholic beverages to minors, non-disclosure of said suspension being the subject matter of the fourth charge.

The previous record of suspension of license for dissimilar violation occurring more than five years ago disregarded, the license would normally be suspended on the first, second and third charges for twenty days (Re Lipshitz, Inc., Bulletin 1911, Item 8, and on the fourth charge for ten days (Re Jule's Bar, Inc., Bulletin 1939, Item 2) or a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

However, the licensee has made application for the imposition of fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$1,000 in lieu of suspension.

Accordingly, it is, on this 24th day of May 1971,

ORDERED that the payment of \$1,000 fine by the licensee is hereby accepted in lieu of suspension of license for twenty-five days.

Richard C. McDonough  
Director

10. STATE LICENSES - NEW APPLICATION FILED.

Sarmiento Industries, Inc.  
t/a Sarmiento Industries, Inc.  
482 Barell Avenue  
Carlstadt, N. J.

Application filed July 12, 1971 for Plenary Wholesale license.

  
Richard C. McDonough  
Director