

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 989

NOVEMBER 4, 1953.

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - LEAHY ET AL. v. HOBOKEN AND NADDEO.
2. DISCIPLINARY PROCEEDINGS (Paterson) - SALE DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATIONS - PRIOR RECORD - LICENSE SUSPENDED FOR 90 DAYS.
3. DISCIPLINARY PROCEEDINGS (Atlantic Highlands) - GAMBLING - PERMITTING GAMBLING DEVICE ON LICENSED PREMISES - ACT OCCURRING AFTER FILING OF APPLICATION (OFFICER, DIRECTOR AND STOCKHOLDER CONVICTED OF CRIME INVOLVING MORAL TURPITUDE) - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO APPLY FOR ORDER LIFTING SUSPENSION AFTER 40 DAYS IF SITUATION CORRECTED.

MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.
4. DISCIPLINARY PROCEEDINGS (Paterson) - SALE DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATIONS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Paterson) - HOSTESSES - ALLOWING OBSCENE LANGUAGE ON LICENSED PREMISES - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Hoboken) - ILLEGAL SITUATION CORRECTED - PRIOR SUSPENSION FOR BALANCE OF TERM LIFTED.
8. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1953 TO OCTOBER 1, 1953 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R. S. 33:1-19.
9. DISCIPLINARY PROCEEDINGS (Hoboken) - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
10. MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.
11. STATE LICENSES - NEW APPLICATIONS FILED.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 989

NOVEMBER 4, 1953.

1. APPELLATE DECISIONS - LEAHY ET AL. v. HOBOKEN AND NADDEO.

EDWARD LEAHY; N. J. O'HARA; WILLIAM)
D. SCHULT; ROBERT STRAHLENDORFF;)
ALBERT C. STUHR; ANTHONY DADAS;)
SAMUEL DADAS; ALFRED De LORENZO and)
MICHAEL TOTARO,)

Appellants,)

-vs-

ON APPEAL
O R D E R

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE)
CONTROL OF THE CITY OF HOBOKEN and)
RUDOLPH NADDEO,)

Respondents.)

No appearance on behalf of Appellants.

Joseph B. McFeely, Esq., by William Gottlieb, Esq., Attorney for
Respondent Municipal Board of Alcoholic Beverage Control.
Albert J. Shea, Esq., Attorney for Respondent Rudolph Naddeo.

BY THE DIRECTOR:

This is an appeal from the action of the Municipal Board of Alcoholic Beverage Control of the City of Hoboken in granting a transfer of a plenary retail consumption license from Bartenders Social Club of Hoboken and North Hudson, Inc. to Rudolph Naddeo for premises 125-127 Hudson Street, Hoboken.

On the day this appeal was scheduled to be heard one of the attorneys who represented the appellants herein telephoned to this Division and stated that the appellants did not intend to proceed with said appeal. The following day, a letter was received at this Division by United States mail from said attorney confirming the fact that appellants did not intend to prosecute the within appeal and that both attorneys of record who represented the appellants concurred therein.

At the time and place fixed for hearing, the appellants did not appear personally or by their respective attorneys to prosecute the appeal filed in this matter.

Pursuant to Rule 10 of State Regulations No. 15, the within appeal will be dismissed because of failure of prosecution.

Accordingly, it is, on this 20th day of October, 1953,

ORDERED that the appeal herein be and the same is hereby dismissed.

DOMINIC A. CAVICCHIA
Director.

2. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATIONS - PRIOR RECORD - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary Proceedings against)

ROBERT L. PATON)
446 Union Avenue)
Paterson 1, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-103, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)
-----)

Charles J. Alfano, Esq., Attorney for defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that he (1) sold, served and delivered and allowed, permitted and suffered the consumption of alcoholic beverages on his licensed premises, during prohibited hours, and (2) failed to have his entire licensed premises closed during such hours, both in violation of local ordinance.

The file discloses that, at approximately 2:35 a.m., on Saturday, August 15, 1953, two ABC agents arrived in the vicinity of defendant's licensed premises to investigate a specific complaint that defendant was open and selling alcoholic beverages after the local curfew. One agent entered defendant's barroom where there were seven patrons seated at the bar which was being tended by defendant. The other agent kept the licensed premises under observation from a point nearby. The agent who entered ordered a whiskey highball, which was served to him by defendant. At 2:50 a.m., a man entered the barroom and was served a highball by the licensee. The agent also was served a highball at that time and he and the other patrons remained upon the licensed premises consuming their drinks. At 3:05 a.m., two of the patrons left the premises and defendant extinguished the outside lights and locked the front and side doors but made no effort to get the patrons to leave. At 3:10 a.m., defendant again served the aforementioned male patron and the agent, whiskey highballs. The five other patrons were still consuming their drinks and, at 3:12 a.m., one of the male patrons asked defendant if he could play the juke box. Defendant replied, "No, not now, look at the time." The male patron then bought a drink for defendant who proceeded to consume it while conversing with various patrons. At 3:20 a.m., the other agent tried to enter the barroom through the front door but found it locked. Defendant motioned to him that he could not enter, but the agent who was inside the licensed premises identified himself to defendant and opened the door admitting the other agent. Defendant identified himself as the licensee and orally admitted serving the drinks to the agent and another male patron after 3:00 a.m., but refused to make a written statement.

The local ordinance prohibits sale, service and delivery of alcoholic beverages on licensed premises and permitting consumption of such beverages thereon between 3:00 a.m. and 7:00 a.m. on weekdays. It also requires that the entire licensed premises be closed during prohibited hours.

Defendant has a prior record. His license for premises 139 1/2 West Broadway was suspended by the local issuing authority for five

days, effective April 13, 1942, for failure to provide requisite view during prohibited hours, and his license for premises 49-51-53 West Broadway was revoked by the Director, effective February 1, 1951, for permitting lewdness and immoral activity, permitting obscene language and possessing contraceptives on licensed premises. Re Paton, Bulletin 898, Item 3. Such revocation rendered him ineligible to receive or hold a license of any class under the Alcoholic Beverage Law for two years from the effective date thereof, February 1, 1951. R. S. 33:1-31. Almost immediately after the two-year period of ineligibility had elapsed, to wit, on February 25, 1953, defendant obtained his present license by transfer from Benjamin Paton. Thus, six and one-half months after being restored to eligibility and less than six months after obtaining his present license defendant personally violated the local "hours" ordinance, as hereinabove recited. Generally, an "hours" violation must be viewed as deliberate, since all that is necessary for compliance is the ability to tell time. In the instant case defendant was well aware of the time. Five minutes after the 3:00 a.m. curfew he locked the doors, extinguished the outside lights and, still later, admonished a patron not to play the juke box because of the time. Furthermore, defendant is thoroughly familiar with the "hours" regulations, having received, by letter, a specific warning with respect thereto as late as August 1950. It would appear that defendant, who by his unlawful conduct, had heretofore forfeited his privilege to engage in the alcoholic beverage industry in this State and regained it so recently, has not profited by his term in the "penalty box." Nor does he appear to have mended his ways. His present misconduct, reflected against the background of his prior gross misdeeds, raises most serious doubt as to his ability or desire to conduct his licensed business in a lawful manner and as to his fitness to be engaged in a privileged business. Certainly a substantial suspension is the minimum penalty possible here. Under all of the circumstances, including the plea, I shall suspend the license for ninety days. Cf. A. J. S. Corporation, Bulletin 678, Item 12.

Defendant is hereby warned that, as his earlier misconduct caused his license to be revoked, carrying with it a two-year period of ineligibility, so also any future violation may again result in revocation of his license and his complete ineligibility to hold or receive any license of any class at any time thereafter. R. S. 33:1-31. In addition, the local issuing authority may seriously consider the wisdom of renewing defendant's license should application therefor be made.

Accordingly, it is, on this 19th day of October, 1953,

ORDERED that Plenary Retail Consumption License C-103, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Robert L. Paton, for premises 446 Union Avenue, Paterson, be and the same is hereby suspended for ninety (90) days, commencing at 3:00 a.m. October 27, 1953, and terminating at 3:00 a.m. January 25, 1954.

DOMINIC A. CAVICCHIA
Director.

- 3. DISCIPLINARY PROCEEDINGS - GAMBLING - PERMITTING GAMBLING DEVICE ON LICENSED PREMISES - ACT OCCURRING AFTER FILING OF APPLICATION (OFFICER, DIRECTOR AND STOCKHOLDER CONVICTED OF CRIME INVOLVING MORAL TURPITUDE) - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO APPLY FOR ORDER LIFTING SUSPENSION AFTER 40 DAYS IF SITUATION CORRECTED.

MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.

In the Matter of Disciplinary Proceedings against)

HOMESTEAD INN, A Corporation)
 T/a HOMESTEAD INN)
 118-120 Center Ave.)
 Atlantic Highlands 4, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-10 for the 1952-53 and 1953-54 licensing years, issued by the Borough Council of the Borough of Atlantic Highlands.)
 -----)

Edward F. Juska, Esq., Attorney for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On August 12, 1952, you allowed, permitted and suffered gambling, viz., the playing of dice for money in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20.
- "2. On the occasion aforesaid you allowed, permitted and suffered a device and apparatus designed for the purpose of gambling, viz., a dice table, in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20."

Defendant pleaded not guilty to the following charge:

- "3. On or about December 12, 1952, Hy Kramer, your vice-president, director and holder of 650 shares of your stock (approximately 43.3 per cent) was convicted in the Monmouth County Court Law Division (Criminal) of the crime of keeping a gambling resort contrary to provisions of R. S. 2A:112-3, a crime involving moral turpitude, such conviction being an act or happening occurring after the time of your making application for your current license which, if it had occurred before said time, would have prevented the issuance of the license since such issuance would have been contrary to R. S. 33:1-25."

In entering its plea of non vult to charge 2 defendant offered an explanation, claiming that the table referred to was "an ordinary table" and not a "dice table in the ordinary use of the word" and that it had no sideboards, markings or cloth on it. Since this claim was at variance with the information in the Division's file, defendant was permitted to offer evidence with respect to charge 2 despite the plea of non vult. With respect to charge 3 defendant contends that the crime of which Hy Kramer was convicted did not involve moral turpitude.

At the hearing a detective and a special investigator attached to the Monmouth County Prosecutor's office appeared and testified. Their testimony was substantially the same and may be summarized as follows:

At approximately 2:05 a.m. August 12, 1952, the detective, the investigator and two other officers entered the building, which constitutes (in its entirety) defendant's licensed premises, and proceeded past the barroom, which was then closed, through the kitchen to the basement. Seeing a light and hearing voices, they continued on until they came upon five or six men, including Hy Kramer, standing around an old wooden table approximately 3' x 4' in size and approximately 3 1/2' high. Along three sides of the table was a wooden rail 6" high, described as a "backboard", and at the "back end" of the table three small rubber mats had been nailed on. One of the men was standing at the open end (which had no railing or "backboard") with dice in his hand.

The investigator testified that he saw money on the table (in at least two places) and saw money in the hands of some of the men standing around the table. (The detective was not certain whether there was money on the table or not.)

The officers interrogated the men, most of whom they knew, and, at first, Kramer denied that he was running the game. Later, however, he admitted that he was "running the game" and that he was "cutting the game" adding that he "got expenses out of it." The officers seized the dice, the table and \$62.00, some of which came from Kramer's pocket.

On cross-examination these witnesses admitted that they had not seen anyone rolling dice while they were in the basement; that they did not know who owned the table or the dice and that the men who were gathered around the table were members of a local service club.

The certified copy of defendant's license application, admitted in evidence without objection, discloses that Hy Kramer is vice-president, a director and the holder of 650 (out of 1500) shares of the capital stock of defendant corporation. It further discloses that Hy Kramer "was arrested on six occasions and convicted of gambling and in each instance fined under the city ordinance of the City of Newark."

There was also introduced in evidence a certified copy of an indictment, arraignment, conviction and sentence from which it appears that, on December 12, 1952, Hy Kramer pleaded non vult to a charge alleging that, on August 12, 1952, he "willfully and unlawfully did keep a certain place to which persons might resort for gambling, with intent on the part of him the said Hy Kramer that persons might and should resort thither for such unlawful purpose, contrary to the provisions of R. S. 2A:112-3 and against the peace of this State, the Government and dignity of the same." A second similar charge covering the period from June 1, 1952 to August 11, 1952 was nolle prossed.

On behalf of defendant, two men appeared and testified that they are local business men and members of a local service club; that their club had met for dinner at other premises on the night of August 11, 1952; that they had later gone to defendant's licensed premises where, they had heard, there was to be "a game"; that they went to the basement where they were interrupted by the officers while waiting for the "game" to start.

As to charge 1, defendant has pleaded non vult.

As to charge 2, while the table may not have been originally constructed to be used exclusively for "crap games" the evidence shows that it had been converted to such use. I find defendant guilty on charge 2.

As to charge 3, there is no question of the conviction of Hy Kramer as alleged in that charge. The only question remaining is whether or not the crime of which Hy Kramer was convicted in December 1952 involves moral turpitude. The indictment upon which he was convicted charged, in effect, that he kept a place to which persons might resort for gambling with intent that persons might resort thither for such unlawful purpose. Briefly stated, the charge alleges commercialized gambling. Cf. Re Cottman, Bulletin 987, Item 1. It has repeatedly been held that while commercialized gambling usually involves moral turpitude (Bulletin 2, Item 8; Re Ulich, Bulletin 70, Item 2; Re Case No. 239, Bulletin 305, Item 9), the decision in each case depends upon the facts. Re Case No. 220, Bulletin 263, Item 8; Re Case No. 378, Bulletin 460, Item 1; Re Case No. 601, Bulletin 796, Item 12; Re Case No. 1018, Bulletin 956, Item 7; Re Cottman, *supra*.

The facts in this case are quite similar to those in Re Cottman, *supra*, where the defendant had been convicted of this same offense and under the same section (N. J. S. 2A:112-3). In that case I said:

"I deem it significant that the penalty for violation of N.J.S. 2A:112-3 is not the usual penalty for a misdemeanor, i.e., a maximum term of imprisonment of three years, or a maximum fine of \$1,000, or both, (N.J.S. 2A:85-7), but a fine of not less than \$1,000 nor more than \$5,000, or imprisonment in the state prison for not less than one year nor more than five years, or both. Such a penalty clearly demonstrates that the Legislature considered the offense a serious one to be dealt with more severely than ordinary misdemeanors. Under the circumstances I cannot view defendant's offense as trivial. In a number of cases decided under R. S. 2:135-3 (which was the predecessor of N.J.S. 2A:112-3) it was held that the particular conviction constituted conviction of crime involving moral turpitude. See Re Case No. 618, Bulletin 878, Item 12; Re Case No. 629, Bulletin 918, Item 11; Re Case No. 635, Bulletin 946, Item 10.

"Commercial gambling feeds upon the weakness of those who cannot resist the temptation to gamble, and the mere fact that a relatively small amount of money was involved does not change the essential nature of the offense." Re Cottman, *supra*.

Considering all of the facts and circumstances I find that the crime of which Hy Kramer was convicted in December 1952, involved moral turpitude. Consequently I find defendant guilty on charge 3.

Because of the finding of guilt on charge 3 and, more particularly, because of his conviction of crime involving moral turpitude, no license of any class may be issued to Hy Kramer and, since he is the owner of more than ten per centum (10%) of the stock of defendant corporation and now would fail to qualify as an individual applicant, no license of any class may be granted to the corporation. R. S. 33:1-25, par. 2. Kramer's conviction (with his resultant disqualification) is an act or happening, occurring after the time of making application for the license which, if it had occurred before said time, would have prevented the issuance of the license and is ground for suspension or revocation of the license. R. S. 33:1-31.

I have given serious thought to the proper penalty to be imposed in this case. Defendant has no prior adjudicated record. As above indicated, its license may be suspended or revoked upon the charges in the instant case. R. S. 33:1-31. However, revocation would inflict most severe punishment on the licensee and its stockholders, unnecessary to the proper protection of the public interest which will be

adequately protected if Hy Kramer, now ineligible to hold a license or to be connected in any business capacity with the alcoholic beverage industry in this state, is removed from active participation therein; while such disqualification persists. This can be accomplished by suspension of defendant's license for the balance of its term or until Hy Kramer completely severs his connection with defendant corporation. Cf. Re Cottman, supra; Re Tulipano, Bulletin 980, Item 2. However, in addition to Hy Kramer's ineligibility, as aforementioned, there is also the fact that defendant permitted gambling to be conducted by one of its officers, directors and stockholders upon its licensed premises and permitted a gambling device upon such premises as set forth in charges 1 and 2. These violations cannot go unpunished. Under all of the facts and circumstances, including the "cutting" of the game by the officer, director and stockholder, aforementioned, I would ordinarily suspend defendant's license for a minimum period of forty days. However, since Hy Kramer still remains an officer of the defendant corporation I shall suspend defendant's license for the balance of its term. In the event that the license is transferred to a duly qualified person, or in the event that it is established by sufficient proof that said Hy Kramer is no longer an officer, director or stockholder of the corporation or connected with it in any business capacity, application may be made to me for the lifting of such suspension but in no event will an order lifting the suspension be entered prior to the expiration of forty days from the effective day thereof.

Although this proceeding was instituted during the 1952-53 licensing period, it does not abate but remains fully effective against the renewal license for the 1953-54 licensing period. State Regulations No. 16.

Accordingly, it is, on this 15th day of October, 1953,

ORDERED that Plenary Retail Consumption License C-10, issued for the 1953-54 licensing year by the Borough Council of the Borough of Atlantic Highlands to Homestead Inn, A Corporation, t/a Homestead Inn, 118-120 Center Avenue, Atlantic Highlands, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. October 21, 1953; and it is further

ORDERED that in the event a correction of the illegal situation is effected, leave will be given to make application to me for the lifting of the suspension, as aforesaid.

DOMINIC A. CAVICCHIA
Director.

4. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATIONS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against GREGORIO CHIARELLA 37 Market Street Paterson 1, N. J., Holder of Plenary Retail Consumption License C-159, issued by the Board of Alcoholic Beverage Control of the City of Paterson.

CONCLUSIONS AND ORDER

Gregorio Chiarella, Defendant-licensee, Pro Se. David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to charges alleging that on September 18, 1953, (1) he sold, served and delivered alcoholic beverages during prohibited hours, in violation of a local ordinance; (2) he failed to have his licensed premises closed during said hours, in violation of a local ordinance, and (3) he sold and delivered alcoholic beverages in original containers for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulations No. 38.

Local regulations of the City of Paterson prohibit the sale, service, delivery and consumption of alcoholic beverages on licensed premises between 3:00 a.m. and 7:00 a.m. on weekdays, and require that licensed premises, with certain exceptions not here material, must be closed during hours of prohibited sale.

The file herein discloses that on Friday, September 18, 1953, at about 6:20 a. m., two ABC agents entered defendant's licensed premises by going through an alley and a rear door to the premises. In the barroom they found five male patrons seated at a bar consuming alcoholic beverages which were served by defendant. Shortly after the ABC agents purchased drinks of alcoholic beverages from defendant, it was announced over the radio that "the correct time is now 6:30 a.m." The agents then observed a patron purchase from the licensee a bottle of wine which the patron carried off the licensed premises. At about 6:40 a.m. one of the agents purchased from the licensee a bottle of wine and told the licensee that they intended to take the bottle to work with them. The agents then identified themselves to the licensee.

Defendant has no prior record. I shall suspend defendant's license for thirty days. Re Bader, Bulletin 927, Item 2; Re Lukas, Bulletin 963, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 23rd day of October, 1953,

ORDERED that Plenary Retail Consumption License C-159, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Gregorio Chiarella, for premises 37 Market Street, Paterson, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. November 2, 1953, and terminating at 3:00 a.m. November 27, 1953.

DOMINIC A. CAVICCHIA Director.

5. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ANNA BARTOSZAK)
156 Steuben Street)
Jersey City 2, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-49, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Jersey City.)

Louis P. Brenner, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On Friday, August 28, 1953, at about 1:00 A.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., two quart bottles of Schaefer beer, at retail in original containers for consumption off your licensed premises; in violation of Rule 1 of State Regulations No. 38, which prohibits any such sale or delivery before 9:00 A.M. on weekdays."

The file discloses that at 10:30 p.m. on Thursday, August 27, 1953, two ABC agents visited defendant's licensed premises. At 11:35 p.m. the agents observed the bartender in conversation with a male patron and immediately thereafter the bartender opened a small cabinet under the back bar, took a pint bottle of wine in its original container from the cabinet and handed it to the patron. The latter put the bottle in the right-hand pocket of his trousers, gave the bartender some money and left the premises. At midnight, and again at 12:05 a.m., on Friday, August 28, 1953, the agents observed the bartender deliver alcoholic beverages to two patrons, respectively, in original containers for off-premises consumption and accept payments therefor. The patrons then left the premises with the bottles. At 12:50 a.m. on the morning in question, one of the agents ordered two one-quart bottles of beer from the bartender. The bartender went to a cooler, obtained the bottles of beer, inserted them in a paper bag and placed the bag in the hallway which led to the street. The bartender told the agent that he could pick up the package when he was leaving the premises. When the agents told the bartender that they intended to leave, the bartender took a dollar bill of the agent's money from the bar, rang up 70¢ on the cash register and gave change (a quarter and a nickel) to the agent. The agents proceeded to the hallway where one picked up the paper bag containing the two one-quart bottles of beer. They then returned to the barroom and made known their identity to the bartender. When the agents showed the bartender their credentials, he exclaimed, "Oh no, not again." He then admitted the violation to the agents, but refused to make a written statement in the matter.

Defendant has a prior adjudicated record. Effective June 29, 1953, her license was suspended for a period of ten days for sales of alcoholic beverages during prohibited hours, in violation of Rule 1 of State Regulations No. 38. See Re Bartoszak, Bulletin 977, Item 8. The minimum penalty for a second similar offense such as that under consideration occurring within a five-year period is a thirty-day suspension of the license. Re Brogowski, Bulletin 962, Item 3,

and cases cited therein. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 23rd day of October, 1953,

ORDERED that Plenary Retail Consumption License C-49, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Anna Bartoszak, for premises 156 Steuben Street, Jersey City, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. November 2, 1953, and terminating at 2:00 a.m. November 27, 1953.

DOMINIC A. CAVICCHIA
Director.

6. DISCIPLINARY PROCEEDINGS - HOSTESSES - ALLOWING OBSCENE LANGUAGE ON LICENSED PREMISES - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

SHERIDAN MONROE, INC.
58 Church Street
Paterson, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-287, issued by the Board of Alcoholic Beverage Control of the City of Paterson, and transferred during the pendency of these proceedings to

CLUB RENDEZVOUS, INC.

for the same premises.

Sheridan Monroe, Inc., by Monroe A. Comerate, Treasurer.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On June 12, 13, 14, and 15, 1953, you allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of or as a gift from customers and patrons; in violation of Rule 22 of State Regulations No. 20.

"2. On June 12, 1953, you allowed, permitted and suffered foul, filthy, and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulations No. 20."

The file discloses that on Friday, June 12, 1953, at about 10:45 p.m., two ABC agents entered defendant's licensed premises. A third agent who had remained outside entered the premises at 11:15 p.m. The two agents who entered defendant's establishment together engaged in conversation with the bartender who referred to himself as "Jiggs". The latter remarked that a female seated at the bar a few stools away from the agents was a singer and added that when she applied for the position the picture she presented of herself "must have been taken about twenty years ago." He also used filthy language when he referred to her. There were five or six photographs of "show

girls" displayed on the mirror behind the bar and when the agents alluded to one of the more attractive girls the bartender exclaimed in filthy language his desire to commit an unnatural act with her. Furthermore, he used filthy language with reference to the participants of a boxing bout being shown on television. The bartender introduced the female pianist to two of the agents who treated her to several drinks. After the third agent entered defendant's premises and joined his fellow-agents at the bar he purchased a drink for the female pianist. The agents left the premises at midnight.

The three agents returned to the defendant's premises at 10:00 p.m. the following night and observed the same bartender on duty. Although the pianist whom the agents had treated the previous night was not present, another female called "Joanie" engaged them in conversation during which she stated that she was a dancer at the premises but was not working at the time because of her physical condition. The agents purchased several drinks for her. The bartender told the agents that "Joanie" was employed in the premises but that the "boss" would not provide "a new gown for her dance." The female, while in her street attire, danced on two occasions to the music from the juke box. The agents left the licensed premises on this occasion at 1:30 p.m., June 14, 1953.

The three agents again visited defendant's licensed premises on June 15, 1953 arriving there at 9:30 p.m. The same bartender who was there on the prior occasions was present at the time. "Joanie" entered the premises a short time after the agents and immediately approached the agents at the bar. After she was seated, one of the agents ordered a drink for her, which was served by the bartender. The agents then made known their identity to the bartender.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of twenty days because of the violation set forth in charge 1 (Re Goldberg, Bulletin 962, Item 4) and for an additional period of ten days because of the violation set forth in charge 2 (Re Lukas, Bulletin 963, Item 4). Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Pending decision in this proceeding, the license was transferred to Club Rendezvous, Inc., as appears in the heading. This transfer does not effect an abatement of the proceedings herein but the same remain fully effective against the transferee. State Regulations No. 16.

Accordingly, it is, on this 20th day of October, 1953,

ORDERED that Plenary Retail Consumption License C-287, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Sheridan Monroe, Inc., for premises 58 Church Street, Paterson, and transferred to Club Rendezvous, Inc. for the same premises, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. October 27, 1953, and terminating at 3:00 a.m. November 21, 1953.

DOMINIC A. CAVICCHIA
Director.

7. DISCIPLINARY PROCEEDINGS - ILLEGAL SITUATION CORRECTED - PRIOR SUSPENSION FOR BALANCE OF TERM LIFTED.

In the Matter of Disciplinary Proceedings against)

MORRIS TULIPANO)
T/a OLD CORNER TAVERN)
142 Garden Street)
Hoboken, N. J.,)

ON PETITION
O R D E R

Holder of Plenary Retail Consumption License C-198, issued by the Board of Commissioners of the City of Hoboken.)

-----)
Frank A. Musto, Esq., Attorney for Petitioner, Alfred Roman.

BY THE DIRECTOR:

On July 27, 1953 I suspended defendant's license for the balance of its term, effective immediately, after I had found him guilty of a charge alleging that another license held by defendant had been revoked, which revocation, if it had previously occurred, would have prevented the issuance of the license referred to in this proceeding. See Bulletin 980, Item 2. In said Order it was provided that leave was given to apply for the lifting of said suspension upon the transfer of such license to a duly qualified person.

Alfred Roman has filed a petition herein wherein he sets forth that on October 9, 1953, the Board of Alcoholic Beverage Control of the City of Hoboken transferred said license to him. The records of this Division indicate that a copy of a resolution transferring said license to Alfred Roman, subject to the suspension herein, has been received from the Acting Secretary of said Board. The petitioner herein requests that the suspension of the license be lifted.

It appearing that the unlawful situation has been corrected,

It is, on this 14th day of October, 1953,

ORDERED that the suspension heretofore imposed be lifted and that Plenary Retail Consumption License C-198 be restored to full force and operation, effective immediately.

DOMINIC A. CAVICCHIA
Director.

8. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1953 TO OCTOBER 1, 1953 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19.

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Number Surrendered Revoked Expired	Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	489	\$208,750.00	71	\$ 25,775.00	17	\$ 1,600.00						577	\$ 236,125.00
Bergen	816	303,366.16	298	84,537.00	85	7,914.32	56	\$ 2,605.00	5	\$ 1,343.24		1260	399,765.72
Burlington	186	74,355.00	35	9,150.00	38	5,486.85	1	25.00				260	89,016.85
Camden	456	218,439.17	82	31,925.00	69	6,650.41			1	375.00		608	257,389.58
Cape May	133	73,550.00	11	4,000.00	18	2,100.00						162	79,650.00
Cumberland	81	40,000.00	13	3,600.00	29	3,910.00						123	47,510.00
Essex	1375	765,510.00	351	205,700.00	105	14,462.60	30	1,500.00	1	750.00	1	1861	987,922.60
Gloucester	108	34,400.00	13	2,750.00	16	1,500.00						137	38,650.00
Hudson	1553	674,355.60	298	117,746.71	76	9,024.18	67	2,900.00				1994	804,026.49
Hunterdon	79	25,250.00	6	1,862.50	6	700.00						91	27,812.50
Mercer	426	258,650.00	51	10,200.00	53	7,500.00			1	92.50		531	276,442.50
Middlesex	634	304,205.00	74	22,670.00	79	7,192.87	4	200.00				791	334,267.87
Monmouth	550	278,405.67	118	40,971.21	33	3,983.70	11	460.00	29	12,435.68	1	740	336,256.26
Morris	363	122,865.00	98	30,550.00	48	4,522.95	21	1,050.00	6	1,417.86		536	160,405.81
Ocean	189	103,992.35	46	19,065.00	17	1,849.32						252	124,906.67
Passaic	876	358,580.00	167	51,370.00	38	4,542.61	11	525.00				1092	415,017.61
Salem	50	19,000.00	7	1,300.00	17	1,500.00			1	262.50		75	22,062.50
Somerset	187	77,488.50	38	10,395.00	24	2,547.95					1	248	90,431.45
Sussex	169	44,955.00	20	3,755.00	9	535.00	1	50.00	1	225.00		200	49,520.00
Union	556	292,583.56	145	59,750.00	72	8,106.10	33	1,600.00				806	362,039.66
Warren	148	42,555.00	17	4,157.50	30	3,130.00			2	304.11		197	50,146.61
Total	9424	\$4,321,256.01	1959	\$741,229.92	879	\$98,758.86	235	\$10,915.00	47	\$17,205.89	3	12541	\$5,189,365.68

Dominic A. Cavicchia
Director.

October 20, 1953.

9. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 MICHAEL BOCHNIAK
 111 Monroe Street
 Hoboken, N. J.,
 Holder of Plenary Retail Consumption License C-28, issued by the Board of Commissioners of the City of Hoboken.

CONCLUSIONS AND ORDER

Mario V. Farco, Esq., Attorney for Defendant-licensee.
 David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at his licensed premises to two minors, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that two ABC agents entered defendant's licensed premises on the evening of August 15, 1953, at about 10:15 p.m. The agents observed Rose Mary ---, 17 years of age, and Dominick ---, 19 years of age, drinking from glasses which appeared to contain beer. At about 11:00 p.m. Dominick --- was served a glass of beer by the bartender, Joseph Bochniak, a brother of defendant-licensee. Dominick --- paid ten cents to the bartender at the time this glass of beer was served to him. Approximately fifteen minutes later the bartender served a glass of beer to Rose Mary --- and a glass of ginger ale to another female who appeared to be a minor. An unidentified male patron made payment to the bartender for these two drinks. When Rose Mary --- began to consume her drink, the agents identified themselves and seized the contents of the respective glasses from which Rose Mary and Dominick were drinking. In a statement given to the agents Joseph Bochniak admitted that he had served glasses of beer to both minors without questioning them as to their ages.

Defendant has no prior record. Since it appears that one of the minors mentioned in the charge was 17 years of age, I shall suspend defendant's license for a period of fifteen days. Re Hill, Bulletin 973, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 16th day of October, 1953,

ORDERED that Plenary Retail Consumption License C-28, issued by the Board of Commissioners of the City of Hoboken to Michael Bochniak, for premises 111 Monroe Street, Hoboken, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. October 26, 1953, and terminating at 2:00 a.m. November 5, 1953.

DOMINIC A. CAVICCHIA
 Director.

10. MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.

October 20, 1953

Re: Case No. 646

Applicant seeks a determination as to whether or not he is ineligible for employment by the holder of a liquor license in New Jersey by reason of his conviction of crime.

In April 1950 applicant pleaded non vult in a County Court to the crime of bookmaking, as a result of which he was fined \$1200.00 and placed on probation for three months, during which time he was to pay the fine. In April 1951 applicant was convicted in a Municipal Court of the crime of bookmaking and for violation of parole and was sentenced to serve ninety days in a county penitentiary. In January 1952 applicant again pleaded non vult in a County Court to the crime of bookmaking and was fined \$500.00 and sentenced to serve from two to five years in a State prison. He was released from custody on June 30, 1953. In addition applicant has been convicted five times under municipal ordinance for participating in bookmaking or lotteries.

The crime of commercialized gambling may or may not involve moral turpitude, depending upon the circumstances. Re Case No. 1018, Bulletin 956, Item 7.

When the applicant was interviewed at the offices of this Division he admitted that he was conducting "a small book" at the time of his arrest in 1951 (which resulted in his imprisonment following his non vult plea in January 1952, aforementioned). Thus he was a principal in commercialized gambling. The record discloses that the indictment in that case charged violation of R.S. 2:135-3 (the predecessor of N.J.S. 2A:112-3). It is deemed significant that the penalty for this crime is not the usual penalty for a misdemeanor, i.e., a maximum term of imprisonment of three years or a maximum fine of \$1,000.00, or both, but a fine of not less than \$1,000.00 nor more than \$5,000.00, or imprisonment in the State prison for not less than one year nor more than five years. "Such a penalty clearly demonstrates that the Legislature considered the offense a serious one to be dealt with more severely than ordinary misdemeanors." Re Cottman, Bulletin 987, Item 1.

Under the circumstances, it is my opinion that the crime of which applicant was convicted in 1952 involved moral turpitude. Re Cottman, supra, and cases therein cited.

I recommend, therefore, that applicant be advised that, in the opinion of the Director, he is not presently eligible to hold a liquor license in this State or to be employed by or connected in any business capacity whatsoever with the holder of such a license within the meaning of R. S. 33:1-25, 26.

Anthony Meyer, Jr.
Attorney.

APPROVED:

DOMINIC A. CAVICCHIA
Director.

11. STATE LICENSES - NEW APPLICATIONS FILED.

Edward Baker

T/a Baker Beverage Company

Rear 19 North Iowa Ave.

Atlantic City, N. J.

Application filed October 23, 1953 for transfer of State Beverage Distributor's License SBD-44 from Packman Brothers, Inc., 310-316 N. Indiana Ave., Atlantic City, N. J.

Atlantic Charter Boat Corporation

"Flash King"

Dock Pier 6

Atlantic Highlands Yacht Harbor

Atlantic Highlands, N. J.

Application filed October 23, 1953 for Plenary Retail Transit License.

Thomas G. Griggs, Otis C. Brigman and Jerry C. Griggs

T/a Griggs Trucking Co.

2020 - 47th St.

North Bergen, N. J.

Application filed October 29, 1953 for Transportation License.

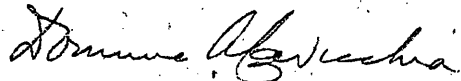
Frank Rinaldi, Anthony Rinaldi and John Rinaldi

T/a Rinaldi Bros.

9 Passaic Ave.

Harrison, N. J.

Application filed October 29, 1953 for transfer of State Beverage Distributor's License from Linden Bottling Co., Inc., 1006 West Elizabeth Avenue, Linden, N. J.



Dominic A. Cavicchia
Director.