

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

December 17, 1958.

BULLETIN 1253

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

BULLETIN 1253

December 17, 1958.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(OFFERING TO PROCURE FEMALES FOR PROSTITUTION) - LICENSE
SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JERRY FORMAN and JUANITA BUTRON)
40-42 Second Street)
Hoboken, N. J.,)

CONCLUSIONS
AND ORDER

-----)
Holders of Plenary Retail Consump-)
tion License C-79, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Hoboken.)

Florio, Dunn, Marciano & Lypinski, Esqs., by Joseph C. Dunn,
Esq., Attorneys for Defendant-licensees.

Edward F. Ambrose, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charge:

"On August 13, 16, 17, 20 and 21, 1958, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of offers to procure females for patrons for the purpose of illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20."

The file herein discloses that at about 9:15 p.m. on Wednesday, August 13, 1958, two ABC agents entered defendants' licensed premises and took seats at the bar which was being tended by a female called Rosetta and Juanita Butron, one of the licensees. The other licensee was also observed by the agents in the premises at the time. At about 9:45 p.m., a female referred to as Rose approached one of the agents and invited him to dance with her and, after completion of the dance, asked the agents to buy a drink for her. Each agent purchased a glass of beer for Rose while they were at the bar, after which she asked them to take seats in a booth. After occupying seats in the booth the agents, at the request of Rose, bought more drinks for her. Rose continuously used filthy language during her conversation with the agents and, during the conversation, the question of engaging in sexual intercourse was discussed. Rose said that she would engage in such activities but told them "to drop around again" and she would see whether arrangements could be made. The agents walked to a booth where the defendants were seated and informed them of the type of language Rose had been using and also her promise to engage in sexual relations. Both defendants agreed that she was the "bar fly" type and frequented the premises quite often. Jerry Forman told the porter to let the agents out of the side door so that they could elude Rose and, as they were leaving, the porter stated he could "fix up" the agents with "something nice" upon their next visit to the premises.

On Saturday, August 16, 1958, at 11:30 p.m. the same agents who had visited the defendants' premises on the prior occasion again entered the premises and stood at the part of the bar where defendant Forman was tending bar. A short time thereafter the porter (subsequently identified as Thomas Ross, the holder of a food concession on the premises) came over to the agents and one of them reminded him about the females he had promised to obtain for them when he escorted them from the premises on their previous visit. Ross suggested that they have something to eat as it might take some time before he would be able to get the females for them. As the agents were eating their meal, Ross came over to them and gave them a card advertising the defendants' establishment, on the back of which he had written the name and address of a female who he stated would engage in illicit sexual intercourse with them. The agents suggested that he sign the card so that the girl would know who sent them. The agents informed defendant Forman about their conversation with Ross and showed him the card containing the address of the female. After the said defendant examined the card, he stated that he knew the female but advised the agents, due to the late hour, not to go to her residence at that time. The agents left the premises at 12:50 a.m. on the following morning.

On Wednesday, August 20, 1958, at 9:45 p.m., the agents again returned to defendants' premises and inquired of defendant Butron as to the whereabouts of Ross and was told he was in the kitchen. The agents approached the kitchen and asked Ross to come out and have a drink with them. He came to the bar and, after having a drink with the agents, left the premises ostensibly for the purpose of obtaining for immoral relations one of the waitresses who was off-duty at the time and, immediately upon his return, informed the agents that he "started the grapevine working". At 10:30 p.m. defendant Forman came into the premises and greeted the agents by asking them if they went to the female's apartment the other night. When the agents told him they had not gone to her apartment, he remarked that he had met the female that day and that he had known her from Puerto Rico. The agents then spoke to Ross and indicated that they would like to go to the female's apartment before it was too late. Ross walked over to defendant Forman and, after some conversation, came back to the agents and stated he would take them, in their car, to the female's apartment for the purpose of their engaging in sexual intercourse with her. They left the premises but, as they approached the automobile which was parked nearby, the two agents, as well as another agent who had waited outside, made known their identity and all returned to the defendants' licensed premises. The agents identified themselves to defendant Forman, but he refused to give a written statement in the matter. Defendant Butron also was advised of the violation but denied that she had knowledge that arrangements had been made in the licensed premises for the purpose of illicit sexual intercourse.

The foregoing amply establishes that Ross, with the knowledge and consent of at least one of the licensees, Jerry Forman, made arrangements with the agents on the licensed premises to obtain a female for them for purpose of illicit sexual intercourse and for that purpose further agreed to take the agents to the female's home. Licensees, as partners, are fully accountable in disciplinary proceedings for each other's violation (Re Cronauer, Bulletin 902, Item 7) and for the

violations committed or permitted by their servants, agents and other persons employed (i.e., whose services are utilized to further the licensed business, whether or not they are compensated as regular employees) on the licensed premises. Rule 33 of State Regulation No. 20; Re William Street Bar & Grill, Inc., Bulletin 466, Item 8; Kravis v. Hock, 137 N.J.L. 252 (reprinted in Bulletin 808, Item 6). Nor is it material that no illicit sexual intercourse actually occurred. The liquor business must be carefully supervised and tightly restrained in the public interest, in accordance with the manifest design of the Alcoholic Beverage Law. As stated by Judge Jayne in the Matter of the Appeal of Sam Schneider, 12 N. J. Super. 449 (App. Div. 1951) at page 458: "The object manifestly inherent in the rule -- is primarily to discourage and prevent not only lewdness, fornication, prostitution, but all forms of licentious practices and immoral indecency on the licensed premises. The primary intent of the regulation is to suppress the inception of any immoral activity, not to withhold disciplinary action until the actual consummation of the apprehended evil." (Italics added)

Since this appears to be a case of first impression and in view of the circumstances alleged by way of mitigation, the entry of a confessional plea prior to the hearing date and the fact that the licensees' record is clear of any prior adjudicated violations, I shall suspend the license for a period of sixty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifty-five days.

Accordingly, it is, on this 3rd day of November, 1958,

ORDERED that Plenary Retail Consumption License C-79, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Jerry Forman and Juanita Butron, for premises 40-42 Second Street, Hoboken, be and the same is hereby suspended for fifty-five (55) days, commencing at 2:00 a.m. November 12, 1958, and terminating at 2:00 a.m. January 6, 1959.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE
SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
STEPHEN SHINKUNAS and)
ROSE SHINKUNAS)
S.E. Cor. First Ave. & Broadway)
Deptford Township)
PO Mantua, N. J.,)

CONCLUSIONS
AND ORDER

-----)
Holders of Plenary Retail Consump-)
tion License C-12, issued by the)
Township Committee of Deptford)
Township.)

Stephen Shinkunas and Rose Shinkunas, Defendant-licensees,)
Pro se.)
Edward F. Ambrose, Esq., appearing for Division of Alcoholic)
Beverage Control.)

BY THE DIRECTOR:

Defendants pleaded guilty to the following charge:

"On September 19, 1958, 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., Paul ---, age 16; in violation of Rule 1 of State Regulation No. 20."

The file herein discloses that an ABC agent, acting on information received from the Pitman Police Department, obtained sworn, written statements dated September 22 and September 23, 1958, from Paul --- (age 16) and two other minors. From these statements it appears that on Friday, September 19, 1958, at about 9:00 p.m., aforesaid minors drove to a parking lot in front of defendants' licensed premises; that Paul alone entered the licensed premises and, without being required to make any written representation of his age, purchased twelve twelve-ounce bottles of Piel's beer from Ludwig Geiger (the bartender on duty) and paid for the same with money contributed by his aforesaid minor companions.

The file further discloses that, about three days subsequent to aforesaid violation, the aforesaid three minors identified the licensed premises as the place where the beer was purchased and Paul pointed out Ludwig Geiger as the bartender who sold him the same, as above outlined.

Defendants have no prior adjudicated record. Even if, as alleged, Paul had previously shown the bartender a card indicating that the holder thereof was twenty-one years old, this cannot be accepted as a mitigating circumstance in view of the fact that he was only sixteen years of age. I shall suspend defendants' license for twenty-five days, the minimum suspension for the sale of alcoholic beverages to a 16-year-old minor (Re Beckas and Bekaez, Bulletin 1194, Item 5). Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 29th day of October, 1958,

ORDERED that Plenary Retail Consumption License C-12, issued by the Township Committee of Deptford Township to Stephen Shinkunas and Rose Shinkunas, for premises at S. E. Cor. First Ave. & Broadway, Deptford Township, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. November 5, 1958, and terminating at 2:00 a.m. November 25, 1958.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

NICHOLAS LUCIGNANO, JOSEPH)
LUCIGNANO, EMILY LUCIGNANO,)
BETTY LUCIGNANO)
333 Adams Street)
Hoboken, N. J.,)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consump-)
tion License C-124, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Hoboken.)

Nathan Zeichner, Esq., Attorney for Defendant-licensees.
David S. Piltzer, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendants pleaded non vult to the following charges:

"1. On August 7, 1958 you allowed, permitted and suffered gambling, commonly known as 'numbers writing', and the making and accepting of horse race bets, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.

"2. On August 7, 1958 you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as 'numbers game' to be sold and offered for sale in and upon your licensed premises, and you possessed, had custody of and allowed, permitted and suffered such tickets and participation rights in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

The file herein discloses that on August 7, 1958, at about 12:05 p.m., an ABC agent, local and State police officers, investigating a specific complaint that betting on horse races was taking place on the defendants' licensed premises, entered the premises and observed Gustave Rheinhardt tending bar and Anthony Lucignano, manager of the licensed business, standing at the entrance. The agent found a "numbers" slip bearing certain numbers on the back bar alongside of the cash register. One of the aforesaid officers proceeded to the rear room of the premises and found a slip of paper, listing horse race bets for the day, hidden under a tray on

a table. During the course of their investigation, one of the aforesaid officers answered six incoming telephone calls from persons who were interested in placing bets on horse races. Upon questioning by the agent, the bartender admitted that he wrote the numerals on the "numbers" slip and Anthony Lucignano stated that the slip bearing the horse race bets was prepared by him.

By way of mitigation, the attorney for the defendants submitted a letter setting forth therein that the defendants had no knowledge that any gambling activities as aforesaid were taking place on the licensed premises. The licensees, however, cannot escape the consequences of the aforementioned acts of their agents. (Rule 33 of State Regulation No. 20.) (Cf. Re Czaplicki, Bulletin 1170, Item 6.)

Defendants have no prior adjudicated record. I shall suspend defendants' license for twenty-five days (the minimum suspension for gambling as herein when an employee of the licensee is involved). (Cf. Re Romano, Bulletin 1236, Item 10.) Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 29th day of October, 1958,

ORDERED that Plenary Retail Consumption License C-124, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Nicholas Lucignano, Joseph Lucignano, Emily Lucignano and Betty Lucignano, for premises 333 Adams Street, Hoboken, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. November 5, 1958, and terminating at 2:00 a.m. November 25, 1958.

WILLIAM HOWE DAVIS
Director.

4. APPELLATE DECISIONS - SOUTH JERSEY RETAIL LIQUOR STORES ASSOCIATION v. CAMDEN AND BUDNY CORPORATION

SOUTH JERSEY RETAIL LIQUOR STORES ASSOCIATION,)
Appellant,)
-vs-)
MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF CAMDEN, and BUDNY CORPORATION,)
t/a ROGER WILCO,)
Respondents.)

ON APPEAL
O R D E R

Samuel Moskowitz, Esq., Attorney for Appellant.
Louis L. Goldman, Esq., Attorney for Respondent Municipal Board.
Daniel B. Toll, Esq., Attorney for Respondent Budny Corporation.

BY THE DIRECTOR:

The above appeal was taken from the action of respondent Board whereby it granted a transfer of License C-125 held by respondent Budny Corporation from 1840 Admiral Wilson Boulevard to 2350 Admiral Wilson Boulevard, Camden.

Prior to the hearing herein the attorney for appellant advised me in writing that his client desires to

discontinue the appeal and filed written consents of the other attorneys to the discontinuance of the appeal. No reason appearing to the contrary,

It is, on this 29th day of October, 1958,

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

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - VIOLATION OF STATE REGULATION NO. 38 - FAILURE TO HAVE TRUE COPY OF APPLICATION ON PREMISES - PRIOR RECORD NOT CONSIDERED BECAUSE OF COMPLETE CHANGE OF STOCKHOLDERS OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

VIKE-INN, INC.
418 Jackson Avenue
Jersey City, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-261, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Defendant-licensee, by Vincent Sabbia, President.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On Thursday, September 4, 1958, at about 8:30 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., a pint bottle of Vincove Sherry Wine, at retail, in its original container for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverage in its original container from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

"2. On Thursday, September 4, 1958, you conducted your licensed business without having a photostatic or other true copy of your application for your current license on the licensed premises available for inspection; in violation of Rule 16(b) of State Regulation No. 20."

The file herein discloses that at 8:29 a.m. on Thursday, September 4, 1958, an ABC agent observed the bartender sell a pint bottle of wine to a male patron for which he charged the patron the sum of fifty cents; that the agent followed the patron to the street where he (the agent) and another agent, who had remained outside the licensed premises, stopped the patron and questioned him concerning the purchase of the bottle of wine; that the patron and the agents entered the premises and the agents, after identifying themselves,

advised the bartender of the violation, at which time the patron, in the presence of the bartender, admitted that at 8:30 a.m. he purchased the wine.

The agents made a thorough investigation of the premises but could not find the copy of the application for the current licensing period.

The defendant's record is clear except that effective January 2, 1958, when defendant was the holder of the present license, it was suspended for a period of fifty-five days for a similar violation as that now under consideration. However, the said violation was committed by Berger Company, Inc., the predecessor in interest, and the license in question during the pendency of the proceedings was transferred to the defendant herein. Re Berger Company, Inc., Bulletin 1204, Item 1. None of the stockholders and officers of the Berger Company, Inc. have any interest whatsoever in the defendant corporate-licensee. Under the circumstances, I shall not consider the aforementioned record in fixing the penalty herein. Re Sparrow Cigar Co., Inc., Bulletin 832, Item 3. I shall, therefore, suspend defendant's license for fifteen days on Charge 1 (Re D'Amico and Manzo, Bulletin 1239, Item 7) and for ten days on Charge 2 (Re Kalasarines & Vlismas, Bulletin 1211, Item 3), making a total suspension of twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 29th day of October, 1958,

ORDERED that Plenary Retail Consumption License C-261, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Vike-Inn, Inc., for premises 418 Jackson Avenue, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. November 5, 1958, and terminating at 2:00 a.m. November 25, 1958.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against)
HANOVER LIQUOR STORE, INC.)
S/S of Wrightstown-Cookstown Road) CONCLUSIONS
New Hanover Township) AND ORDER
PO Cookstown, N. J.,)

Holder of Plenary Retail Distribution License D-2 (for the 1957-58 and 1958-59 licensing years), issued by the Township Committee of New Hanover Township.)

-----)
Richman & Berry, Esqs., by Grover C. Richman, Esq., Attorneys for Defendant-licensee.

Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The defendant pleaded not guilty to a charge alleging that it sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

"At the hearing herein, Richard ---, born on May 21, 1938, testified that on May 7, 1958 between 4:00 and 5:00 p.m., while in service and stationed at McGuire Air Force Base, he and a minor companion entered defendant's licensed premises; that Richard walked to the counter and asked the clerk for three quarts of wine of the 'Thunderbird' brand which the clerk obtained, placed in a bag, delivered to Richard, and accepted payment therefor; that the clerk did not ask Richard his age or require him to sign any written representation thereof; that Richard and his companion left the premises, entered their car and drove around the countryside for a considerable period of time without stopping; that while so riding they drank the wine, both becoming intoxicated and ultimately were arrested by a local officer after they parked on a vacant lot located in New Egypt, about ten miles from defendant's premises. Richard further testified that this was the first time that he was in defendant's licensed premises and that he cannot identify the clerk who sold him the wine, but does not believe that it was either Joseph Molosso or Robert Molosso who were present at the hearing; that when he was apprehended by the officer, he told him that he thought Hanover Liquor Store was where he purchased the wine but was not sure then because he was intoxicated, but is now certain that such is the place; that since December 14, 1957 when he arrived at the base, he has not purchased alcoholic beverages at any licensed premises, having obtained alcoholic beverages at the PX on the base.

"Richard's companion testified that they drove from the base to defendant's licensed premises where they parked the car; that said premises are identified by an exterior sign reading: 'Hanover Liquor Store'; that he and Richard entered the store and Richard went to the counter while he looked about the store; that he did not observe or hear what took place at the counter until Richard walked away therefrom with a paper bag in his hand, which he did not have when he entered; that he and Richard walked out together, entered their car and then Richard opened the bag which contained three bottles of 'Thunderbird' wine; that both drank the wine while driving around without stopping and he parked the car in a lot in New Egypt; that he had been drinking beer on the post previous to stopping at the liquor store; and that although it was his first visit to such store, he immediately told the police officer when asked, that the Hanover Liquor Store was the place where Richard obtained the wine and reiterated that statement whenever questioned on that score.

"An ABC agent testified that on June 10, 1958 he, together with another agent and Richard and his companion, left the air base in his fellow agent's car and that the two minors directed them to the defendant's licensed premises which is about one-half mile from the base; that the group entered the store where Joseph Molosso was present and his brother, Robert Molosso, entered within a few minutes; that both brothers were told that Richard said he had purchased wine there on May 7th, to which the brothers replied that they had never seen either boy previously and the boys stated that they could not identify either brother.

"Joseph Molosso, an officer of the corporate-licensee, testified that he and his brother Robert operated the licensed business and were the only persons who sold alcoholic beverages there; that he had never seen Richard or his companion prior to their appearance with the ABC agents and that he did not sell them anything that he could remember; that he cannot remember the identity of any patron whom he served between 4:00 and 5:00 p.m. on May 7th and hence, he cannot be definitely positive that he did not sell the wine as charged 'but I know the fellows -- as far as I'm concerned that is the first time I saw them.'

"Robert Molosso's testimony is to the same general effect as that of his brother and he added 'I would never serve anyone anywhere close to looking like those boys without identifying them first.'

"The two boys give a direct, logical and straightforward account of the purchase of the wine. There is nothing to indicate that they have any motive unjustly to accuse the defendant. On the other hand, the Molosso brothers are necessarily uncertain in their denial that such sale occurred since it is naturally difficult for them to remember long after the event the identity of persons who, as here, were at the premises on only the one occasion.

"Where it has been satisfactorily established that the minor purchased an alcoholic beverage in the licensed premises, failure to identify the specific person who made the sale is not fatal in disciplinary proceedings against the license. Re Guariglia, Bulletin 1234, Item 5. In my opinion, the Division has established the guilt of the defendant by a preponderance of the believable evidence and I therefore recommend such a finding.

"The defendant has no previous adjudicated record. I recommend that defendant's license be suspended for a period of fifteen days, the minimum penalty for sale to a 19-year-old minor. Re Romano, Bulletin 1236, Item 10."

Exceptions to the Hearer's Report and argument with respect thereto were filed with me by the attorneys for defendant, pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony, the Hearer's Report, and the exceptions and argument submitted by the attorneys for the defendant, I concur in and adopt the conclusions set forth in the Hearer's Report as my conclusions herein.

Accordingly, it is, on this 29th day of October, 1958,

ORDERED that Plenary Retail Distribution License D-2, for the 1958-59 licensing year, issued by the Township Committee of New Hanover Township to Hanover Liquor Store, Inc., for premises on S/S of Wrightstown-Cookstown Road, New Hanover Township, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m. November 5, 1958, and terminating at 9:00 a.m. November 20, 1958.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE
SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

| | | |
|-----------------------------------|---|-------------|
| In the Matter of Disciplinary |) | |
| Proceedings against |) | |
| DARBAB, INC. |) | |
| t/a RAINBOW ROOM |) | |
| 105-107 Second Avenue |) | CONCLUSIONS |
| Asbury Park, N. J., |) | AND ORDER |
| Holder of Plenary Retail Consump- |) | |
| tion License C-33, issued by the |) | |
| City Council of the City of |) | |
| Asbury Park. |) | |

David Resnikoff, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that at 11:50 p.m., Saturday, July 19, 1958, ABC agents who were seated at the bar in defendant's licensed premises observed two apparent minors, male and female, approach the bar whereat the bartender, without requiring any written proof of age, served the female a vodka and orange juice and the male a whiskey and soda, which they consumed. At 12:20 a.m. the agents observed the bartender serve at the bar four whiskey and soda drinks to the female, who placed two of the drinks on a table in front of two adults, and when she and her companion had consumed a portion of the two drinks which remained on the bar, the agents identified themselves. Ascertaining that the youths were Sandra --- and Bruce ---, ages 16 and 19 years, respectively, they seized the remaining portion of the minors' drinks for evidential purposes and obtained signed and sworn statements from them attesting to the aforesaid violation.

By way of mitigation, defendant's attorney has submitted a statement which I have carefully examined. I can find no extenuating circumstances which would impel me to impose a penalty less than that established for cases of this kind.

Defendant has no prior adjudicated record. I shall suspend its license for twenty-five days (the minimum penalty for sale of alcoholic beverages to a 16-year-old minor). Re Hurley-Patterson, Inc., Bulletin 1203, Item 2. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 30th day of October, 1958,

ORDERED that Plenary Retail Consumption License C-33, issued by the City Council of the City of Asbury Park to Darbab, Inc., t/a Rainbow Room, for premises 105-107 Second Avenue, Asbury Park, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. November 5, 1958, and terminating at 3:00 a.m. November 25, 1958.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - ORDER TEMPORARILY LIFTING SUSPENSION.

In the Matter of Disciplinary)
 Proceedings against)
)
 DARBAB, INC.)
 t/a RAINBOW ROOM)
 105-107 Second Avenue)
 Asbury Park, N. J.,)
)
 Holder of Plenary Retail Consump-)
 tion License C-33, issued by the)
 City Council of the City of)
 Asbury Park.)
 -----)

ON PETITION
O R D E R

David Resnikoff, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

On October 30, 1958, I entered an order suspending defendant's license for twenty days effective from 3:00 a.m. November 5, 1958, to 3:00 a.m. November 25, 1958; and

It appearing from a petition filed herein that, prior to the entry of said order, arrangements had been made by defendant with National Council of Jewish Women, Inc., Asbury Park Section, for an affair to be held at its licensed premises on the evening of Saturday, November 22, 1958; and

It appearing to my satisfaction that numerous persons would be inconvenienced by the suspension of the license on said date,

It is, on this 3rd day of November, 1958,

ORDERED that the suspension heretofore imposed shall commence at 3:00 a.m. November 5, 1958, and continue in effect until 3:00 a.m. November 22, 1958; that said suspension shall then be lifted until 3:00 a.m. November 23, 1958, at which time the suspension shall be reinstated and continue in effect until 3:00 a.m. November 26, 1958.

WILLIAM HOWE DAVIS
Director.

9. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE
SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

FRANCIS SULESKEY)
t/a STAN'S CAFE)
687 Lambertson Street)
Trenton 10, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-225, issued by the)
Board of Commissioners of the City)
of Trenton.)

Kelsey and Kelsey, Esqs., by Jules J. Kelsey, Esq.,
Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On August 8, 26 and 27, 1958, you allowed, permitted and suffered gambling, viz., the making and accepting of bets in a lottery, commonly known as the 'numbers game', in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.

"2. On August 8, 26 and 27, 1958, 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."

The file herein discloses that on August 8, 1958 Charles J. Smith, the bartender, and on August 26 and August 27, 1958 John A. Puskar (a patron), aided and abetted by the bartender, accepted "numbers" bets from ABC agents. On August 27, 1958, through prearrangement with the local police authorities, police officers, accompanied by ABC agents, came to the licensed premises and found two "numbers" slips and four one-dollar bills (which had been "marked" by the agents) in Puskar's possession.

By way of mitigation, the attorneys for the defendant submitted a letter setting forth therein that the defendant had no knowledge that any gambling activities as aforesaid were taking place on the licensed premises. The licensee, however, cannot escape the consequences of the aforementioned acts of his agents. (Rule 33 of State Regulation No. 20.) Cf. Re Marlborough Hotel Corp., Bulletin 1242, Item 8.

Defendant has no prior adjudicated record. I shall suspend the defendant's license for twenty-five days (the minimum suspension for gambling as herein when an employee of the licensee is involved). (Cf. Re Romano, Bulletin 1236, Item 10.) Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 30th day of October, 1958,

ORDERED that Plenary Retail Consumption License C-225, issued by the Board of Commissioners of the City of Trenton to Francis Suleskey, t/a Stan's Cafe, for premises 687 Lambertson

Street, Trenton, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. November 6, 1958 and terminating at 2:00 a.m. November 26, 1958.

WILLIAM HOWE DAVIS
Director.

10. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE
SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against)

CLEMENS E. FAHRENBERG)
t/a EAST END TAVERN)
97 E. Blackwell Street)
Dover, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-8 (for the 1957-58 and 1958-59 licensing years), issued by the Board of Aldermen of the Town of Dover.)

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charge:

"On Friday, April 25, 1958, 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., Thomas ---, age 18; in violation of Rule 1 of State Regulation No. 20."

"At the hearing held herein Thomas --- testified that he is 18 years of age and that on April 25, 1958, he and Robert --- were riding in a car which was being driven by Denis --- and which stopped near defendant's licensed premises about 9:45 p.m. Thomas --- further testified that he entered defendant's premises, went to the bar, purchased two six-can packs of Schaeffer beer for \$2.20 from a male bartender and left the premises with the beer which had been placed in a paper bag by the bartender. At the hearing Thomas identified defendant as the person who made the sale and said that defendant had not questioned him as to his age. He admitted that he had been drinking earlier on the same evening and that he had visited defendant's premises on previous occasions.

"Robert --- and Denis --- testified that Thomas --- left the car after it had stopped near defendant's premises on the evening in question. Neither witness saw Thomas --- enter defendant's premises but stated that he was standing in front of said premises when they returned after turning the car around and that he then had a bag which they later ascertained contained twelve cans of Schaeffer beer.

"An ABC agent testified that he accompanied the three young men to defendant's premises on April 28, 1958; that all

identified the premises from the outside; that Spencer Williamson was tending bar when he and Thomas --- entered the premises, and Thomas said that Williamson was not the man who had made the sale; that, when the licensee came in shortly thereafter, Thomas said, 'I believe that is the man; it looks like him.' In his testimony Thomas had said that on this occasion he was not sure that defendant was the man who made the sale.

"On behalf of defendant, Clemens E. Fahrenberg testified that he was the only person acting as bartender in his premises on the evening of April 25, 1958, and that he does not recall having seen Thomas --- in the premises on that evening. That is the sole testimony presented by defendant as to the alleged sale on April 25. Additional testimony was given by Edna B. Fahrenberg (defendant's wife), Michael Toohy (a patron) and Spencer Williamson, who said that they were present when the ABC agent and Thomas --- entered the premises on April 28 and that, at that time, Thomas --- said that defendant was not the man who made the sale. I have given little credence to the testimony of John Keating who said that, after the charge herein was preferred, he arranged to meet Thomas --- in a restaurant and that Thomas --- then told him he was drunk on the evening of April 25 and didn't know what he was doing. Referring to this conversation Thomas --- said that he told Keating that he was not too drunk to know what he was doing and that he did buy the beer.

"In the brief submitted by defendant's attorney it is contended, in effect, that defendant's guilt has not been established beyond a reasonable doubt. Disciplinary proceedings are civil and not criminal in nature, and it is sufficient that the guilt of the licensee be proved by a preponderance of believable evidence. Re Gahr, Bulletin 377, Item 7; Solek v. Belleville, Bulletin 1126, Item 1; Benedetti v. Board of Commissioners of Trenton, 35 N. J. Super. 30 (App. Div. 1955). I am satisfied that the minor sufficiently identified defendant, who admittedly was the only one on duty, as the person who made the sale, but, in any event, the failure of a minor to identify the specific person who served him is not fatal in disciplinary proceedings. Re Engle, Bulletin 1001, Item 6, and cases therein cited.

"After reviewing all the evidence and the brief filed herein, I recommend that defendant be found guilty as charged. Defendant has no prior record. Hence, I further recommend that an order be entered suspending his license for fifteen days, the minimum penalty imposed for sale to a minor 18 years of age. Re Vinci & Rich, Bulletin 1178, Item 2."

Written exceptions to the Hearer's Report and written argument with respect thereto were filed with me by the attorney for defendant pursuant to Rule 6 of State Regulation No. 16.

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

Accordingly, it is, on this 30th day of October, 1958,

ORDERED that Plenary Retail Consumption License C-8 (for the 1958-59 licensing year), issued by the Board of

Aldermen of the Town of Dover to Clemens E. Fahrenberg, t/a East End Tavern, for premises 97 E. Blackwell Street, Dover, be and the same is hereby suspended for fifteen (15) days, commencing at 1:00 a.m. November 10, 1958, and terminating at 1:00 a.m. November 25, 1958.



William Howe Davis
Director