

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

BULLETIN 1202

JANUARY 8, 1958.

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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 1202

JANUARY 8, 1958.

1. APPELLATE DECISIONS - GILMORE REALTY CORPORATION v. BELMAR.

GILMORE REALTY CORPORATION, )

Appellant, )

-vs- )

BOARD OF COMMISSIONERS OF THE )  
BOROUGH OF BELMAR, )

Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

-----  
Harry R. Cooper, Esq., Attorney for Appellant.  
Harold Feinberg, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Appellant appeals from the action of the respondent Board of Commissioners which, by a vote of 2 to 1, renewed appellant's license for the 1957-58 licensing period subject to the following conditions:

'1. There shall be no public bar inside or outside on or about any part of the licensed premises, but only a service bar or service bars.

'2. Alcoholic beverages may be served, sold or delivered only to guests of the hotel in their rooms or served, sold or delivered to guests of the hotel or members of the public only at tables in private dining rooms or in the public dining rooms or in the restaurant of said hotel premises. No service, sale or delivery of any type shall be made to any person over a service bar.

'3. No signs, legends or writings which contain the word "bar" shall be posted, painted, printed or otherwise be indicated inside or outside or on or about any part of the licensed premises.

'4. This license shall not be transferred or renewed, except for premises operated as a bona fide hotel with at least fifty (50) sleeping rooms.'

"The record herein discloses that appellant filed an application for a plenary retail consumption license which application was approved by respondent on April 24, 1956 subject, however, to the special conditions aforementioned. The approval of said conditions was given by the State Director prior to the imposition thereof. R. S. 33:1-32. The appellant consented in writing to the imposition of the special conditions in its license. The licenses for the 1956-57 and also for the 1957-58 licensing periods were approved subject to the special conditions aforementioned. The current license was approved by respondent Board on June 25, 1957 and on July 1, 1957 the appellant served upon the Borough Clerk a notice which read as follows:

July 1, 1957  
Commissioners  
Borough of Belmar

Gentlemen:

'This is to advise you that I am accepting your renewal of my conditional liquor license with the restrictions as you have imposed them, under protest, and with the intention to appeal the matter at an early date to the State Alcoholic Beverage Commission. This action was made necessary on my part by your rejection of my application for a plenary liquor license and the imposition of the restrictions similar to those imposed last year.

Very truly yours,  
(signed) Patrick J. McCann'

"Although the aforementioned notice was signed by Patrick J. McCann, individually, and made no reference to appellant's corporate license, I shall assume, for the purposes herein, that the notice was given on appellant's behalf.

"Commissioners MacLearie and Taylor testified that the premises while operated under the previous license (Aloha, Inc.) became a 'trouble spot' so that the imposition of the special conditions in the license to appellant was in their opinions desirable. Furthermore, both testified that they would not have voted for the issuance of a license at the premises in question without the conditions to safeguard its operation.

"Commissioner Ferruggiaro testified that there was no question that the operation by the former licensee resulted in the premises becoming a 'trouble spot'; that he voted originally and on the first renewal of the appellant's license to have the condition imposed thereon but voted for the unconditional license for the current period similar to the licenses issued to other hotels in the municipality; that he was of the opinion that this was necessary insofar as the appellant was concerned so that he might remain in business.

"Appellant contends, among other things, that the license in question is a new license and not a renewal of its prior license and, by reason thereof, the special conditions to which the prior licenses were subject have no application herein.

"R. S. 33:1-96 (Licenses for new license terms deemed renewals) reads as follows:

'Any license for a new license term, which is issued to replace a license which expired on the last day of the license term which immediately preceded the commencement of said new license term or which is issued to replace a license which will expire on the last day of the license term which immediately precedes the commencement of said new license term shall be deemed to be a renewal of the expired or expiring license; provided, that said license is of the same class and type as the expired or expiring license, covers the same licensed premises, is issued to the holder of the expired or expiring license and is issued pursuant to an application therefor which shall have been filed with the proper issuing authority prior to the commencement of said new license term or not later than thirty days after the commencement thereof. Licenses issued otherwise than as above herein provided shall be deemed to be new licenses.'

"In view of the aforesaid provision of the statute, it is apparent that the contention of the appellant that its license is a new license and not a renewal of the 1956-57 license lacks merit.

"Appellant further contends that the renewal of the appellant's license, subject to the special conditions, in substance constitutes a denial of its application. This is also without merit.

'Special conditions are authorized, by R. S. 33:1-32, to be imposed "to the issuance of any license". I believe that the intentment and effect of the section is to authorize special conditions not only upon original issuance or renewal of license but transfers as well. And no hearing need be afforded the licensee or transferee against whom special conditions are imposed. There is no provision in our State Alcoholic Beverage Law requiring that a hearing be held with respect to special conditions.' Re The Ebony Corporation v. Trenton, Bulletin 958, Item 1.

"In Re Armstrong, Bulletin 196, Item 8, former Commissioner Burnett, in commenting on the imposition of special conditions at the issuance of a license, stated:

'Whether conditions are precedent or subsequent, they must be imposed before the license is granted. The applicant is entitled to the election of accepting the conditional license or withdrawing his application and forfeiting the ten per cent investigation fee.'

"The renewal of the within license was approved on June 25, 1957 and on July 1, 1957 appellant, although making protest, accepted the license subject to the special conditions such as those heretofore imposed in the previous licenses. By accepting the license in question he made his election and furthermore, by operating thereunder, appellant waived any right to complain about the conditions contained therein.

"Appellant further contends that it would suffer undue hardship, even to the extent of closing the hotel, if compelled to operate under the conditions imposed on its license. It has been consistently held that, in a conflict between private interests and the interests of the community at large, the latter must prevail. Re Moraitis v. Lower Penns Neck, Bulletin 839, Item 11.

"The appellant's final contention is that it was necessary for respondent Board to enact an ordinance providing for the special conditions which were to be imposed on appellant's license by the respondent. It cites R. S. 33:1-94 as authority for said contention. This section of the statute has no application herein but applies to promulgation of general regulations which prior to the enactment of said provision on July 18, 1939 could be enacted heretofore by resolution rather than by ordinance. R. S. 33:1-32 permits the local issuing authority, subject to approval by the Director, to impose special conditions in a particular license prior to the issuance or renewal thereof.

"There appears to be a real difference of opinion on the part of the members of the respondent Board as to whether or not it was necessary to continue the special conditions in appellant's

current license. It is apparent from the testimony of the members that there was an honest difference of opinion insofar as the matter was concerned. There is no evidence that any of them acted in an arbitrary, capricious or an unreasonable manner in reaching their determination.

"The burden of establishing that the action of respondent Board is erroneous and should be reversed rests with the appellant. Rule 6 of State Regulation No. 15. This burden has not been sustained.

"Under the facts and circumstances in this case, I recommend that the action of respondent be affirmed."

Written exceptions to the Hearer's Report and written argument thereon were filed with me by the attorney for appellant, pursuant to Rule 14 of State Regulation No. 15. Written answering argument was filed by the attorney for the respondent. After considering the written arguments, I decided to hear oral argument by the respective attorneys and the case was argued orally before me on November 12, 1957.

The parties hereto are in agreement that the appellant operates the largest hotel in the municipality and since acquiring the liquor license in 1956 to date, which includes the summer seasons of 1956 and 1957, the establishment has been conducted without any complaints being made with reference thereto. One of the members of the respondent Board who voted originally for the insertion of the conditions in the license is of the opinion that appellant should be accorded the same treatment as is given to other hotels in the borough who hold liquor licenses.

Condition No. 4 to be effective at the time of any subsequent transfer and renewal of the license in question should be retained without change. Section 204 of municipal Ordinance No. 453, adopted on September 11, 1956 by the respondent Board has a similar provision with respect thereto.

I am satisfied that appellant has operated its licensed establishment in a proper manner and should, therefore, be given the same privileges that like establishments enjoy. However, if the operation of the licensed premises discloses that this appellant is abusing the privilege of its license, there is nothing to prevent the respondent Board from instituting proper proceedings and thereafter reinstating the conditions previously imposed.

Under the circumstances, I shall not adopt the recommendations made by the Hearer. I direct that Conditions Nos. 1, 2 and 3 inserted in the appellant's license for the 1957-58 licensing term be deleted therefrom and that Condition No. 4 remain therein.

Accordingly, it is, on this 4th day of December, 1957,

ORDERED that for the reasons stated herein, so much of the action of the respondent Board be modified to delete therefrom three of the four conditions imposed upon appellant's plenary retail consumption license C-11 for the renewal period of 1957-58.

WILLIAM HOWE DAVIS  
Director.

2. DISCIPLINARY PROCEEDINGS - SOLICITATION FOR PROSTITUTION -  
SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 -  
LICENSE SUSPENDED FOR 190 DAYS.

In the Matter of Disciplinary  
Proceedings against

BEN'S LONG BAR, INC.  
204 Mulberry St.  
Newark, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-323, issued by the  
Municipal Board of Alcoholic  
Beverage Control of the City of  
Newark.

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Maurer & Maurer, Esqs., by Myron P. Maurer, Esq., Attorneys  
for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The defendant pleaded non vult to the following charges:

"1. On Friday night, September 20, early Saturday morning, September 21, Saturday night, September 21 and early Sunday morning, September 22, 1957, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., solicitation for prostitution and the making of overtures and arrangements for illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20.

"2. On Sunday, September 22, 1957, at about 12:18 A.M., you sold and delivered and allowed, permitted and suffered the sale, and delivery of an alcoholic beverage, viz., a pint bottle of Petri Port Wine, at retail, in its original container for consumption off your licensed premises and allowed, permitted and suffered the removal of such beverage from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

The file herein discloses that on Friday, September 20, 1957 at about 10:40 p.m., an ABC agent entered defendant's licensed premises and took a seat at the bar which was being tended by two bartenders, one of whom was later identified as Joe Harris. During the course of the evening the agent ordered three drinks from this bartender and while being served the second drink, engaged him in conversation. The agent asked Joe where the girls were that wanted to make some money; the bartender looked at the agent but said nothing and the agent continued, "I want a girl so I can get laid, understand now." Harris then replied, "You came to the right place because there is always a few around here." At about 11:55 p.m. the agent observed a patron buy a pint of wine and leave the premises with the same. Shortly thereafter, the agent informed Harris that he soon would have to leave, to which Harris replied, "Wait, I just sent a girl upstairs to get one of the girls for you." The agent then asked Harris what the price would be for these illicit sexual relations and Harris answered, "She'll tell you." Within a few minutes the aforementioned female messenger returned and informed the bartender there were no girls upstairs. At about 12:30 a.m., immediately prior to leaving the premises,

the agent stated to Harris that he and a friend would return the next night at 11 and asked him if he could be of any assistance to them. Harris replied, "I'll have two girls waiting for you when you come in, they make good bed mates. They may be a little fat but they're good." The agents replied, "O.K. but the price must not be too much. We'll be in by 11 p.m.", and left the premises.

On Saturday, September 21, 1957 at about 10:30 p.m., while two local police officers and an ABC agent kept the premises under surveillance, aforesaid agent and another agent entered the premises. Immediately upon their entrance, Harris greeted the agents and informed them that the girls had not yet arrived but that he would procure them within a short time. About 11:30 p.m., the agents inquired of Harris about the girls. Harris' response was a filthy reference to these females and an expression of disappointment as follows, "They are around here other nights and none around when you want them." The agents then observed Harris make four telephone calls after which he returned to the agents and said, "I've called four places but none of the girls are around." The agents thereupon expressed an anxiety about the situation and Harris stated, "I'll get you a girl to get laid, don't worry about it." At about 12 midnight, Harris informed the agents he was going to send for two girls. Fifteen minutes later two females and a male entered the premises. Harris came from behind the bar, met the two females, held a short conversation with them, and then escorted the two females to the agents where he introduced them as Helen and May and said, "These are the girls, boys." The agents ordered a drink for the two girls who immediately said to the agents, "We'll have to go somewhere, OK?" The agents agreed and the girls then said, "Ten dollars each." One of the agents asked Harris if the upper floor of the premises was available for them and Harris replied, "No, but they will tell you where to go." The agent then asked Harris for a pint of Petri Port wine to take with them and Harris complied by giving him a pint of the requested wine in payment of which he accepted 50 cents from the agent. At this point the females said to the agents, "We can't go out together. It's too much of a risk. Give us a dollar for cab fare and we'll meet you at Sixth & Stone St., Newark," and then continued to say, "you go first and we will follow." One of the agents replied, "OK, but don't let us down." The two females promised that they would not, but refused to accept the money in the tavern. At about 12:20 a.m., both agents left the premises with the pint of wine which one of them had placed in his pocket. At about 12:35 a.m., the agents arrived in a taxicab at the aforesaid designated meeting place and saw no sign of aforesaid two females. The agents waited for a period of time and when the two girls failed to appear, the agents left the area.

On September 23, 1957 at about 11:15 p.m., the two agents returned to the licensed premises and informed Harris that the two girls he had procured for them failed to keep their appointment. Harris replied, "They left to meet you," and continued to say, "I called up five different times to get girls for you two and I sold you a bottle of wine, but you say they didn't show up." The agents took seats at the bar; ordered two bottles of beer and shortly thereafter asked Harris if he could procure two girls who would engage in illicit sexual relations with them. Harris' reply was, "Nothing happening boys, you'll have to go somewhere else and find some girls to lay. The last few nights were enough for me." The agents observed that Harris' previous friendly attitude toward them had cooled. The agents then asked him for a pint of wine and when Harris refused to sell

it to them, the agents identified themselves. Thereafter, Harris orally admitted aforesaid violations but refused to give a written statement.

I have examined the entire file in this case with great care. I have also given considerable thought to the statement submitted by defendant's attorney wherein he sets forth that Benjamin Grad, principal stockholder (owner of 2/3 of stock) is employed elsewhere; that he purchased the tavern in question on November 27, 1956 (a little less than a year ago); that prior thereto he had no connection with the liquor industry; that since April of this year he has been under the care of a physician; that he is a shell of his former self, having lost considerable weight due to his aggravated state of mind and that he had no reason to believe that Harris, aforesaid bartender, would engage in the illegal activities hereinabove outlined. I find it exceedingly difficult to fix a proper penalty in this case. Where the evidence establishes that the defendant or his agents permitted solicitation for immoral purposes and the making of arrangements for illicit sexual intercourse on the licensed premises, the license is usually revoked. Re Merjack Corporation, Bulletin 998, Item 1. The facts in this case would certainly justify revocation were it not for the mitigating circumstances appearing. Absentee management is no excuse for the manner in which the premises were conducted. However, the state of health of the licensee and his short experience in the tavern business impel me to impose a lesser, although substantial penalty. Re Burch, Bulletin 1022, Item 5; Re Fuhrer & Zarriello, Bulletin 1025, Item 1; Re Kurtz, Bulletin 1085, Item 1. If the licensee intends to operate his business by "remote control" he would be well advised to dispose of his license. Taking into consideration all the aforesaid circumstances; the fact that the defendant has no prior record and its plea entered herein, I shall suspend the defendant's license for one hundred and ninety days on both charges.

Accordingly, it is, on this 9th day of December, 1957,

ORDERED that Plenary Retail Consumption License C-323, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Ben's Long Bar, Inc., for premises 204 Mulberry Street, Newark, be and the same is hereby suspended for one hundred and ninety (190) days, commencing at 2:00 a.m. December 23, 1957 and terminating at the expiration of the license at midnight, June 30, 1958.

WILLIAM HOWE DAVIS  
Director.



3. DISCIPLINARY PROCEEDINGS - SOLICITING FOR PROSTITUTION -  
PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME -  
LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary )  
Proceedings against )

PERSO CO. )

T/a JOHNNY'S CAFE )

901-903 Springwood Avenue )

Asbury Park, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-58, issued by the )  
City Council of the City of )  
Asbury Park. )

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

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On the night of August 16 and early morning of  
August 17, 1957, you allowed, permitted and suffered  
lewdness and immoral activity in and upon your licensed  
premises, viz., solicitation for prostitution and the  
making of arrangements for illicit sexual intercourse;  
in violation of Rule 5 of State Regulation No. 20."

The file herein discloses that at 11:30 p.m. on  
Friday, August 16, 1957, ABC agents visited defendant's  
licensed premises and took seats at the bar; that a short time  
thereafter a female (subsequently identified as Mary) while  
en route to the ladies' room "accidentally" bumped into one of  
the agents and, upon her return from the ladies' room, walked  
over to the agents and asked them to buy her a drink; that the  
agents assented and, as Mary was consuming the glass of beer  
that she had ordered, she inquired whether the agents were out  
for some "fun;" that, when they inquired about the price, Mary  
said "Ten and three. Three for the room;" that the agents  
stated they were low in funds but had a friend in another  
licensed premises who might loan them the money; that Mary pro-  
ceeded to another man seated at the bar and the agents heard her  
discuss engaging in sexual intercourse with him; that, while  
Mary conversed with him, one of the agents made known to the  
bartender the agents' plans to engage in sexual intercourse with  
Mary and inquired of him whether they might be "rolled" by her  
and that he told them not to worry as that would not happen;  
that one of the agents left the defendant's premises but  
returned a short time thereafter, at which time arrangements were  
made with Mary to procure another female for his companion so  
that they could leave the establishment and engage in illicit  
sexual intercourse; that Mary spoke to a girl called Ann and  
final arrangements were then made for the four to leave the  
premises and proceed to a parked automobile which was to be  
driven by the man who lived in the home where the sexual rela-  
tions were to be consummated; that the plan was carried out  
and, when they arrived at the man's house, Mary took one of the  
agents into a bedroom and then asked for the thirteen dollars in  
accordance with the arrangement made at defendant's licensed  
premises; that the agent gave her the money (one ten-dollar bill  
and three one-dollar bills, the serial numbers of which had pre-  
viously been recorded) and then Mary disrobed; that thereafter  
a fellow-agent and two municipal police officers entered the

bedroom and obtained from Mary the money given to her by the agent.

The attorney for the defendant urged in mitigation of penalty that the manager of defendant's establishment (who knew that Mary had a previous record for prostitution) was not present when the instant occurrences resulting in the arrangements for illicit sexual intercourse were made on defendant's licensed premises, and that the bartender on duty had been employed a few days prior to the time the violation herein took place. However, a licensee cannot escape proper punishment from the improper operation of the licensed premises because of his absence therefrom. Rule 33 of State Regulation No. 20; Stein v. Passaic, Bulletin 451, Item 5. It is apparent that the licensee "suffered" the immoral activities to take place upon the licensed premises. In Essex Holding Corp. v. Hock, 136 N.J.L. 28, at p. 31, the Supreme Court said:

"Although the word 'suffer' may require a different interpretation in the case of a trespasser, it imposes responsibility on a licensee, regardless of knowledge, where there is a failure to prevent the prohibited conduct by those occupying the premises with his knowledge. Guastamachio v. Brennan, 128 Conn. 356; 23 Atl. Rep. (2d) 140."

If the bartender had actually procured the females in question to engage in sexual intercourse with the agents, the license would warrant revocation. Re Merjack Corporation, Bulletin 998, Item 1, and cases therein cited. However, since there is not sufficient proof of such procurement, I shall take that into consideration when fixing the penalty to be imposed herein.

Defendant has a prior adjudicated record. Effective October 21, 1940, its license was suspended for five days for sales to minors and immoral activities; effective March 18, 1944, its license was suspended for twenty days for sales to minors and, again, effective April 22, 1946, its license was suspended for seventy days for permitting immoral activities and sales of alcoholic beverages during prohibited hours. All of the above suspensions were imposed by the local issuing authority. Because of the lapse of time since the said prior violations, I shall not consider them when imposing the penalty herein. I shall, therefore, suspend defendant's license for a period of one hundred eighty days (Re Nehoc Tavern, Inc., Bulletin 1149, Item 5).

Accordingly, it is, on this 2nd day of December, 1957,

ORDERED that Plenary Retail Consumption License C-58, issued by the City Council of the City of Asbury Park to Perso Co., t/a Johnny's Cafe, for premises 901-903 Springwood Avenue, Asbury Park, be and the same is hereby suspended for one hundred eighty (180) days, commencing at 2:00 a.m. December 9, 1957, and terminating at 2:00 a.m. June 7, 1958.

WILLIAM HOWE DAVIS  
Director.

4. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATE OF SUSPENSION  
TEMPORARILY POSTPONED.

In the Matter of Disciplinary )  
Proceedings against )

PERSO CO. )  
T/a JOHNNY'S CAFE )  
901-903 Springwood Avenue )  
Asbury Park, N. J., )

O R D E R

Holder of Plenary Retail Consump- )  
tion License C-58, issued by the )  
City Council of the City of Asbury )  
Park. )

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Joseph N. Dempsey, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

An Order having been entered herein on December 2, 1957,  
suspending defendant's license for one hundred eighty (180)  
days commencing at 2:00 a.m. December 9, 1957 and terminating  
at 2:00 a.m. June 7, 1958; and

Application having been made to me by said defendant  
to postpone the effective date of said suspension to December  
16, 1957; and good cause appearing for the granting of said  
application,

It is, on this 9th day of December, 1957,

ORDERED that the one hundred and eighty (180) day sus-  
pension heretofore imposed in this proceeding, instead of  
commencing at 2:00 a.m. December 9, 1957, shall, in lieu  
thereof, commence at 2:00 a.m. December 16, 1957 and terminate  
at 2:00 a.m. June 14, 1958.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AS NUISANCE -  
FEMALE IMPERSONATORS - PRIOR RECORD - LICENSE SUSPENDED FOR  
120 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

THE PADDOCK BAR, INC. )  
T/a PADDOCK BAR )  
1013 Main Street )  
Asbury Park, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-31, issued by the )  
City Council of the City of )  
Asbury Park. )

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Joseph N. Dempsey, Esq., Attorney 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 charge:

"On June 30 and July 6, 1957, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered female impersonators and persons who appeared to be homosexuals in and upon your licensed premises; allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene conduct in and upon your licensed premises; and otherwise conducted your place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

The file herein discloses that at 1:25 a.m. Sunday, June 30, 1957, three ABC agents visited defendant's licensed premises wherein they remained until 3:30 a.m. During their stay they observed about eighty male patrons at the bar, whose effeminate mannerisms, high-pitched voices and display of affection towards one another characterized them as homosexuals. Miss Marion Brown (president and treasurer of corporate licensee) and the bartenders (Henry Eland and John Iannicelli) who were present during the agents' stay made no attempt to restrict the obviously vulgar exhibitionism. At 12:01 a.m. Saturday, July 6, 1957, the same three agents and another visited the licensed premises where they observed some seventy patrons being served alcoholic beverages by the aforesaid bartenders. The agents report that about 90 per cent. of the male patrons conducted themselves in like manner to the conduct observed by the agents on their previous visit. Miss Brown entered the premises about 12:50 a.m. and seated herself at the bar. One of the agents, in the presence of the other three, engaged Miss Brown in conversation respecting the effeminate traits of her patrons and asked her if there were any "straights" present. Her reply was, "I don't want any" and, when asked as to the whereabouts of "Tee" (a very effeminate male whom the agents had previously met), she stated, "Fred (another queer) should know. They have been going together pretty steadily."

It would serve no useful purpose to detail the indecent acts of the male patrons. Suffice to say that Miss Brown was aware of the profligacy of her patronage, as is evidenced by her statement to the agents after they disclosed their identities, that, "We are very strict that they don't bother anybody or touch anybody."

The defendant has a prior adjudicated record. Effective September 16, 1947, the license was suspended for two days by the local issuing authority for possessing mislabeled beer taps, and effective March 4, 1957, I suspended its license for sixty days for a violation similar to that charged herein. Re The Paddock Bar, Inc., Bulletin 1159, Item 2; affirmed sub. nom. Paddock Bar, Inc. v. Division of ABC, 46 N. J. Super. 405 (App. Div. 1957). The dissimilar violation, having occurred more than five years ago, will not be considered in fixing the penalty herein. However, considering the aggravated circumstances of the case and the prior similar violation which occurred within the year (Re Paddock Bar, Inc., *supra*), I shall suspend defendant's license for a period of one hundred twenty days. In fixing the penalty herein I have considered the alleged mitigating circumstances set forth in a letter sent to me by defendant's attorney. Five days will be remitted for the plea entered herein, leaving a net suspension of one hundred fifteen days.

Accordingly, it is, on this 21st day of November, 1957,

ORDERED that Plenary Retail Consumption License C-31, issued by the City Council of the City of Asbury Park to The Paddock Bar, Inc., t/a Paddock Bar, for premises 1013 Main Street, Asbury Park, be and the same is hereby suspended for one hundred fifteen (115) days, commencing at 2:00 a.m. December 2, 1957 and terminating at 2:00 a.m. March 27, 1958.

WILLIAM HOWE DAVIS  
Director.

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD -  
LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary )  
Proceedings against )

BRIGHTON BAR & GRILL, INC. )  
T/a BRIGHTON BAR & GRILL, INC. )  
119-121 Brighton Avenue )  
Long Branch, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-45, issued by the )  
Board of Commissioners of the City )  
of Long Branch. )

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to a charge alleging that on the night of May 31, 1957 and the early morning of June 1, 1957 and on divers days prior thereto, it sold, served and delivered alcoholic beverages, directly or indirectly, to Roger ---, age 19, John ---, age 17, Beverly ---, age 17, Lawrence ---, age 17, Robert ---, age 18, George ---, age 20, and Elana ---, age 15, 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.

"At the hearing herein it was established that Elana presently resides in California. The charge with respect to her was dismissed. The six other minors testified that they visited defendant's licensed premises about 9:30 p.m. Friday, May 31, 1957 and remained there with the exception of a brief interlude until approximately 1:30 a.m. the following morning; that during their stay they were served, as some of them had been on several previous occasions, alcoholic beverages by Anthony Pingitore, known as 'Inkie', who at no time required written proof of their ages. Roger testified that on the date alleged, he and John each purchased two six-pack cartons of beer for off-premises consumption and that later he consumed on the licensed premises five bottles of beer. John corroborated the testimony of Roger respecting the purchase of the beer for off-premises consumption and testified that he consumed on the premises both whiskey and beer. Beverly testified that she consumed a 'screw driver' (vodka and orange juice) which was ordered and paid for by one of her companions and placed on the

bar by 'Inkie'. Lawrence testified that he consumed seven beers and 'a couple of shots of Rock & Rye', and George testified that he consumed 'one or two beers and \*\*\* three or more Vodka Collins'. An ABC agent testified that he was directed to the licensed premises by Roger, Robert, Lawrence, George, Beverly and Elana, who pointed it out as the place where they obtained the alcoholic beverages and all but Beverly and Elana identified 'Inkie' as the person who served them.

"Anthony Pingitore testified that he is president of defendant corporate-licensee and was the sole bartender on duty on the night alleged; that the six minors whom he had never seen previously, entered the tavern about 9:30 p.m. and remained a couple of hours; that he asked a couple of them respecting their ages and was shown cards and that he served a bottle of beer to Robert and 'a shot of whiskey and a glass of beer' to John 'because they looked old enough to me'. He denied selling the four six-pack cartons of beer to either Roger or John, stating that the merchandise was kept in a 'Coca-Cola' type cooler in the rear of the premises and was accessible to patrons.

"Frank Pingitore testified that he is vice-president of defendant corporate-licensee; that he was in the tavern on the night alleged from 10:30 p.m. to about 1:00 a.m. the following morning; that he saw Beverly with another girl at the bar and at 12:15 a.m., 'I told her to get out of the place' because 'she was too young. \*\*\* I told them both to get out.'; and that he saw George and Lawrence in the tavern and heard his brother ask them for identification.

"Three patrons of the licensed premises testified that they heard Anthony Pingitore ask for identification from two fellows who were with two girls and that he was shown 'something'.

"Having considered the testimony herein, I find that the correct version of what occurred on the date alleged is that given by the Division's witnesses and corroborated in part by those witnesses appearing for defendant. I conclude, therefore, that defendant is guilty of the charge preferred against it, excluding that part which refers to the minor Elana.

"Defendant has a prior adjudicated record. Effective March 20, 1955, its license was suspended for five days by the local issuing authority for selling alcoholic beverages during hours prohibited by local regulations.

"The minimum penalty imposed for an unaggravated sale of alcoholic beverages to a 17-year-old minor is twenty days. Re Verenna, Bulletin 1137, Item 4. However, in view of the number of minors involved, the tender age of three of them, the quantity and type of alcoholic beverages served to them and the prior dissimilar violation which occurred within a five-year period, I recommend that defendant's license be suspended for a period of forty-five days. Cf. Re Oliveri's, A Corp., Bulletin 1178, Item 7."

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

After carefully considering the facts and circumstances appearing herein, I concur in the Hearer's findings and conclusions and adopt his recommendation. I shall suspend defendant's license for a period of forty-five days.

Accordingly, it is, on this 25th day of November, 1957,

ORDERED that Plenary Retail Consumption License C-45, issued by the Board of Commissioners of the City of Long Branch to Brighton Bar & Grill, Inc., t/a Brighton Bar & Grill, Inc., for premises 119-121 Brighton Avenue, Long Branch, be and the same is hereby suspended for forty-five (45) days, commencing at 2:00 a.m. December 2, 1957, and terminating at 2:00 a.m. January 16, 1958.

WILLIAM HOWE DAVIS  
Director.

7. DISCIPLINARY PROCEEDINGS - SALE TO INTOXICATED PERSONS - OBSCENE LANGUAGE - NUISANCE - SPECIAL PERMIT TO OPERATE PENDING ACTION ON RENEWAL SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary  
Proceedings against

CHARLES WARSHAW  
T/a LIBERTY BAR  
14 Liberty Street  
Long Branch, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-27 (for the 1956-57  
license period issued by the Board  
of Commissioners of the City of Long  
Branch) and now holder of Special  
Permit SM-2093 (effective July 1, 1957)  
issued by the Director of the Division  
of Alcoholic Beverage Control.

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Leo J. Berg, Esq., Attorney 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 Friday night, June 7 and early Saturday morning, June 8, 1957, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons actually or apparently intoxicated and allowed, permitted and suffered the consumption of such beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

"2. On Friday night, June 7 and early Saturday morning, June 8, 1957, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises and your licensed place of business to be conducted in such manner as to become a nuisance; in violation of Rule 5 of State Regulation No. 20."

The file herein discloses that at about 10:15 p.m. on Friday, June 7, 1957, an ABC agent observed a bartender employed by the defendant serve a bottle of beer to a man who appeared intoxicated. The agent reports that the patron's speech was

thick and incoherent; that the patron staggered as he walked to the juke box and while attempting to dance to the music, fell against the said juke box and when he finally occupied a stool at the bar he experienced trouble thereon; that at 11:20 p.m., despite the man's condition, the bartender again served him a bottle of beer; that as the man attempted to drink some of the beer, he missed his mouth and poured a quantity thereof on the front of his shirt. The agent further reports that at about midnight another man who also appeared intoxicated came into defendant's premises but was refused a drink of beer by another bartender on duty at the time until the man produced money to make payment therefor; that the man, after some effort, obtained change from his pocket which he placed on the bar; that the bartender served the man a bottle of beer; that the man in an effort to drink the beer spilled a quantity thereof on the bar. Despite the fact that the patrons while engaged in conversation constantly expressed themselves by the use of extremely filthy language, the bartenders did nothing to stop the indecent conduct. To repeat the language used would serve no useful purpose.

Defendant has no prior adjudicated record. The minimum suspension for violations such as those now under consideration is thirty days. Re Butelewicz, Bulletin 1169, Item 1. I shall suspend defendant's license for thirty days less five days remission for the plea entered herein, leaving a net suspension of twenty-five days.

The local issuing authority has not renewed defendant's plenary retail consumption license for the 1957-58 licensing term. Effective July 1, 1957, I issued a special permit to defendant which authorized him to continue operation of his business at the premises 14 Liberty Street, Long Branch. Said permit was to remain in force and effect until the local issuing authority "shall adjudicate upon the foregoing renewal application or until further order of the Director of the Division of Alcoholic Beverage Control, whichever may first occur." I shall enter an order herein imposing the twenty-five day suspension aforementioned against the permit issued by me. If, during the time the suspension of the permit is in effect, defendant's license is renewed by the local issuing authority, the balance of the suspension, if any, shall be imposed upon the defendant's license as renewed.

Accordingly, it is, on this 4th day of December, 1957,

ORDERED that Special Permit SM 2093 issued to Charles Warshaw, t/a Liberty Bar, for premises 14 Liberty Street, Long Branch, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. December 12, 1957 and terminating at 2:00 a.m. January 6, 1958, subject to the suspension or the balance thereof being imposed upon defendant's renewed license for the 1957-58 licensing year in the manner heretofore expressed.

WILLIAM HOWE DAVIS  
Director.

8. STATE LICENSES - NEW APPLICATIONS FILED.

Paradise Wine Distributors, Inc.  
251-257 Hillside Avenue, Newark, N. J.  
Application filed January 2, 1958 for Wine Wholesale License.

Strickland Motor Freight Lines, Inc.  
Foot of Pennsylvania Ave., South Kearny, N.J.  
Application filed January 8, 1958 for place-to-place transfer of Transportation License T-20 from 621 Grove St., Elizabeth, N.J.

WILLIAM HOWE DAVIS  
Director.



9. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF  
STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 10 DAYS,  
LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

ROSE CALI )

T/a MAC ROSE TAVERN )

331 Grand Street )

Paterson, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-177, issued by the )  
Board of Alcoholic Beverage Control )  
for the City of Paterson. )

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Rose Cali, Defendant-licensee, Pro se.

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

BY THE DIRECTOR:

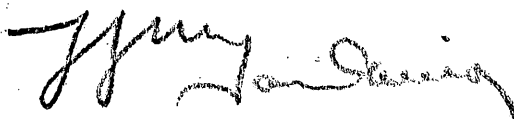
Defendant has pleaded non vult to a charge alleging  
that she sold during prohibited hours alcoholic beverages in  
their original containers for off-premises consumption, in  
violation of Rule 1 of State Regulation No. 38.

The file herein discloses that at about 1:10 p.m.  
Sunday, October 20, 1957, an ABC agent visited defendant's  
licensed premises wherein, at 1:20 p.m., he observed Rose Cali  
(the licensee herein) sell a pint of wine to a customer who  
put it in his pocket and remained on the premises. When  
another man requested an alcoholic beverage to take out, the  
licensee told him she didn't want to sell him anything since  
she didn't know the man at the end of the bar (referring to  
the agent). The agent left the premises and joined another  
agent participating in the investigation. At about 1:35 p.m.  
a man emerged with a bottle in his pocket. The agents identi-  
fied themselves and seized the bottle which contained vodka.  
The man returned to the tavern with the agents who then  
accosted the man who had purchased the pint bottle of wine and  
prevailed upon him to hand it over. Identifying themselves to  
Rose Cali, the agents informed her of the violation and she  
admitted the after-hours sale.

Defendant has no prior adjudicated record. I shall  
suspend defendant's license for the minimum period of fifteen  
days. Re Diaz, Bulletin 1196, Item 9. Five days will be  
remitted for the plea entered herein, leaving a net suspension  
of ten days.

Accordingly, it is, on this 25th day of November, 1957,

ORDERED that Plenary Retail Consumption License C-177,  
issued by the Board of Alcoholic Beverage Control for the City  
of Paterson to Rose Cali, t/a Mac Rose Tavern, for premises 331  
Grand Street, Paterson, be and the same is hereby suspended for  
ten (10) days, commencing at 3:00 a.m. December 2, 1957, and  
terminating at 3:00 a.m. December 12, 1957.



New Jersey State Library

William Howe Davis  
Director.