

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

May 8, 1968

BULLETIN 1790

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May 8, 1968

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1. COURT DECISIONS - KAPLAN AND BUZAK v. ENGLEWOOD - DIRECTOR
AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-1310-66

FRIEDA KAPLAN, STELLA BUZAK
and FRANK BUZAK, trading as
West Side Bar & Grill,

Appellants,

vs.

COMMON COUNCIL OF THE CITY
OF ENGLEWOOD,

Respondent.

Argued December 18, 1967 -- Decided February 23, 1968.

Before Judges Gaulkin, Lewis and Kolovsky.

On Appeal from the Division of Alcoholic Beverage
Control.

Mr. Steven J. Stillman argued the cause for appellants
(Messrs. Lucianna, Federico & Sandow, attorneys;
Mr. Frank P. Lucianna, on the brief).

Mr. William V. Breslin argued the cause for
respondent (Messrs. Leyden, Breslin, Monaghan
& Leyden, attorneys).

Mr. Arthur J. Sills, Attorney General of New Jersey,
Attorney for Director, Division of Alcoholic
Beverage Control, filed a statement in lieu of brief
(Mr. Stephen G. Weiss, Deputy Attorney General, of
counsel).

The opinion of the court was delivered by

LEWIS, J. A. D.

(Appeal from Director's decision in Kaplan and Buzak v. Englewood, Bulletin 1745, Item 1. Director affirmed. Opinion not approved for publication by the Court Committee on opinions. Motion for stay and petition for certification to N. J. Supreme Court filed February 26, 1968.)

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY - SALE IN VIOLATION OF STATE REGULATION NO. 38 - SALE BELOW FILED PRICE - PRIOR DISSIMILAR RECORD - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against

ELVIRA DE PAOLA
t/a J & J Tavern
73 Mary Street
Paterson, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-292, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

Bruno L. Leopizzi, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to Charge 1 and guilty to Charges 2 and 3 as follows:

"1. On January 13 and 18, 1967, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., in that you, through persons employed on your licensed premises, made offers to male patrons and customers thereon to procure females to engage in acts of illicit perverted sexual relations and/or in acts of illicit sexual intercourse with them, and in furtherance of those offers, made arrangements with a female and procured said female to engage in acts of illicit perverted sexual relations and/or acts of illicit sexual intercourse with patrons and customers, as aforesaid; in violation of Rule 5 of State Regulation No. 20.

"2. On Friday, December 30, 1966, at about 10:30 p.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., a pint bottle of Four Roses Blended Whiskey, 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.

"3. On Friday, December 30, 1966, at about 10:30 p.m., you sold and offered for sale, at retail, directly or indirectly, the aforementioned pint bottle of Four Roses Blended Whiskey, an alcoholic beverage, at less than the price thereof filed with the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

The Division offered the testimony of four ABC agents in substantiation of Charge 1.

ABC Agent S testified that, acting under specific assignment to investigate an allegation of prostitution (accompanied by Agents R and Se), he entered the licensed premises on January 13, 1967 at approximately 8:40 p.m. Agent R had entered the licensed premises (described as a neighborhood tavern and package store combined) approximately ten minutes earlier. S and R sat next to each other at the center of the bar. Se entered approximately fifteen minutes later and positioned himself opposite S and R and about five stools to the left. The patronage consisted of approximately three or four males and increased to approximately six males and two females. "Billy", subsequently identified as William Maher, was tending bar. When asked to relate conversations had with Maher, the agent responded thusly:

"He, Agent R---, asked Billy Maher where all the broads were. He says, 'It is early.' He said, 'It is slow tonight', and then we conversed in general, and Mr. Maher then said, 'Wait a minute. I got something for you.' He says, 'I got a good blow job.' He says, 'She's the best blow job in the State.' He says, 'Wait.' He looked into his wallet, and he said he was looking for a telephone number. He did find it, and he made a notation on a piece of paper, and he transcribed it on a piece of paper, handed it to Agent R."

Continuing, the testimony revealed the following:

"Q After Mr. Maher wrote out that paper, did you see what he did?

A Yes, sir.

Q What did he do?

A Handed it to Agent R.

Q Or did he say anything?

A Yes, sir. He said, 'Here. Go over there, call her up, and you tell her that you know "Billy Bullets." You are a friend of mine, you are a friend of "Billy Bullets." That's my nickname. She will know what you are talking about. She won't answer the phone or go out with anybody unless she knows.' He then said, 'You tell her you are from Chicago and you are a friend of mine; that you are going to be here in Paterson for about six months.' And then Agent R said to Mr. Maher, 'How much is she going to charge me for a blow job?' He said, 'Don't worry about it. Give her anything; just give her enough to take care of the babysitter. Here. Call her up.'"

R proceeded to the telephone booth in the tavern, re-joined Maher and S, and reported to Maher that "she didn't think she could make it tonight. She said she was busy and maybe it would be some other night that she would go out with him."

Maher said, "Wait a minute. Wait a minute.' He says, 'Let me give her a call myself.'"

Maher proceeded to the telephone booth. S then testified as follows:

"After the call, he [Maher] came back and he said, he went behind the bar again, and he said to Agent R, 'I made all the arrangements.' He says, 'Now, you',

pointing to R, 'you got a date for Wednesday night for 9:30, and don't screw me up because I have got to go out with my girl. I got to meet her at ten o'clock. Make sure you are here.' And, again, R said to him, 'How much is this going to cost me? How much do I need for a blow job?' And he says, 'I told you before. All you have to do is give her enough for the babysitter', he said, 'and I don't want you to go for a motel bill. She drinks J & B. Buy a pint of scotch and take it with you. Go to her apartment if necessary.'"

Prior to leaving the tavern at approximately 11 p.m. Maher again said to R, "to be sure to be on time, not to screw him up, and to be back Wednesday night at 9:30."

Several additional ABC agents participated in the investigation on Wednesday, January 18, 1967, two of whom waited at a local police station awaiting a telephone call. S had in his possession two marked ten-dollar bills and one marked five-dollar bill.

On January 18 R entered the licensed premises at approximately 9 p.m. and S entered the licensed premises approximately ten minutes later and sat directly to the right of R. Maher was off duty and sat with R on the patrons' side of the bar. Augustus ("Gus") DePaola (the licensee's son) was tending bar. Upon being seated, S said to Maher, "Billy, where is Gloria?" Maher replied, "She'll be here later." About five minutes later Billy stated that he was going to give her a call. He entered the telephone booth, placed a call and, upon emerging, said, "She would be here about 9:45." At approximately 10:05 p.m. three females entered the tavern. They were identified as Gloria, Ronnie and Selma. Upon being asked, "And when these girls came in, where did they go?" S replied,

"Billy Maher got out of his stool and greeted Gloria and he said to Gloria, 'This is the guy I told you about from Chicago.' And then Billy moved over a stool and Gloria took her position directly next to Agent R, and the other two females took positions to the left of Mr. Maher."

Continuing, S testified as follows:

"Q Now, did you overhear any conversation at this point between Gloria and R?

A Yes, sir. Mr. Maher introduced Agent R to Gloria and then he said to Gloria -- Gloria asked him how long he was staying in Paterson and what kind of work he did in Chicago, and Billy came into the conversation, leaned across toward me in front of Miss B--- [Gloria] toward R and says, 'When I was in Chicago, he showed me the best --- time of my life.' He said, 'That's why I called you here. I want to show him a good time.' And then he went on to state how friendly he was with Mr. R.

Q And did you overhear any of the conversation then between R and Gloria?

A Mr. R asked how much she was going to charge for a blow job, and she stated that just enough for the babysitter would be sufficient. Mr. R asked Billy Maher several times, 'I got \$25.00', he says. 'What should I give her?' He said,

'Don't give her too much. Ten Dollars will be enough.' R said, 'How about \$10.00?' So Mr. Maher says, 'That's plenty. Just give her enough for her babysitter. That will do it', and he says, 'I don't want you to go for a motel bill. Take her out for a couple of drinks, wine her, dine her', he says, 'and take her for the night.'

Q Well, while this was going on, did you have any conversation with the bartender, Mr. DePaola?

A Yes. I got off of the stool, and I walked over toward Mr. DePaola who was at the center of the bar on the right-hand side, and I says to him, 'Hi, Gus.' I says, 'That Gloria is pretty good -- pretty nice. It was nice of Billy to fix Petey up with her for a blow job, and she is only going to charge \$10.00 for a -- give her \$10.00 for the babysitter.' He says, 'All right. Good. That's good. That's good.' I says, 'She is pretty nice. Maybe after Petey gets fixed up, Billy can fix me up for a blow job some time.' He says, 'That's good. That's good.'

At approximately 10:50 p.m. S left the tavern, contacted Agents Ru and P, and returned to the tavern at approximately 10:55 p.m. At approximately 11 p.m. Billy stated that he was leaving for home to get some money because he was short of funds. Prior to Billy's departure R leaned over towards Gloria and said, "Here, Gloria. Here's the \$10.00 Billy told me to give you, I'll give you the rest too." Gloria took the money and placed it in her handbag and said, "it was for her babysitter."

After Maher exited from the tavern S testified, "the telephone began to ring quite often, and then there seemed to be some excitement and mention of 'ABC'". Gus looked for ABC agents. Maher did not return. Gloria "got a little excited, and she was looking for Billy and she wanted to know where he was."

At approximately 11:10 p.m. S departed from the tavern and contacted ABC Agents Si, Se and Detective Keegan of the local police force, and returned to where R and Gloria were seated. Si, Se and Detective Keegan entered the tavern. The testimony revealed the following:

"Q Was there any conversation on the part of Si?

A Yes. Si said to R, 'What are you going with this girl here?' Agent R, he says, 'I am going to -- she is going to give me a blow job. She is going to blow me', and Si said, 'Did you give her any money?', and R said, 'Yes. I gave her \$10.00.'" And then Miss B--- [Gloria] yelled out that it was for her babysitter."

Upon request Gloria produced a marked ten-dollar bill from her handbag and handed it to Si and Detective Keegan.

The entire group proceeded to the local police station. When questioned as to what conversation he had with Maher at the police station, S responded as follows:

"I refreshed Mr. Maher's memory, and I went over the facts with him as we had them, and I told him what happened on Wednesday night on the thirteenth. I refreshed his memory as to how he said he had a blow job by the name of Gloria; that he would -- that we should

call on the phone; that he gave the number to R to call, and R called, and then after the call, he spoke to her again and called personally, and said he was going to pick her up at her house and bring her to the premises; that was the favor he was going to do R; and that on the eighteenth of January the girl did come after he called, and she was there and the money was given to her for the purpose of a blow job and was ultimately to go to her babysitter, and he stated, 'You got me all wrong', he says, 'I made a date for him', he says, 'I made a date for the guy. She is no hooker. She doesn't go for money. The money was for her babysitter. All I did was make a date. The rest is up to you.'

Finally, when questioned as to what conversation he had with DePaola at the police station, S replied,

"Yes. I informed him of the fact that I told him in the premises that Mr. Maher had fixed up R with Miss B--- [Gloria] for a blow job and he said, 'That's good. Okay. That's good.'"

On cross examination the agent testified that he was in the tavern on four occasions prior to January 13, 1967. He did not see Gloria in the tavern prior to January 18, 1967. On January 13, 1967 Maher did not ask the agent as to whether or not he wanted any girls.

On January 18, 1967 Gloria did not leave the tavern with Agent R. Gloria refused R's offer of money to pay taxicab fare and said her "girl friends took me down."

The testimony of Agents R, Se and Si substantially corroborated that of Agent S.

In defense of the charge the licensee produced Selma B--- as her first witness, who testified that she had been acquainted with the bartender Maher for approximately one year. On January 18, 1967 she drove Ronnie and Gloria to the licensed premises in her automobile, arriving there at approximately 10 or 10:15 p.m. Maher was seated on the patrons' side of the bar with R. She did not recall S's presence in the tavern. Maher introduced R to Gloria, Selma and Ronnie. Gloria seated herself next to R. Mayer was seated on the other side of R. R purchased the three girls a drink. In response to a question as to what conversation she overheard between R and Gloria while she was standing behind them, the witness replied,

"He [R] is asking Gloria if she wants to go some place else for a drink, and Gloria said she don't want to go. She says no. And he keeps on asking her, you know. He's getting kind of nervous. He said, 'Come on, let's go.' But Gloria doesn't want to go. And I am standing there."

Upon being called to the other side of the bar by a male patron, Selma and Gloria left R and Maher. While walking to the other side of the bar, Gloria referred to R's conduct as follows:

"I don't like the way, you know, he is talking. He is coming on too fast. He wants to take me out to a motel and he wants to take me out for a drink and I don't want to go."

Thereafter Selma and Gloria returned to their original positions at the bar where R and Maher were seated. When Maher mentioned that he was going to leave the tavern, R became nervous and suggested to Gloria that they go somewhere. Gloria said, "I don't want to go. I came with my girl friends and I'm going home with them." When the females entered the tavern R offered Gloria taxi money. Gloria replied, "No, I don't need no money for the taxi. I came down with my girl friends."

Finally, the witness testified that she heard Gloria refuse R's request to go to a motel. She did not hear Gloria agree to take money for sexual relations and for babysitting. Selma departed from the tavern about ten or fifteen minutes after Maher left.

On cross examination the witness testified that, during the period of ten or fifteen minutes that she was conversing at the bar with Ronnie and another female, she did not hear the conversation engaged in by Maher, R and Gloria.

Gloria B--- testified that she had been acquainted with Gus DePaola for approximately five or six years and with William Maher for approximately two years. About a week prior to January 18, 1967, at "maybe 9:30, 10" o'clock in the evening she received a telephone call from R who identified himself as Pete Rossi. When requested to relate the conversation she had with R, Gloria testified,

"This fellow, Pete Rossi, said that he was a friend of Billy's and he said that he would like to take me out on a date, he would like to meet me, and I said that it wasn't possible, I said, but I would like to talk to Billy because I wanted to find out just why, you know, why he called me, because he never gave out my number ever before that."

There was no mention of sexual relations. Maher called Gloria shortly thereafter. When questioned as to this conversation the witness replied:

"I asked Billy how come he gave out my number. I was really surprised, because he never did that before. He said, he said he didn't mean anything by it, just that he was a friend of his, and he asked me if I knew a nice girl to take out on a date and for some reason he thought of me."

Maher did not suggest that she should engage in sexual relations with R. The questioning then proceeded as follows:

"Q Did you tell Bill that you would go to the tavern on January 18?

A I did not give him any definite answer to that, because I wasn't sure if I was going out. I said I may go out with my girl friends. 'If I am out with them, we may stop in there.'"

On January 18, 1967, accompanied by Selma and Ronnie, Gloria entered the tavern at approximately 10:15 p.m. Gus DePaola

was tending bar. Maher was seated at the patrons' side of the bar with R and S. Maher ushered them to where R and S were seated and made the introductions. In response to R's offer to reimburse Gloria for her taxicab fare, she testified thusly:

"I said, 'I'm sorry.' I said, 'I came here with my friends, my girl friends,'"

and did not accept money from him. Gloria and R engaged in "casual conversation" at first. Maher did not suggest that Gloria should have relations with R, nor did Gloria and R discuss having relations. Later R suggested to Gloria, "Let's get out of here. We will go somewhere else." Gloria responded, "No, I'm not leaving. I'm here with my girl friends. I'm not going anywhere." Up to the point where Gloria proceeded to the other side of the bar to converse with someone, R continued to suggest that they leave the tavern. However, no one had suggested sexual relations. Gloria stayed at the other side of the bar at least fifteen minutes. She had left her bag on top of the bar near R and returned to her original position when Gus mentioned that R wanted to talk with her. R again asked her to leave. He did not suggest intercourse or going to a motel or hotel. She denied ever engaging in soliciting.

Maher refused an offer of a loan of money made by one of the agents prior to leaving due to the fact that he was short of funds. Thereafter Gloria continued talking with R and again went to the other side of the bar to socialize with friends, leaving her handbag there. Upon returning R again asked her to leave the tavern with him. S departed from the tavern and re-entered a "few minutes later" with the police. She was then taken to the local police station. A search of her purse produced a "ten-dollar bill that was folded up into a very small square and it was laying right on top of my bag. It wasn't put into anything, just dropped, you know, on top of the bag." No one gave her the money. She did not know that the money was in her purse. Finally, Gloria testified as follows:

"Q Had either one of the agents offered to pay, in addition to paying the cab, had they offered to pay your babysitter?

A Well, they offered to pay my babysitter if I went out with them, but I wasn't even interested in him at all in any way.

Q Did you have intentions at any time to have relations, or did you agree to have relations with the agent at any time that particular night?

A Definitely not, definitely not, no, sir.

Q Had Bill told you that you should come down there for the purpose of meeting these agents and have relations with him or otherwise?

A No, he did not. I simply went down there that evening with my girl friends. That's all."

On cross examination the witness admitted that the numbers written on the slip received in evidence represented her telephone number and apartment number. Maher had these numbers at least a year. She did not recall the reason for giving Maher these numbers. Except for receiving an occasional telephone call from Gus, she had never received a telephone call from the tavern prior to receiving R's call. Referring to the telephone call she received on January 13, 1967, the testimony revealed the following:

"Q When he [R] called you, did you raise any question with him as to where he got your telephone number from?

A Yes. I asked him who he was and where he got my telephone number from, and he told me that he was a friend of Billy's. He asked Billy to get some girl to take out and Billy gave him my number."

Subsequently, referring to the telephone call she received later that night from Billy, Gloria testified as follows:

"Q Did you bawl him [Maher] out at any time for having given your number to a strange man to call you?

A I trusted Billy and I had respect for him and I felt if he gave out my number, it's probably all right. But I didn't like the idea and I was surprised that he did. I wondered why, because he never did that.

Q You never said anything to him about it?

A Yes, I did. In that telephone conversation I asked him who Pete Rossi was, why he gave him my number. He said just for a date, that's all.

* * * * *

Q When Billy Bullets spoke to you on the 13th, did he say anything to you about your coming to the tavern on January 18, on the Wednesday night?

A He just mentioned, he just said, 'I haven't seen you in a long time', because I hadn't been there in the tavern for a long time, and he said, 'When are you coming down?' I said, 'Well, I don't know. I may come down with Ronnie and Selma on Wednesday if I do decide to go out.'"

Gloria received no telephone call from Maher on the night of January 18. After Gloria came in the tavern on the night of January 18 and was introduced to R by Maher, neither Maher nor R used indecent language in his conversations with her. She denied that her presence in the tavern that night was pursuant to a "date." She denied having any intention of leaving the tavern with R.

Referring to Gloria's confrontation by the police officer and ABC Agent Si, the cross examination revealed the following:

"Q Didn't you tell the police officer and one of the investigators, Si, 'Yes, he gave me the ten dollars but that was just for my babysitter'?

A No. I don't remember saying that at all.

* * * * *

Q Did you at any time tell the police officers, 'Someone must have sneaked this in my pocketbook', or didn't you say anything at all about it?

A No, I didn't know how it got there. I didn't know what it was. I didn't know how much it was."

She denied telling Agent Se or anyone else that she went to the tavern on January 18 because of an arrangement she had with Billy. She told the officers, "I simply went out for an evening with my girl friends."

Later the witness testified as follows:

"Q Do you also remember Inspector Se saying to you down at police headquarters, 'For what purpose did Billy Bullets want you to meet this fellow'?"

A Yes.

Q Do you recall what your answer was?

A If that was asked, I said that it was simply for a date."

Augustus (Gus) DePaola testified that he was the son of the licensee and was employed as the manager of the licensed premises. He was acquainted with William Maher (who was a part-time employee of the licensed premises) for a period of approximately five or six years.

On the night of January 18 he was tending bar. Billy came in alone at approximately 9 or 9:15 p.m. and said "he was waiting for a couple of friends of his." R and S entered the tavern at approximately 9:45 p.m., sat with Billy at the bar and drank together. Later Gloria, Ronnie and Selma accepted Billy's offer of a drink. The only conversation he had with either agent concerning Gloria was when Gloria was sitting at the opposite side of the bar and R requested Gus to call her because he wanted "to say goodnight to her." This resulted in Gloria going over to see R. He had no knowledge of Billy or the agent having called Gloria during the week prior and knew of no arrangements made among them. He had no conversation with the agents concerning sexual relations with Gloria. Gloria hadn't patronized the tavern for a "couple of months" prior to January 18. When she patronized the tavern she would usually come in "with the girls" and leave with them. The first time he was aware that calls were made to Gloria and that she was supposed to have met R was at the police station.

On cross examination the witness reiterated that he engaged in no conversation which implied that Gloria was going to engage in intercourse.

On redirect examination the witness testified that his mother is well acquainted with Gloria and that Gloria had a "very good" and "honorable" reputation.

It was stipulated that Ronnie P---'s testimony would be the same as Selma's testimony.

During the course of the hearing the attorney for the licensee moved to dismiss the contested Charge 1. I reserved decision thereon and recommend that the motion be denied.

Inasmuch as this proceeding mainly presented a factual question and the transcript covered almost three hundred pages of testimony, and further considering the gravity of the charge, I detailed herein a large quantum of the testimony relevant to the disposition of the contested charge.

In evaluating the testimony and its legal impact, we are guided by the firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956); Freud v. Davis, 64 N.J. Super. 242 (App.Div. 1960); Howard Tavern, Inc. v. Division of Alcoholic Beverage Control (App.Div. 1962), not officially reported, reprinted in Bulletin 1491, Item 1.

In appraising the factual picture presented in this proceeding, the credibility of witnesses must be weighed. Evidence, to be believed, must not only proceed from the mouths of credible witnesses, but must be credible in itself, and must be such as common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App.Div. 1961).

The general rule in these cases is that the finding must be based on competent legal evidence and must be grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042.

In reviewing the testimony I find that the bartender Maher made an offer to a male patron on the licensed premises to procure a female to engage in an act of illicit intercourse within the proscription of Rule 5 of State Regulation No. 20. The testimony of Agent R (as to the offer made by Maher) amply corroborated by the testimony of Agent S in this regard was explicit, convincing and uncontradicted by the licensee.

Admitting, for the purpose of argument solely, that Maher's offer was nothing more than "puff talk" or the words of a braggart, and further conceding that the female (Gloria) had no intention of leaving the tavern and engaging in lewd or immoral activity as argued by the licensee in defense of Charge 1, licensee's argument is none the less a non sequitur. The mere making of the offer completes the violation. See Re Al & Betty Klipfel's Tavern, Inc., Bulletin 1290, Item 5; In re Olympic, 49 N.J. Super. 299 (App.Div. 1958).

However, from the proofs adduced in the instant proceeding it appears to me that the bartender went a step further. He actually made arrangements with a female (Gloria) to go to the tavern on a particular night, meet with the Division agents, and then introduced her to R in a manner which definitely implied that he expected her to bestow sexual favors to R.

S's and R's testimony concerning R's conversations with Gloria, and the finding of the ten-dollar bill in the female's purse (which R testified he gave her that evening in anticipation of receiving those favors), I feel amply justifies my view.

Licensee argues an unawareness of the conduct and activity of the bartender Maher. The licensee is clearly inculpated by the misconduct of her employee. Such conduct constitutes a grave threat to the public welfare and morals and, unless eliminated, tends towards abuse and abasement. Kravis v. Hock, 137 N.J.L. 252 (Sup.Ct. 1948); In re Schneider, 12 N.J. Super. 449 (App.Div. 1951). Furthermore, it is a basic principle that, in disciplinary proceedings, the licensee is fully accountable for all violations committed or permitted by his servants, agents or employees. Knowledge on the part of the licensee is not a prerequisite to a finding of guilt where the employee participates in the misdeed. Cf. Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup.Ct. 1947); In re Schneider, supra; Rule 33 of State Regulation No. 20.

After carefully considering and evaluating all of the evidence adduced herein, and the legal principles applicable thereto, I conclude that the Division has proved its case by clear and convincing testimony and by a fair preponderance of the credible evidence. I therefore recommend that the licensee be found guilty of the first charge. As heretofore indicated, the licensee pleaded guilty to the second and third charges.

The licensee has a previous record of suspension of license by the municipal issuing authority for ten days, effective July 30, 1962, for sale to minors.

In view of the nature of the principal offense, i.e., procurement for prostitution, and considering the other offenses and the previous record as well, I further recommend that the license be revoked. Re Soto Pruna, Bulletin 1713, Item 1 and cases cited therein; Re Perlangiero, Bulletin 1744, Item 1.

Conclusions and Order

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

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

Accordingly, it is, on this 29th day of February, 1968,

ORDERED that Plenary Retail Consumption License C-292, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Elvira DePaola, t/a J & J Tavern, for premises 73 Mary Street, Paterson, be and the same is hereby revoked, effective immediately.

JOSEPH M. KEEGAN
DIRECTOR

- 3. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - PRIOR DISSIMILAR RECORD OF CORPORATE STOCKHOLDER - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

1014 ARCTIC AVENUE, INC.
t/a Hickory House
1087 Absecon Blvd.
Atlantic City, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-11 issued by the Board of Commissioners of the City of Atlantic City.

Perskie and Perskie, Esqs., by Marvin D. Perskie, Esq.,
Attorneys for Licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on divers days between August 22 and December 8, 1967, it permitted acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Although the licensee has no previous record of suspension of license, the license then held by Perry Rice (president and 49 per cent. stockholder of the licensee corporation),

t/a Perry's Wayside Inn, for premises 1222 and 1228 Arctic Avenue, Atlantic City, was suspended by the Commissioner for five days effective March 29, 1943, for refilling a bottle of wine for off-premises consumption (Re Rice, Bulletin 559, Item 5), and by the municipal issuing authority for ten days effective November 15, 1965, for sale to minors.

The prior record of license suspension in 1943 for dissimilar violation occurring more than five years ago disregarded, but the record of suspension in 1965 for dissimilar violation within the past five years considered, the license will be suspended for sixty-five days, with remission of five days for the plea entered, leaving a net suspension of sixty days. Re Frank & John's Marina, Inc., Bulletin 1780, Item 3.

Accordingly, it is, on this 25th day of March, 1968,

ORDERED that Plenary Retail Consumption License C-11, issued by the Board of Commissioners of the City of Atlantic City to 1014 Arctic Avenue, Inc., t/a Hickory House, for premises 1087 Absecon Boulevard, Atlantic City, be and the same is hereby suspended for sixty (60) days, commencing at 7:00 a.m. Monday, April 1, 1968, and terminating at 7:00 a.m. Friday, May 31, 1968.

JOSEPH M. KEEGAN
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 55 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
JUNE WILSON, BEAULAH WILSON
181 Sixteenth Avenue
Newark, New Jersey
Holders of Plenary Retail Consumption License C-510 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

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) CONCLUSIONS
) AND ORDER
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Harold Laifer, Esq., Attorney for Licensees.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on March 21, 1967, they possessed alcoholic beverages in seventeen bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

In a letter dated March 8, 1968, the attorney for the licensees urges in alleged mitigation of the penalty that the said violation was committed by "persons other than the licensee" and that the licensees were unaware of the said violation. He hastens to add the well established principle that a licensee is fully responsible for the acts and conduct of his employees regardless of the knowledge or consent of the licensee. Essex Holding Co. v. Hock, 136 N.J.L. 28; Rule 33 of State Regulation No. 20.

Absent prior record, the license will be suspended for

fifty-five days, with remission of five days for the plea entered leaving a net suspension of fifty days. Cf. Re Curley's, Inc., Bulletin 1518, Item 3.

Accordingly, it is, on this 21st day of March, 1968,

ORDERED that Plenary Retail Consumption License C-510, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to June Wilson, Beulah Wilson for premises 181 Sixteenth Avenue, Newark, be and the same is hereby suspended for fifty (50) days, commencing * at 2:00 a.m. Thursday, March 28, 1968, and terminating at 2:00 a.m. Friday, May 17, 1968.

JOSEPH M. KEEGAN
DIRECTOR

* By order dated March 28, 1968, the suspension was deferred to commence at 2:00 a.m. Monday, April 1, 1968, and to terminate at 2:00 a.m. Tuesday, May 21, 1968.

5. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

Club Derby, Inc.
81 Frelinghuysen Avenue
Newark, New Jersey

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-762, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

James E. Abrams, Esq., Attorney for Licensee.
Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on October 11, 1967 it possessed an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Anderson Hotel Incorporated, Bulletin 1767, Item 12.

Accordingly, it is, on this 11th day of March 1968,

ORDERED that Plenary Retail Consumption license C-762, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Club Derby, Inc., for premises 81 Frelinghuysen Avenue, Newark, be and the same is hereby suspended for five (5) days, commencing at 2 a. m. Monday, March 18, 1968, and terminating at 2 a. m. Saturday, March 23, 1968.

JOSEPH M. KEEGAN
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN F. O'SHEA AND HELEN FELENCZAK)
404 Newark Street)
Hoboken, N. J.)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-111, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.)

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

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on November 6, 1967 they possessed an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Licensees (as transferees of Dolores Fiola, 151 First Street, Hoboken) have a previous record of suspension of license by the Director for fifty-three days from February 28, 1962 to April 22, 1962, for permitting lewdness and immoral activity on the licensed premises, sale in violation of State Regulation No. 38, sale off licensed premises, hindering an investigation, and conducting the licensed business as a nuisance. Re O'Shea and Felenczak, Bulletin 1445, Item 1; Bulletin 1447, Item 3.

The prior record of suspension of license for dissimilar violations occurring more than five years ago disregarded, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re DeBolfo, Bulletin 1782, Item 10.

Accordingly, it is, on this 25th day of March 1968,

ORDERED that Plenary Retail Consumption License C-111, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to John F. O'Shea and Helen Felenczak, for premises 404 Newark Street, Hoboken, be and the same is hereby suspended for five (5) days, commencing at 2 a.m. Monday, April 1, 1968, and terminating at 2 a.m. Saturday, April 6, 1968.

JOSEPH M. KEEGAN
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA

In the Matter of Disciplinary Proceedings against)

V. M. K., Inc.)
t/a T. V. Bar)
1900 Fillmore Street)
Camden, N. J.)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-147 issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden)
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Licensee, by Albert Kovilaritch, President, Pro se
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control


BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on March 2, 1968, it sold two 6-packs of beer to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re 1601 Artic Corporation, Bulletin 1759, Item 10.

Accordingly, it is, on this 25th day of March, 1968,

ORDERED that Plenary Retail Consumption License C-147, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to V. M. K., Inc., t/a T. V. Bar, for premises 1900 Fillmore Street, Camden, be and the same is hereby suspended for ten (10) days, commencing at 7:00 a. m. Monday, April 1, 1968, and terminating at 7:00 a. m. Thursday, April 11, 1968.


Joseph M. Keegan
Director