

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1050 Broad Street Newark 2, N. J.

BULLETIN 1108

APRIL 23, 1956.

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Ewing Township) - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE) - SALES TO MINORS - UNQUALIFIED EMPLOYEES - PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED FOR 70 DAYS, LESS 5 FOR PLEA.
2. DISCIPLINARY PROCEEDINGS (Paterson) - HOSTESSES - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS.
3. DISCIPLINARY PROCEEDINGS (Jefferson Township) - SALE DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS.
4. DISCIPLINARY PROCEEDINGS (Scotch Plains) - SALES TO MINORS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Rahway) - STATE BEVERAGE DISTRIBUTOR'S LICENSE - CHARGE ALLEGING SALE AT PREMISES OTHER THAN LICENSED PREMISES, DISMISSED.
6. DISCIPLINARY PROCEEDINGS (Plainfield) - CHARGES ALLEGING SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE, DISMISSED - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 10 DAYS.
7. DISCIPLINARY PROCEEDINGS (Lawrence Township) - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT SONGS AND STORIES) - PRIOR RECORD OF PREDECESSOR IN INTEREST NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Lodi) - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Lodi) - ORDER REIMPOSING SUSPENSION AFTER AFFIRMATION BY SUPERIOR COURT, APPELLATE DIVISION.
11. STATE LICENSES - NEW APPLICATIONS FILED.

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

BULLETIN 1108

APRIL 23, 1956,

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES  
(INDECENT DANCE) - SALES TO MINORS - UNQUALIFIED EMPLOYEES -  
PRIOR RECORD OF PREDECESSOR IN INTEREST - LICENSE SUSPENDED  
FOR 70 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

EATON CLUB 88 (A N, J. CORP.) )  
T/a EATON CLUB 88 )  
200 Ewingville Road )  
Ewing Township )  
PO Trenton, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-1, issued by the )  
Township Committee of Ewing )  
Township. )  
----- )

Felcone & Felcone, Esqs., by Joseph J. Felcone, Esq., Attorneys  
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:

"1. On Saturday night, January 28, and early Sunday morning, January 29, 1956, you allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene conduct in and upon your licensed premises in that a female entertainer performed in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulations No. 20."

Defendant pleaded guilty to the following charges:

"2. During the early morning hours of January 29, 1956, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Kenneth ---, age 16, Robert ---, age 17, and John ---, age 19, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20.

"3. On Saturday night, January 28, and early Sunday morning, January 29, 1956, you knowingly employed on your licensed premises Marie Saunders, Sax Gill, Alphonso Jones, Talib Dawoud, Charles Coleman and Earl Wormack, non-residents of New Jersey, who had not obtained any requisite employment permits from the Director of the Division of Alcoholic Beverage Control; in violation of Rule 4 of State Regulations No. 13."

It appears from the file in the within case that ABC agents entered defendant's licensed premises at about 10:00 p.m. on January 28, 1956. The agents were informed by a person in the barroom that there was a show in the rear room and after

paying an admission charge of 50¢ per person were admitted to such room in which there was a raised platform or stage. At about 10:30 p.m. a five-piece band appeared on the scene and its leader announced that the floor show was about to be presented. There were about twenty male and female persons present. A female vocalist first appeared and then a female called Princess Delilah appeared on the stage attired in abbreviated shorts and brassiere and full-length black hose and slippers. She began to dance by moving about the stage with her back to the audience, rotating her buttocks in a clockwise motion. She then began a series of violent bumps and grinds in time with the music. She next stood up straight with her back to the audience, legs spread about two feet apart, and quivered her buttocks violently. She then lowered her body to a prone position on the stage floor, facing upwards, and performed in a manner simulating sexual intercourse. After this dance, the band performed and a male vocalist sang several popular songs. The "floor" show was again presented at about midnight with Princess Delilah repeating her previous performance.

A vulgar exhibition such as the performance described above has no place on licensed premises.

It further appears that during the second performance of the floor show, two young men, one of whom appeared to be a minor, entered the room. The agents observed a waitress serve these two young men with two bottles of beer which they consumed. A group of five young men was observed entering the room and taking seats next to the two young men. Two members of this group appeared to be minors. The waitress served this group with five bottles of beer and the two apparent minors were observed drinking the beer. While the agents were awaiting the arrival of local police whom they had summoned, the two young men and the group of five young men picked up their respective bottles of beer and were about to enter the barroom. Thereupon, the agents made known their identities and questioned the three young men, seized their respective drinks and ascertained that their names and ages were Kenneth --- (age 16), Robert --- (age 17), and John --- (age 19).

James Eaton, president of the corporate-licensee, was present when the agents identified themselves and was informed by them of the alleged violations they had observed. Signed sworn statements were obtained from the waitress, the woman who had performed the dance, Mr. Eaton and the minors confirming the activities which had been observed by the agents. The minors assert in their statements that none of them were asked to state their ages.

During the course of obtaining such statements, the agents ascertained that six persons, four members of the band, the leader of such band, and a vocalist, whose names appear in Charge 3, although non-residents, did not have requisite permits to be employed on licensed premises.

Defendant corporate-licensee has no prior adjudicated record. However, James Eaton, president of such licensee, held a license in partnership with one John Wyrick for premises located elsewhere, which license was suspended by the local issuing authority for twenty-one days, effective February 17, 1947, for sale to minors.

The usual suspension for the violation set forth in Charge 1 is thirty days. Re Hotel Holiday, Inc., Bulletin 1083, Item 7. As to Charge 2: Until recently the usual penalty for sale of alcoholic beverages to three minors, including a minor sixteen years of age, was a suspension of twenty-five days.

Re Len's Tavern, Bulletin 1082, Item 4. However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days (Bulletin 1095, Item 1). Since the violation herein occurred after that announcement, I shall suspend defendant's license for an additional thirty days and for an additional five days because of the prior similar violation which occurred more than five but less than ten years ago.

Re Belisonzi and Maurice, Bulletin 1100, Item 11. A suspension of thirty-five days is, therefore, indicated for the violation set forth in Charge 2. The usual suspension for the violation involved in Charge 3 is five days. Re Cadillac Bar Corporation, Bulletin 1059, Item 2. I shall, therefore, suspend defendant's license for a total period of seventy days. Five days will be remitted for the plea entered herein, leaving a net suspension of sixty-five days.

Accordingly, it is, on this 28th day of March, 1956,

ORDERED that Plenary Retail Consumption License C-1, issued by the Township Committee of Ewing Township to Eaton Club 88 (A N. J. Corp.), t/a Eaton Club 88, 200 Ewingville Road, Ewing Township, be and the same is hereby suspended for a period of sixty-five (65) days, commencing at 2:30 a.m. April 9, 1956, and terminating at 2:30 a.m. June 13, 1956.

WILLIAM HOWE DAVIS  
Director.

2. DISCIPLINARY PROCEEDINGS - HOSTESSES - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS.

In the Matter of Disciplinary Proceedings against  
LEE CLUB, A CORP.  
T/a LEE CLUB  
27 Church Street  
Paterson 1, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-126, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

-----  
Henry Riccobene, Esq., by Salvatore D. Viviano, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to a charge alleging that:

"On August 12, 13, 27 and 28, 1955, you allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of or as a gift from customers and patrons; in violation of Rule 22 of State Regulations No. 20."

At the hearing held herein an ABC agent testified that he and another agent entered defendant's licensed premises at about 9:40 p.m. on August 12, 1955, and remained on the premises until about 12:15 a.m. on August 13, 1955; that, at 10:00 p.m. and

again at 11:00 p.m., entertainment, consisting of a three-piece band and vocal solos by Cheryl Stanley and Mildred Pierson, was presented on a small stage in the center of the bar and that before, between and after the entertainment he observed each of the female vocalists drinking with various male patrons at the bar. This ABC agent further testified that he and the other agent again entered defendant's premises at about 10:00 p.m. on August 27, 1955, and remained there until about 3:00 a.m. on August 28, 1955; that at 10:00 p.m. entertainment, consisting of vocal solos by Marilyn Evans, who was accompanied by a pianist, was presented on the stage and at 11:00 p.m. entertainment, consisting of the three-piece band and vocal solos by Marilyn Evans, Mildred Pierson and Helen Hanson, was presented on the stage. This agent further testified that Mildred sat alone at the bar after she sang, but later joined the agents after one of the agents had told the bartender that he would like to buy her a drink; that this agent then purchased drinks for Mildred, his companion agent and himself; that, after they sang, Marilyn Evans and Helen Hanson sat at the bar with two male patrons who purchased drinks for them and that, later, they joined the agents and Mildred at the bar and the agents purchased, from a bartender, drinks of alcoholic beverages for each of the three females and for themselves. The other ABC agent substantially corroborated the aforesaid testimony.

At the close of the testimony presented on behalf of the Division, the attorney for defendant moved to dismiss the charge upon the ground that there was no evidence to establish the relationship of employer and employee between defendant and any of the girls. The motion was denied by the Hearer. In Re Hrubec, Bulletin 752, Item 2, it was said:

"The phrase 'female employed' is less restrictive than the phrase 'female employee.' Considering the salutary purpose of the Rule, the phrase 'female employed' covers not only female employees but, in addition, any female employed on the licensed premises in any capacity by any person, including herself."

In Manno & Elfrey v. Clifton, Bulletin 931, Item 2, it was admitted that the females who drank at the expense of patrons "were entertainers who took part in the show" but it was contended that the entertainers had been sent to the premises by a booking agent. It was held that, under these circumstances, there was no doubt that the entertainers were employed on the licensed premises. In Re Jacobs, Bulletin 935, Item 3, it was held that a female who sang without compensation and a hat-check girl who was merely permitted to retain tips were "females employed on the licensed premises" within the intendment of the rule (citing Kravis v. Hock, 137 N.J.L. 252). The ruling of the Hearer is, therefore, affirmed.

On behalf of defendant, Donato Andreano, Secretary-Treasurer of defendant corporation, admitted that Mildred Pierson and Helen Hanson were hired as singers from a theatrical agency in New York. He testified that he does not know Cheryl Stanley and that Marilyn Evans was not hired but "may have sung as a guest." He further testified that he does not permit the entertainers to drink and also that he thought the agents were, respectively, the husband and brother of Mildred Pierson. Thomas L. Plombo, whose wife is president of defendant corporation, admitted that he was tending bar on the evening of August 27, 1955; that he had served drinks to the agents and the three girls, and that the three girls sang on the premises that evening. Even if

the entertainers acted contrary to instructions, that does not excuse the violation. Rule 31 of State Regulations No. 20; Manno & Elfrey v. Clifton, supra. The agents denied that they had represented themselves as husband and brother of one of the entertainers but, in any event, the rule prohibits females employed on the premises from drinking at the expense of any customer or patron. After carefully considering the evidence and the oral argument of defendant's counsel, I find defendant guilty as charged.

Defendant has a prior record. Effective August 23, 1954, I suspended its license for thirty days after it had pleaded non vult to a charge alleging sale during prohibited hours and a charge similar to the charge herein. Re Lee Club, Bulletin 1030, Item 8. Since this is a second similar violation within five years, I shall double the minimum hostess penalty of twenty days, and suspend defendant's license for a period of forty days.

Accordingly, it is, on this 27th day of March, 1956,

ORDERED that Plenary Retail Consumption License C-126, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Lee Club, A Corp., t/a Lee Club, for premises 27 Church Street, Paterson, be and the same is hereby suspended for forty (40) days, commencing at 3:00 a.m. April 4, 1956, and terminating at 3:00 a.m. May 14, 1956.

WILLIAM HOWE DAVIS  
Director.

3. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against  
CROW'S NEST, INC.  
State Route 15 (formerly Route 6A)  
Berkshire Valley, Jefferson Township  
PO Box 213, Stanhope Road  
RD 1, Sparta, N. J.,  
Holder of Plenary Retail Consumption License C-8, issued by the Township Committee of the Township of Jefferson.

CONCLUSIONS  
AND ORDER

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

BY THE DIRECTOR:

Defendant has pleaded not guilty to a charge alleging that during prohibited hours it sold alcoholic beverages -- cans of beer -- in their original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

Arthur Nelson Morgan, twenty-two years of age, testified that he frequented defendant's licensed premises on many occasions during the past year and a half, usually between 6:00 and 7:00 p.m., and is acquainted with Gino (Gene) Coltelli, one of defendant's bartenders, who usually served him with alcoholic beverages; that on Sunday, November 6, 1955, he arrived at such licensed premises in his car at about 7:00 p.m., accompanied by William --- and Constance ---, both minors; that he parked his

car in the parking lot of the premises about 35 feet from the entrance thereto, and left his companions seated in the car; that he entered the licensed premises, went to the bar and was served with a glass of beer and a drink of whiskey by Gino; that he then asked Gino for twelve cans of Schaefer beer to take out; that Gino went into another room, obtained a carton containing twelve cans of beer and handed the carton to Morgan, who paid Gino for the beer, left the premises with such beer, and placed it in the car.

William --- testified that he accompanied Morgan in his car to the licensed premises on Sunday, November 6, 1955, and arrived there about 8:15 p.m.; that he observed Morgan enter the licensed premises empty-handed and emerge therefrom in about twenty minutes with cans of beer in a cardboard box and place such beer in the car. Constance --- testified to like effect except that she states that they arrived at the licensed premises some time between 7:30 and 8:00 p.m.

An ABC agent testified that on December 1, 1955, he and another agent were directed to the licensed premises by Arthur Morgan. The agents parked their car on the parking lot of the licensed premises whereupon Morgan showed them the spot where he had parked his car on November 6th. Morgan then indicated to the agents the door through which he entered the licensed premises on the last mentioned date and the agents and Morgan entered such premises. Gino Coltelli was present therein and Morgan identified him as the bartender who had sold him twelve cans of Schaefer beer on the Sunday in question. Thereafter, the agents held a conversation with Mr. Coltelli who told them that he usually tends bar and is on duty Sunday nights generally from 7:00 p.m. and on Sunday, November 6, 1955, he tended bar from 7:00 p.m. until closing. Later that day, Constance directed the agents to defendant's licensed premises and pointed out the place in the parking lot where Morgan had parked his car when purchasing the beer on the aforementioned date. This was the same spot previously identified by Morgan. It was stipulated that a fellow agent who accompanied the above mentioned agent would testify to like effect.

The defendant presented the defense that Morgan's positive identification of Gino as the bartender who sold the beer to him is contrary to the fact, in that Gino was elsewhere at the time participating in a shuffleboard tournament; and that the bartender on duty at the time did not see Morgan in the premises and did not sell any beer to him.

The primary question to be determined is whether or not Morgan actually purchased the beer at the aforementioned time and place. On that score, I have Morgan's sworn testimony to that effect, corroborated by the sworn testimony of his two minor companions. Opposed thereto is the sworn testimony of the licensee's bartender, who naturally has some interest in the outcome of the case.

If Morgan actually purchased the beer at defendant's licensed premises, failure to identify the specific person who made the sale, service and delivery of said beer is not fatal in disciplinary proceedings. Re King, Bulletin 966, Item 1. Hence, it will serve no purpose to attempt to resolve the considerable conflict in the evidence as to whether Gino was tending bar at the time stated by Morgan. In principle, it is immaterial whether there is no identification or an incorrect one, except that in the latter case it may evidence animosity toward the person identified and thus affect the

credibility of the accuser. No such animosity appears in the instant case.

According to Gino, he remained on friendly terms with Morgan and when conversing with him on two subsequent occasions, did not reprimand or upbraid him for identifying the premises as those where the violation was committed even though Morgan allegedly told him that the accusation was false.

Morgan's version of these conversations is quite different and reveals a wholly disinterested attitude. He stated that during the first conversation, Gino told him that he "got" Gino in a lot of trouble, how about helping him out, to which Morgan responded that he told the truth, that was all he could do. He denied Gino's statement that during the second conversation held on the steps of the licensed premises he told Gino that he knew the latter was at the shuffleboard tournament or admitted that he had obtained the beer elsewhere. On cross-examination, when asked to explain why he went back to the licensed premises after causing trouble, Morgan replied "it is his (Gino's) tough luck for selling it on Sunday -- he should have said it was Sunday and refused to sell it -- he is the one who caused the trouble for himself". In effect, Morgan stated that he did not ask Gino to violate the regulation; that Morgan just asked for beer and Gino went and got it.

I have given careful consideration to the entire record of the case and to the oral argument presented before me by counsel for the defendant-licensee, and notwithstanding the conflict in the testimony as to the time of purchase of the carton of beer, and the further possibility that Morgan may be mistaken in his identification of the person who sold him the beer, I am satisfied that a fair preponderance of the believable evidence establishes that Morgan purchased the carton of beer at defendant's licensed premises on the Sunday in question, as alleged in the charge.

I find the defendant guilty as charged.

Defendant has no prior adjudicated record. I shall suspend its license for fifteen days. Re Cullen, Bulletin 1101, Item 8.

Accordingly, it is, on this 20th day of March, 1956,

ORDERED that Plenary Retail Consumption License C-8, issued by the Township Committee of the Township of Jefferson to Crow's Nest, Inc., State Route 15 (formerly 6A), Berkshire Valley, Jefferson Township, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. March 27, 1956, and terminating at 3:00 a.m. April 11, 1956.

WILLIAM HOWE DAVIS  
Director.

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against §  
 AUGUST EDWIN DANKER  
 t/a RADLEY LODGE  
 142 Lamberts Mill Road  
 Scotch Plains Township  
 PO Westfield, N. J.,  
 Holder of Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of Scotch Plains.

CONCLUSIONS AND ORDER

August Edwin Danker, 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 on February 10, 1956, he sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that two AEC agents entered defendant's licensed premises at about 8:15 p.m. February 10, 1956. About 8:30 p.m. they observed defendant serving what appeared to be alcoholic beverages to three young men who were seated at the bar. After the young men had consumed part of their drinks, the agents identified themselves and ascertained that one of the young men was of full age but that each of the other two was eighteen years of age. The agents seized the glasses containing gin and soda which had been placed in front of each of the minors by defendant.

Defendant has a prior record. By order dated May 26, 1944, the then Commissioner affirmed the action of the local issuing authority suspending defendant's license for fifty days for sales to minors and restored the suspension (which the Commissioner had stayed upon the filing of the appeal) to commence June 5, 1944. Danker v. Scotch Plains, Bulletin 621, Item 6. However, since ten years have elapsed since said violation, I shall not consider the prior record in fixing penalty herein (Re Camden Lodge #111 Loyal Order of Moose, Bulletin 1023, Item 3). Until recently the usual penalty for sale of alcoholic beverages to two minors eighteen years of age was a suspension of the license for ten days (Re Valentino, Bulletin 1085, Item 8). However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days (Re Increased Penalties, Bulletin 1095, Item 1). Since the violation in the instant case occurred after that announcement, I shall suspend the defendant's license for fifteen days. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 15th day of March, 1956,

ORDERED that Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of Scotch Plains to August Edwin Danker, t/a Radley Lodge, for premises

142 Lamberts Mill Road, Scotch Plains Township, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. March 26, 1956, and terminating at 2:00 a.m. April 5, 1956.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - STATE BEVERAGE DISTRIBUTOR'S LICENSE - CHARGE ALLEGING SALE AT PREMISES OTHER THAN LICENSED PREMISES, DISMISSED.

In the Matter of Disciplinary Proceedings against

WILLIAM ROBERT SHAIMAN  
T/a BEVERAGES UNLIMITED  
56 West Main Street  
Rahway, N. J.,

CONCLUSIONS  
AND ORDER

Holder of State Beverage Distributor's License SBD-32, issued by the Director of the Division of Alcoholic Beverage Control.

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

BY THE DIRECTOR:

Defendant has pleaded not guilty to the following charge:

"On Divers days during the months of July, August, September, October and November 1955, you sold alcoholic beverages not pursuant to and within the terms of your state beverage distributor's license, contrary to R. S. 33:1-26 and R.S. 33:1-1(w), in that you accepted orders for alcoholic beverages at premises other than your licensed premises; in violation of R. S. 33:1-2."

Defendant's attorney has advised this Division that the facts disclosed by the investigation concerning defendant's method of operation are true but that they do not, in his opinion, constitute a violation of the Alcoholic Beverage Law.

An examination of the file herein discloses that defendant operates a beer and soda route. If a customer indicates to defendant that he wishes a delivery of beer, defendant gives the prospective customer one of his postal cards, addressed to defendant at his place of business, which the customer fills out with his name and address and the quantity and brand of beer desired. Thereafter, either the customer or defendant deposits the postal card in the mail box and when it is received by defendant the beer is delivered in accordance with the order.

Although the method of operation outlined above is frowned upon by me, the evidence presented herein does not satisfy me that defendant actually accepted orders for alcoholic beverages at premises other than his licensed premises in violation of the statute.

For the reason aforementioned, I find defendant not guilty.

Accordingly, it is, on this 16th day of March, 1956,

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

WILLIAM HOWE DAVIS  
Director.

6. DISCIPLINARY PROCEEDINGS - CHARGES ALLEGING SALE AND CONSUMPTION OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS AND FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE, DISMISSED - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against )

LOYAL ORDER OF MOOSE, )  
PLAINFIELD LODGE #310 )  
301-3 East 2nd Street )  
Plainfield, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-1, issued by the Common Council of the City of Plainfield. )

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

BY THE DIRECTOR:

Defendant has pleaded not guilty to the following charges:

"1. On Sunday, November 27, 1955, between 2:00 a.m. and 2:30 a.m., you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and allowed the consumption of such beverages upon your licensed premises; in violation of Section 6 of an Ordinance adopted by the Common Council of the City of Plainfield on February 16, 1942.

"2. On Sunday, November 27, 1955, between 2:00 a.m. and 2:30 a.m., you failed to have your entire licensed premises closed and also failed to exclude therefrom persons other than yourself and your bona fide employees; in violation of Section 7 of an Ordinance adopted by the Common Council of the City of Plainfield on February 16, 1942, as amended February 7, 1949.

"3. On Sunday, November 27, 1955, between 2:00 a.m. and 2:30 a.m., while an inspector and an investigator of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety were conducting an investigation, inspection and examination of your licensed premises, you failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R. S. 33:1-35."

The pertinent portion of Section 6 of the ordinance in question provides that no licensee or any agent or employee of such licensee shall sell, serve or deliver or allow the sale, service or delivery of alcoholic beverages, or allow the consumption of such beverages upon the licensed premises on Sundays between the hours of 2:00 a.m. and 8:00 a.m.

The pertinent portion of Section 7 of the ordinance in question, as amended, provides that, during hours when sales are prohibited, the entire licensed premises shall be closed and all persons, except the licensee and bona fide employees of the licensee, shall be excluded therefrom; provided, however, that clubs may remain open during said hours for purposes other than the sale, service, delivery or consumption of alcoholic beverages.

At the hearing held herein an ABC agent testified that he and another ABC agent arrived in the vicinity of defendant's premises at about 1:30 a.m. Sunday, November 27, 1955, and remained in the vicinity until they entered the premises as hereinafter set forth. He further testified that no one entered the premises after 2:00 a.m. but that at 2:05 a.m. a man and woman came from a side entrance and drove away; that at 2:12 a.m. the outside lights were extinguished and the lights in the barroom dimmed; that, three or four minutes later, another couple left and drove away; that he then went to the building and looked through a window into the barroom in which a man was behind the bar and nine men and two women were seated at the bar or tables; that two or three of these men and women were drinking an amber-colored liquid which he assumed to be beer.

The aforesaid ABC agent further testified that he and the other agent thereafter entered a foyer on the side of the building and observed a sign reading "Please ring the bell;" that, while standing there, he could hear glasses clinking from inside the barroom; that at 2:23 a.m. he rang the bell and heard a male voice from inside the barroom say "Hide the drinks. It might be the cops;" that at 2:28 a.m. he again rang the bell and, a few seconds later, Irwin V. A. Hand, Governor of the Lodge, opened the door about six or eight inches and asked what he wanted; that he displayed his badge to Mr. Hand and said "We are ABC agents. Open the door;" that he pushed open the door and entered although Mr. Hand had grabbed him and tried to push him out; that he again displayed his badge and Mr. Hand again grabbed him and attempted to push him out of the room; that, after he displayed his credential folder, Mr. Hand said "I don't believe it" and refused to give his name or the name of the bartender; that, later, when he attempted to go behind the bar, Mr. Hand again grabbed his arms and said "Nobody goes behind the bar." This agent further testified that, when he entered the barroom, several people were drinking beer and two were drinking whiskey highballs. It is apparent that the persons in charge of the licensed premises cooperated with the agents only after local police officers arrived in response to an agent's call.

The other ABC agent substantially corroborated the testimony given by the ABC agent heretofore mentioned. He also testified that he removed from a table three glasses containing alcoholic beverages.

On behalf of defendant, Irwin V. A. Hand testified that, when he opened the door, the ABC agent, before identifying himself, gave him a shove and entered the room; that he couldn't believe an ABC man would act in that manner and was not satisfied that he was an ABC agent until the local police arrived; that he does not recall pushing the agent but "might have put up my hand and touched him lightly." He further testified that the last drinks were served shortly before 2:00 a.m. and that the glasses picked up by the agent had been left on the table by patrons who left before the agents entered. Harvey T. Hall, Chairman of the House Committee, denied that any liquor was served after 2:00 a.m. and stated that no one consumed liquor after 2:00 a.m. "to my knowledge." He admitted that Mrs. Hand (wife of the Governor) and Mrs. DeRoner (Senior Regional of the Lodge) were in the room after 2:00 a.m. and stated that they had been fixing Christmas toys in the front room. On cross-examination he admitted that eleven members of the Lodge were in the barroom after 2:00 a.m. and stated that they had been repairing toys in the front room. Joseph Pokorney (Steward for the Lodge) testified that he announced the last call for drinks about 1:50

a.m.; that no drinks were served after 2:00 a.m., and that he did not see anyone consuming a drink after 2:00 a.m. Robert DeRoner, a member of the Lodge, testified that no drinks were served after 2:00 a.m. and that no one "to my knowledge" consumed drinks after 2:00 a.m. Fred W. Forsythe, a member of the Lodge, testified that he and his wife left the premises about 1:55 a.m.; that they left their unfinished drinks on a table, and that he had pushed to one side on the table a glass containing beer which had been left there by someone else.

After reviewing the testimony and hearing oral argument, I have decided to dismiss, somewhat reluctantly, Charge 1 herein. There is no testimony that alcoholic beverages were sold or served after 2:00 a.m., but there is a strong suspicion that they were consumed on the licensed premises after that hour. Suspicion, however, is not a substitute for proof. After weighing all the evidence I find that the Division has failed to establish guilt as to Charge 1 by a fair preponderance of the evidence. I have decided also to dismiss Charge 2 because defendant comes within the proviso that clubs may remain open during prohibited hours for purposes other than the sale, service, delivery or consumption of alcoholic beverages. Charges 1 and 2 are, therefore, dismissed. However, there is no doubt in my mind that Mr. Hand hindered the ABC agents in the conduct of their investigation and failed to facilitate said investigation. I am very sceptical of his explanation that he did not believe they were ABC agents. Hence I find defendant guilty as to Charge 3.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of ten days on Charge 3. Re Charnick & Krumholz, Bulletin 1094, Item 2.

Accordingly, it is, on this 20th day of March, 1956,

ORDERED that Club License CB-1, issued by the Common Council of the City of Plainfield to Loyal Order of Moose, Plainfield Lodge #310, for premises 301-3 East 2nd Street, Plainfield, be and the same is hereby suspended for ten (10) days, commencing at 1:00 a.m. March 26, 1956, and terminating at 1:00 a.m. April 5, 1956.

WILLIAM HOWE DAVIS  
Director.

7. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES  
(INDECENT SONGS AND STORIES) - PRIOR RECORD OF PREDECESSOR  
IN INTEREST NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE  
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

FRANK E. VEREEN and JOHN WYRICK )  
T/a CROSSING INN )  
Cheverly Road & Albemarle Road )  
Lawrence Township )  
PO Trenton, N. J., )

CONCLUSIONS  
AND ORDER

----- )  
Holders of Plenary Retail Consumption )  
License C-9, issued by the Township )  
Committee of the Township of Lawrence )  
(Mercer County). )

Frank E. Vereen and John Wyrick, Defendant-licensees, Pro Se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging, in substance, that they permitted lewd entertainment on their licensed premises, in violation of Rule 5 of State Regulations No. 20.

The file herein discloses that ABC agents visited defendants' licensed premises on January 6 and 13, 1956 and remained therein on each occasion until early the following morning. During their stay on each visit they observed several hundred patrons being entertained by floor shows, the objectionable features of which were the ribald stories related by the master of ceremonies and the double-entendre songs sung by a male entertainer. After the last show on the morning of January 14th, the agents identified themselves to the master of ceremonies and the licensees who orally admitted that the performances were indecent.

Defendants have no prior adjudicated record. However, when John Wyrick, one of the partners herein, held the license with a different partner, the license was suspended by the local issuing authority for 21 days for sales to minors, effective February 17, 1947. Since the prior violation is dissimilar to the instant infraction and occurred more than five years ago, it will not be considered in fixing the penalty herein. Re Spievy, Bulletin 1054, Item 11. I shall suspend defendants' license for 15 days and remit 5 days for the plea entered herein, leaving a net suspension of 10 days. Re Pleasant Hour Cocktail Lounge, Inc., Bulletin 1096, Item 2.

Accordingly, it is, on this 23rd day of March, 1956,

ORDERED that Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Lawrence (Mercer County) to Frank E. Vereen and John Wyrick, t/a Crossing Inn, Cheverly Road & Albemarle Road, Lawrence Township (Mercer County), be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. April 2, 1956, and terminating at 2:00 a.m. April 12, 1956.

WILLIAM HOWE DAVIS  
Director.

8. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

THEODORE PALERMO and JOSEPH DURANTE )  
T/a STUMBLE INN )  
169 Westminster Place )  
Lodi, N. J., )

CONCLUSIONS AND ORDER

-----  
Holders of Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Lodi. )

Theodore Palermo and Joseph Durante, Defendant-licensees, by Theodore Palermo.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they sold, served and delivered alcoholic beverages to a minor and permitted the consumption of such beverages by said minor in and upon their licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that at about 9:45 p.m. Friday, February 17, 1956, ABC agents who were in defendants' licensed premises observed therein an apparent minor consuming a glass of beer. Shortly thereafter, the agents saw the same youth approach the bar and order for himself and two companions three glasses of beer, one of which he was consuming when the agents approached and made known their identities. The suspected minor identified himself as Michael ---, age 20, and stated that he had been served a glass of beer by each of the two bartenders in attendance, neither of whom required proof of his age. The bartenders identified themselves as the licensees herein, and one of them in a signed sworn statement admitted the violation.

Defendants have no prior adjudicated record. However, when Theodore Palermo, one of the licensees herein, held the license with a different partner, I suspended the license for five days, effective January 17, 1955, for a similar violation. Re Wagenti & Palermo, Bulletin 1047, Item 5. The usual penalty imposed for the sale of alcoholic beverages to a twenty-year-old minor is a ten-day suspension of the license. Re Santa Lucia Restaurant, Inc., Bulletin 1095, Item 12. Since the prior similar violation occurred within a five-year period, the penalty in this case will be doubled. Re Pike Inn (A Corp.), Bulletin 987, Item 7. I shall, therefore, suspend defendants' license for a period of twenty days and remit five days for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 23rd day of March, 1956,

ORDERED that Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Lodi to Theodore Palermo and Joseph Durante, t/a Stumble Inn, for premises 169 Westminster Place, Lodi, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. April 2, 1956 and terminating at 3:00 a.m. April 17, 1956.

WILLIAM HOWE DAVIS  
Director.

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

In the Matter of Disciplinary Proceedings against )

BERGER COMPANY, INC. )  
T/a 418 CLUB )  
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. )

-----  
Berger Company, Inc., Defendant-licensee, by Herbert E. Schwartz, Secretary-Treasurer,  
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold, during prohibited hours, an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that at 8:35 a.m., Tuesday, February 28, 1956, an ABC agent purchased from Herbert E. Schwartz, secretary-treasurer of defendant corporate-licensee, a sealed pint bottle of wine which he took with him off the licensed premises. Returning immediately with another agent, the agents identified themselves and obtained a signed sworn statement from Schwartz, admitting the violation.

Defendant has a prior adjudicated record. Effective May 16, 1955, its license was suspended by me for ten days for a similar violation. Re Berger Company, Inc., Bulletin 1065, Item 6. The minimum period of suspension for a violation as charged herein is fifteen days. Re Zayak, Bulletin 1031, Item 6. However, since the prior similar violation occurred within a five-year period, the penalty herein will be doubled, Re 819 Club, Inc., Bulletin 1094, Item 9, making a total suspension of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 28th day of March, 1956,

ORDERED that Plenary Retail Consumption License C-261, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Berger Company, Inc., t/a 418 Club, 418 Jackson Avenue, Jersey City, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. April 9, 1956, and terminating at 2:00 a.m. May 4, 1956.

WILLIAM HOWE DAVIS  
Director.

## 10. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING SUSPENSION AFTER AFFIRMATION BY SUPERIOR COURT, APPELLATE DIVISION.

In the Matter of Disciplinary )  
 Proceedings against )

OLIVERI'S, A CORP. )  
 Route #46 & Kimig Avenue )  
 (Formerly 6 )  
 Lodi, N. J., )

O R D E R

Holder of Plenary Retail Consump- )  
 tion License C-1, issued by the )  
 Mayor and Council of the Borough )  
 of Lodi. )  
 -----)

BY THE DIRECTOR:

On September 29, 1955, the defendant's license was suspended for a period of 25 days. See Bulletin 1084, Item 7. Upon appeal to the Superior Court, Appellate Division, an order was entered by the Court staying the suspension pending the outcome of the appeal. By decision dated March 1, 1956, the suspension was affirmed and, thus, the penalty may now be reimposed.

Accordingly, it is, on this 26th day of March, 1956,

ORDERED that the suspension of twenty-five (25) days, heretofore imposed upon Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Lodi to Oliveri's, A Corp., Route #46 & Kimig Avenue (Formerly 6), Lodi, be and the same is hereby reimposed, commencing at 3:00 a.m. April 2, 1956, and terminating at 3:00 a.m. April 27, 1956.

WILLIAM HOWE DAVIS  
 Director.

## 11. STATE LICENSES - NEW APPLICATIONS FILED.

Pan Atlantic Steamship Corp., 265 Broadway, Jersey City, N. J.  
 Application filed April 11, 1956 for Transportation License.

Jersey Warehouse Corporation

150 Bay St. & 161-167 First St., Jersey City, N.J.

Application filed April 16, 1956 for place-to-place transfer of Transportation License T-88 to 841 Clinton Ave., Kenilworth, N.J.

Jersey Warehouse Corporation

150 Bay St. & 161-167 First St., Jersey City, N. J.

Application filed April 16, 1956 for place-to-place transfer of Public Warehouse License X-24 to 841 Clinton Ave., Kenilworth, N.J.

Louis F. Neuweiler Brewing Corp., t/a Louis F. Neuweiler's Sons  
 401 N. Front St., Allentown, Pennsylvania.

Application filed April 16, 1956 for transfer of Limited Wholesale License WL-7 from Phillip F. Neuweiler, Executor and Trustee of the Estate of Charles F. Neuweiler and Phillip F. Neuweiler, t/a Louis F. Neuweiler's Sons, 401-453 No. Front St., Allentown, Pa.

Anthony Esposito, t/a Longwood Valley Distributors  
 Longwood Valley Road, Jefferson Township, N. J.

Application filed April 19, 1956 for transfer of State Beverage Distributor's License SBD-113 from Peter Scheid and Robert F. Scheid, t/a Scheid Beverage Co., Longwood Valley Road, Jefferson Township, N. J.

New Jersey State Library

  
 William Howe Davis  
 Director.