

BULLETIN 1050

FEBRUARY 16, 1955.

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

BULLETIN 1050

FEBRUARY 16, 1955.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (FEMALE IMPERSONATORS - PERMITTING SOLICITING AND MAKING ARRANGEMENTS FOR HOMOSEXUAL ACTS - OBSCENE LANGUAGE AND CONDUCT) - PRIOR RECORD - LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary )  
Proceedings against )

ALBERT MANZO )  
T/a THE CASINO )  
6 Bank Street )  
Paterson 6, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-124, issued by the )  
Board of Alcoholic Beverage Control )  
for the City of Paterson. )

-----)  
Albert Manzo, Defendant-licensee, Pro Se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On Thursday night, October 14, 1954, you allowed, permitted and suffered female impersonators in and upon your licensed premises; in violation of Rule 4 of State Regulations No. 20.

"2. On Thursday night, October 14, 1954, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of arrangements for acts of perverted sexual relations between male patrons; in violation of Rule 5 of State Regulations No. 20.

"3. On June 9, 10, 16, 17, 23, 24, 25, July 7, 8, September 24 and October 14, 1954, you allowed, permitted and suffered foul, filthy and obscene language and conduct in and upon your licensed premises; in violation of Rule 5 of State Regulations No. 20.

"4. On the occasions aforesaid, you allowed, permitted and suffered your licensed premises and your licensed place of business to be conducted in such manner as to become a nuisance in that you made offers to procure, procured and permitted the making of offers to procure females for male patrons for the purpose of illicit sexual intercourse, permitted persons who appeared to be homosexuals to congregate on your licensed premises and to mingle with and solicit male patrons for acts of perverted sexual relations, permitted unescorted females frequenting your licensed premises to make overtures to male patrons for illicit sexual intercourse and to solicit male patrons to purchase numerous drinks of alcoholic beverages for consumption by them and otherwise conducted your place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulations No. 20."

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The file herein discloses that several ABC agents visited defendant's licensed premises on the occasions set forth in the charges. All of these visits were in the evening, sometimes extending into the early morning of the following day. It is unnecessary to recite, at length, all of the sordid facts and circumstances revealed by the agents' reports. Some of the more significant events and conduct may be summarized as follows:

During their visits in June and July 1954, the agents were served, for the most part, by a bartender called "Doug" who, from time to time, spent considerable time talking with them. Much of his conversation dealt with the availability of various female patrons for illicit sexual intercourse and was in language too vulgar and revolting to be repeated. On many of these occasions Doug poured numerous drinks of alcoholic beverages for himself and for male and female patrons and occasionally purchased food and cigarettes, all paid for with money belonging to the agents which he freely took from in front of them on the bar. From time to time Doug would prod the agents by telling them that it was their "turn" to buy the drinks. The language used by the bartender and many of the patrons was vulgar and obscene in the extreme and, on occasion, loud arguments involving the most revolting language and epithets were permitted to continue without any attempt at restraint.

On a number of occasions females seated at the bar discussed with the agents their price for engaging in illicit sexual intercourse and several of these females made arrangements with the agents to take them out for that purpose. One such female was known as "Vi", whose breasts were fondled by the bartender Doug during the course of a vulgar and obscene verbal exchange in which reference was made to certain abnormal sex practices. Several times Doug took money from in front of the agents and stuffed it down the front of Vi's dress. While seated at the bar with the agents Vi made arrangements to return the following night with a female companion for the purpose of taking the agents out for illicit sexual intercourse. These arrangements were communicated to Doug who said that he had never engaged in sexual intercourse with her but that some of the patrons had done so. He warned them, however, to use a "rubber" (contraceptive device) to avoid infection. Later, the arrangements were reaffirmed by Vi and the agents repeated them to Doug who said that he had to be careful of the ABC. When the agents left they asked him if he would be on duty the next evening. He said that he would be and they told him that they would return.

When they entered the following evening, the agents asked Doug for Vi and he assured them that she would be there. When she failed to appear by 10:30 p.m., the agents mentioned that fact to Doug and told him that they had come there to have intercourse and asked if there were any other females available. Doug told them that he could not make the arrangements for them and that they had to talk to the females themselves, adding that all of them were amenable. When the agents said that they didn't want to make a mistake and get into trouble Doug told them that if they were mistaken he would tell them but reassured them, in vulgar terms, that all of the female patrons were available for the purpose. Later, a male entered, spoke to two females for a short time and departed with one of them whose companion said that she would be back in a half hour. The agents remonstrated with Doug, saying that they had waited for hours while the other man had succeeded in a few minutes. He retorted "Man I told you, you gotta talk to them, they all --- (engage in intercourse)."

On their visit on June 23, 1954, Doug introduced the agents to two females who sat at the bar and drank with them. Doug told the agents that they were relatives of his and offered them to the agents for sexual intercourse for \$20.00 and \$15.00, respectively. When the agents balked at the price the females, in vulgar and obscene terms, agreed to accept less and made arrangements to leave with the agents later that evening. Meanwhile Doug continued to discuss the subject

of females and intercourse in the foulest and most obscene language. The agents spoke to the same two females later on and they agreed to a price of five dollars. Doug told the agents that the females were "clean" and that they would need no "rubbers". A male seated nearby joined the conversation and suggested that the females might also engage in abnormal sexual activity. However, the females later left the premises with other males. When the agents returned several nights later Doug, in foul and obscene language, told them that they had bungled the matter and that he would not tell them any more, meanwhile buying drinks for himself and other patrons from the agents' money and carrying on a loud conversation in the filthiest and most obscene language.

On July 7, 1954, the agents returned to defendant's licensed premises where they again found Doug tending bar. In the conversation which followed, the agents asked where all the women were and Doug told them that it was early and that there would be some women there later. A male patron whom the agents had previously met at the premises spoke to two females who then joined the agents at the bar and introduced themselves. After consuming several drinks at the expense of the agents, these females made arrangements to take them to the home of one of the females for intercourse. However, the females suggested that they stay at the licensed premises and go out later. Meanwhile, Doug became involved in a vulgarly profane argument with a young female. The two females, aforementioned, left the agents and went outside with the other female. The agents also left with the understanding that they would all return to defendant's licensed premises later that evening. Upon their return the agents found the two females and questioned Doug concerning them. He refused to discuss them beyond saying that they were clean, adding that, if he were not behind the bar, he would talk to them but that he could not say anything because he might get in trouble. At this point one of the two females said that her husband was outside. The agents left without further incident.

When they returned on September 24, 1954, the agents found Doug at the customers' side of the bar. He explained that he no longer worked there and introduced them to "John" and "Boy", the two bartenders. Doug commingled the money which the two agents had placed on the bar, pushed it toward John, the bartender, and announced that everyone would have a drink. John poured drinks for everyone, including himself, and took the agents' money in payment. Doug asked them if they wanted to have intercourse and introduced them to a female who quoted a price of \$5.00 and \$2.00 for the room. While the agents bargained with her, Doug called to John and ordered another round of drinks, including one for John, who stood listening to the conversation between the agents and the female which ended by her reiterating the price of \$7.00, including room. John continued to converse with the agents for a time during which Doug grabbed the female by the breast. There followed a loud, vulgar and obscene exchange between them. Doug and the female continued to consume food and drinks at the agents' expense and, on one occasion, she demanded and received from John 90 cents of the agents' change. Later the agents and the female resumed their bargaining and she agreed to accept \$5.00 from each of them. The agents then conversed with the two bartenders, separately, each of whom said that he did not know the female too well but that she was "all right". When asked where they could buy "rubbers", Boy told the agents that they might find a place open "uptown". The female left with two other males and the agents left a half hour later after telling John to tell the females they would return. They returned later but she was not there.

The agents again returned to the premises on October 14, 1954, taking with them some money, the serial numbers of which had been

noted for purposes of identification. John was tending bar. The agents noticed several males who acted and talked in an effeminate manner, swaying their hips as they walked and eyeing male patrons as they entered, and whispering together. One of these patrons danced cheek to cheek with another male patron within a few feet of the bartender, John, and the other, who wore a feminine type vest with a woman's brooch and chain on his lapel, said, "Look at Donald dancing with his wife". The bartender made no comment. The effeminate male who had been dancing with another male sat next to the first agent (hereinafter referred to as Investigator "H") and rubbed his shoulder, saying "You're a cutie. Hi there doll. What's the matter, are you bashful?" John, the bartender, who was serving them a drink, merely laughed. Another male patron was constantly making remarks to the two effeminate males and called them obscene names, implying that they were "queers". At times he called them "queens". Most of the time John was directly across the bar from him. This male then engaged the agents in conversation and offered to procure females with whom they could have intercourse. Meanwhile, the one effeminate male continued to talk to Investigator "H" while the other spoke to his companion, Investigator "G". Each of these effeminate males fondled the privates of the agents and offered to take them out for abnormal sexual relations and they and the agents carried on a running conversation with John relaying to him what was taking place. He merely laughed. The other male joined the conversation and urged the agents to go out with the effeminate males instead of waiting for females and gave the effeminate males a vulgar and obscene admonition to give the agents "their money's worth". John, who was listening to this entire conversation, again laughed but said nothing. While John remained there was a discussion of the price to be paid by the agents, ending in agreement at the price of \$5.00 each, which the agents paid to the effeminate males, with marked money, directly over the bar. The other male then demanded \$5.00 for procuring but accepted \$2.00 from each agent (also marked money) paid over the bar. All of this occurred in the presence of John, the bartender.

When the agents left with the effeminate males they were stopped by other agents and local police. The other male was also apprehended. All of the marked money was recovered from them except one \$5.00 bill which one of them admitted that he had accepted but had thrown to the ground when he was apprehended. The activities at the bar were admitted. One of the effeminate males admitted that he is a homosexual but the other said that he was "only kidding". John, the bartender, refused to give a written statement but admitted orally that he knew that the agents were going out ostensibly to have abnormal sexual relations with the two effeminate males. In the presence of the defendant, who arrived at his licensed premises while it was being searched, John also admitted that the agents had told him of the arrangements, had asked him whether "the other two fellows were all right" and that he had told them "Yes, they're all right, they won't hurt you". At no other time during any of the agents' visits did they see defendant upon the licensed premises. On two occasions they saw defendant's son tending bar but he did not actually participate in the events hereinabove recounted.

Defendant has a prior record. His license was suspended by the local issuing authority for eight days, effective October 2, 1950, for sale of alcoholic beverages to minors. The incidents and conditions which resulted in the charges herein are shocking and revolting. Clearly, they are offensive to common decency and constitute a serious threat to public morals.

The events which took place in defendant's barroom, the language used, the "clipping" of the patrons by the bartender, the activities of the patrons (both male and female) and the general atmosphere lead inescapably to the conclusion that defendant permitted his licensed premises to be conducted in such a manner as to become a nuisance. It has long been held that the meaning of "nuisance" as used in the regulations is the dictionary definition, namely, "an offensive,

annoying, unpleasant or obnoxious thing, practice or person; a cause or source of annoyance." Webster's New International Dictionary. See also Benedetti v. Trenton, Bulletin 1040, Item 1; Re Cosfair Corporation, Bulletin 875, Item 9; Alpine Village Tavern, Inc. v. Newark, Bulletin 629, Item 3. It is no excuse that the licensee did not personally participate. As was said in Re Paton, Bulletin 898, Item 3:

"\* \* \*even in the absence of actual knowledge, a licensee cannot escape the consequences of the occurrence of incidents, such as are hereinabove related, on his licensed premises. He cannot hide behind his employees. Not only is it no defense that the violations may have been committed in his absence or by his agent, servant or employee, or that he did not participate in the violations, or that they were committed contrary to his instructions (Rule 31 of State Regulations No. 20; Stein v. Passaic, Bulletin 451, Item 5) but, in addition, 'licensees may not avoid their responsibility for the conduct of their premises by merely closing their eyes and ears. On the contrary, licensees must use their eyes and ears, and use them effectively, to prevent the improper use of their premises'. Bilowith v. Passaic, Bulletin 527, Item 3. See also Re One-thirty-five Mulberry St. Corp., Bulletin 892, Item 2. Most certainly, this licensee 'suffered' these lewd and immoral acts to take place in and upon the licensed premises. As the Supreme Court said in Essex Holding Corp. v. Hock, 136 N.J.L. 28, at p. 31, '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!'"

See also Greenbrier v. Hock, 14 N. J. Super. 39 (App. Div. 1951).

I have given much thought to the penalty to be imposed in this case. Most certainly the public is entitled to be protected from the conduct and conditions hereinabove portrayed, which, under ordinary circumstances, would call for revocation of the license. However, defendant appeared before the Director on the question of penalty and stated that, from November 1953 until recently, he had been hospitalized a number of times and had been unable to be physically present in his licensed premises; that, during that period, he has had several bartenders whom he first investigated and found to possess good reputations and that he personally had no knowledge of or reason to suspect that these violations were taking place. Thus, defendant, although absent from his licensed premises, did not voluntarily abdicate his responsibilities for personal gain as was the case in Re Overlook Hotel, Inc., Bulletin 848, Item 4 and Re Schumacher, Bulletin 901, Item 5. Under the peculiar circumstances of this case and taking into account the fact that the instant case was pending when I announced my intention to impose more severe penalties in cases of this kind (Re Heavier Penalties, Bulletin 1041, Item 9), I shall suspend defendant's license for 180 days. Re Sussman & Sussman, Bulletin 1041, Item 2; Re Bar 31, Inc., Bulletin 1047, Item 3. However, I again reiterate and reaffirm my intention to impose heavier penalties for future violations of this kind, as enunciated in Re Heavier Penalties, supra. Furthermore, defendant will be well advised to see to it that no further violations occur upon his licensed premises whether he is present or not. If he must absent himself, it might be wiser for him to lock the door.

Accordingly, it is, on this 24th day of January, 1955,

ORDERED that Plenary Retail Consumption License C-124, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Albert Manzo, t/a The Casino, 6 Bank Street, Paterson, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. January 31, 1955; and it is further

ORDERED that if any license be issued to said licensee or to any other person for the premises in question for the 1955-56 licensing year, such license shall be under suspension until 3:00 a.m. July 30, 1955.

WILLIAM HOWE DAVIS  
Director.

- 2. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF A LICENSE - CONCEALING MATERIAL FACTS (NON-RESIDENCE AND PRIOR SUSPENSION) - PRIOR RECORD - LICENSE SUSPENDED FOR BALANCE OF ITS TERM, WITH LEAVE TO APPLY FOR LIFTING OF SAID SUSPENSION 45 DAYS AFTER CORRECTION OF ILLEGAL SITUATION AND RESUMPTION OF BUSINESS.

In the Matter of Disciplinary Proceedings against BUDD LAKE AMUSEMENT CORP. T/a OASIS BAR AND GRILL Shore Road Mount Olive Township P.O. Budd Lake, N. J., Holder of Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Mount Olive.

CONCLUSIONS AND ORDER

Michael N. Steinberg, Esq., Attorney for Defendant-licensee. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that it falsified its application for its current plenary retail consumption license by (1) falsely denying an agreement to pay to another a percentage of the net profits from the licensed business; (2) falsely representing that the officers, directors and stockholders of the corporation were bona fide residents of New Jersey; and (3) falsely denying that its license had been previously suspended; and (4) had failed to answer some of the questions in said application, thereby evading and suppressing other material facts.

The file herein discloses that defendant made a verbal arrangement with Thomas Dalioia whereby he was to conduct the licensed business and was to receive 30 per cent. of the net profits therefrom at the close of the season; that Jean Nadel, Blanche Pomerantz and Samuel Katz, defendant's officers, directors and stockholders, are residents of New York State and were such when the application was filed; that the license had been suspended by the State Director for five days, effective March 13, 1952, for sale of alcoholic beverages to a minor; and that Questions 9(b), 23, 27(b) and 28 of the application were not answered.

In effect, the license was "farmed out" to Thomas Dalioia. Such action is a serious violation of the law, the minimum penalty for which is suspension of the license for twenty days. Re Ghio, Bulletin 968, Item 1. The usual suspension for the violation covered by Charge (2) is ten days. Re C. M. Family Liquor Store, Inc., Bulletin 956, Item 11. An additional ten days will be added for Charges (3) and (4). Since, as has already been pointed out, defendant has a

prior record of a dissimilar violation within the past five years, the license will be suspended for a minimum period of forty-five days. However, because the illegal situation continues to exist, I shall suspend the license for the balance of its term effective immediately and apart from said forty-five-day suspension. Leave is reserved to defendant, or other qualified person, to file a petition with me to have the suspension lifted upon proof of proper correction. No relief will be afforded prior to the expiration of at least forty-five days from the date upon which the forty-five-day suspension becomes effective. Counsel for defendant has advised that the premises are closed for the season but will reopen approximately April 1, 1955. Consequently, no dates for the forty-five-day suspension will be fixed until defendant satisfies me that it is ready to open for business.

Accordingly, it is, on this 18th day of January, 1955,

ORDERED that Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Mount Olive to Budd Lake Amusement Corp., t/a Oasis Bar and Grill, Shore Road, Mount Olive Township, be and the same is hereby suspended for the balance of its term, effective immediately; and it is further

ORDERED that, in the event a correction of the illegal situation is effected, leave will be given as aforesaid to make application to the Director for restoration of the license privileges.

WILLIAM HOWE DAVIS  
Director.

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
ALMA KWAAK, ADMINISTRATRIX OF THE ESTATE OF EDGAR L. JOHNSON  
T/a JOHNSON'S RESTAURANT  
373 Broadway  
Passaic, N. J.,  
Holder of Plenary Retail Consumption License C-26, issued by the Board of Commissioners of the City of Passaic.

CONCLUSIONS  
AND ORDER

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Green and Yanoff, Esqs., Attorneys for Defendant-licensee.  
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, served and delivered alcoholic beverages to minors and permitted consumption thereof by said minors in her licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that ABC agents obtained signed sworn statements from Richard --- (age 17), Robert --- (age 18) and Paul --- (age 19), relating that they entered defendant's licensed premises at about 11:00 p.m. Monday, November 29, 1954, and remained until 2:00 a.m. the following morning. Richard stated that he consumed "Eleven glasses of beer and quite a few 'shots' of whiskey"; Robert stated that he consumed "About seven glasses of beer and seven 'shots'

of 'Four Roses Whiskey'; and Paul stated that he had "Three or four beers and then switched to 'Four Roses Whiskey'". All related that they were served by a bartender known to them as "Bill", who made no inquiry as to their ages. After leaving the licensed premises the aforesaid minors became involved in an auto accident in which two of them were injured. Early in December 1954 the three minors, accompanied by the agents, identified the licensed premises as the tavern wherein they had been served the alcoholic beverages, and therein William Kwaak, brother of the defendant-licensee, as the person who had served them.

Defendant has no prior adjudicated record. The minimum penalty for sale of alcoholic beverages to three minors, one of whom is only 17 years of age, is twenty days. Re Primiceri, Bulletin 948, Item 5; Re Martin, Bulletin 966, Item 3. However, considering the number and kind of drinks which the minors in the instant case were permitted to consume during their three-hour stay on the premises and the resultant effect, I shall suspend defendant's license for a period of thirty-five days. Cf. Re Theodore's, Inc., Bulletin 843, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 24th day of January, 1955.

ORDERED that Plenary Retail Consumption License C-26, issued by the Board of Commissioners of the City of Passaic to Alma Kwaak, Administratrix of the Estate of Edgar L. Johnson, t/a Johnson's Restaurant, 373 Broadway, Passaic, be and the same is hereby suspended for thirty (30) days, commencing at 3:00 a.m. January 31, 1955, and terminating at 3:00 a.m. March 2, 1955.

WILLIAM HOWE DAVIS  
Director.

- 4. DISCIPLINARY PROCEEDINGS - FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS; IN VIOLATION OF LOCAL REGULATIONS - HINDERING INVESTIGATION - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

THE 134 TAVERN INC.  
128 Locust Avenue  
Wallington, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-39, issued by the Mayor and Council of the Borough of Wallington.

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Sidney Simandl, 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 charges:

"1. On Sunday, December 5, 1954, between 11:25 A.M. and 12:45 P.M., you failed to have your entire licensed premises closed; in violation of Section 13 of an Ordinance adopted by the Mayor and Council of the Borough of Wallington on July 9, 1934, as amended January 22, 1940.

"2. On Sunday, December 5, 1954, between 11:55 A.M. and 1:10 P.M., while Investigators of the Division of Alcoholic

Beverage Control of the Department of Law and Public Safety of the State of New Jersey were conducting an investigation, inspection and examination at your licensed premises, you, through Steve Ridosh, your president, director and shareholder, 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 file herein discloses that on Sunday, December 5, 1954, at about 11:55 a.m., ABC agents observed two men enter defendant's licensed premises through a side door. The agents tried the door which was locked. They then went to the front door, also locked, and peered inside where they saw the men seated at the bar, consuming what appeared to be beer. The agents knocked on the door, pressed an identification badge against the glass pane and motioned to the bartender for admittance, yelling "State ABC." The reply was "I'm not going to open the door. You're not coming in." One agent then went to a door leading from an adjoining hallway to the licensed premises, peered through a thin curtain thereon and saw an elderly woman who, when about to leave by said door, was admonished by the bartender not to open it. After the bartender cleared the bar the agents were permitted to enter the barroom by way of the front door. When asked by the agents where the men were and what happened to the glasses that were on the bar, the bartender who was identified as the President of the corporate-licensee, refused to answer. He was uncooperative and surly.

Defendant has a prior adjudicated record. Effective August 4, 1941, its license was suspended for five days by the then State Commissioner for gambling and possessing slot machines on the licensed premises. Re 134 Tavern, Inc., Bulletin 470, Item 13. However, since that violation is dissimilar in nature to those now under consideration and occurred more than five years ago, I shall not consider it when fixing the penalty herein. Re Tumulty, Bulletin 1024, Item 5. Under the circumstances I shall suspend defendant's license on charges (1) and (2) for a period of twenty-five days. Cf. Re Sadofski, Bulletin 909, Item 4. Five days will be remitted for the plea entered herein leaving a net suspension of twenty days.

Accordingly, it is, on this 18th day of January, 1955,

ORDERED that Plenary Retail Consumption License C-39, issued by the Mayor and Council of the Borough of Wallington to The 134 Tavern Inc., 128 Locust Avenue, Wallington, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. January 25, 1955, and terminating at 3:00 a.m. February 14, 1955.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL REGULATION - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

CHRISTOS DOMINOS and MARY )

METROPOULOS )

T/a TEXAS COFFEE POT )

31 Montgomery Street )

Jersey City 2, N. J., )

CONCLUSIONS AND ORDER

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Holders of Plenary Retail Consumption License C-227, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City

Christos Dominos and Mary Metropoulos, by Christos Dominos. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charge:

"On Sunday, January 2, 1955, between 11:45 A.M. and 12:10 P.M., you conducted your licensed business in violation of Section 4 of Ordinance No. K-1299 regulating the sale and distribution of alcoholic beverages by all those holding plenary retail consumption licenses in the City of Jersey City, adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950, which prohibits any such activity between the hours of 2:00 A.M. and 1:00 P.M. on Sundays."

The file herein discloses that on Sunday, January 2, 1955, ABC agents entered defendants' licensed premises at about 11:45 a.m., seated themselves at a rear table therein and observed a waiter serving alcoholic beverages to other patrons. The agents presently ordered soup and sandwiches and, when served, asked for a "couple of bottles of beer." The waiter took two bottles of beer from a cooler, opened them, concealed them under his apron, placed two empty coffee cups before the agents and served the beer, after which he accommodated other patrons with like beverages. At 12:10 p.m. the agents paid their bill, made known their identity to the waiter, and summoned Christos Dominos, one of the licensees, who, when informed of the violation, said "Alright you got me. What's the use of denying it?"

In the absence of a prior record, the minimum suspension for a violation of the type set forth in the above charge is fifteen days. Re Tony's White Tavern, Inc., Bulletin 1035, Item 4. However, effective September 25, 1950, the license for the premises herein, then in the name of Christos Dominos and Theodore Metropoulos, was suspended for seven days by the local issuing authority for an "hours" violation and a violation of Rule 1 of State Regulations No. 38. The prior record of defendants' predecessor in interest, involving a similar violation within a five-year period, must be considered in fixing the instant penalty. Re Goldberg, Bulletin 952, Item 5; cf. Re New Glass Bar, Inc., Bulletin 922, Item 4; Re Weiner, Bulletin 1021, Item 4. I shall suspend defendants' license for thirty days. Cf. Re Weinstein and Levanthal, Bulletin 999, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 24th day of January, 1955,

ORDERED that Plenary Retail Consumption License C-227, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Christos Dominos and Mary Metropoulos, t/a Texas Coffee Pot, for premises 31 Montgomery Street, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. January 31, 1955, and terminating at 2:00 a.m. February 25, 1955.

WILLIAM HOWE DAVIS  
Director.

6. AUTOMATIC SUSPENSION - SUSPENSION OF LICENSE BY LOCAL ISSUING AUTHORITY ADEQUATE - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by )  
MARY PEKARI )  
T/a JOHNSONBURG INN )  
Main Street )  
Johnsonburg )  
Frelinghuysen Township, N. J., )  
To Lift Automatic Suspension of )  
Plenary Retail Consumption License )  
C-2, issued by the Township Committee )  
of Frelinghuysen Township. )

ON PETITION  
ORDER

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VanHorn & VanHorn, Esqs., Attorneys for Petitioner.

BY THE DIRECTOR:

It appears from a verified petition filed herein that on December 23, 1954, petitioner was convicted in the Warren County Court of the sale of alcoholic beverages to minors, in violation of R.S. 33:1-77, as a result of which she was sentenced to a fine of \$75.00, which was paid on December 27, 1954. Said conviction resulted in the automatic suspension for the balance of its term of the license now held by the petitioner. R.S. 33:1-31.1.

It further appears from the records of this Division that the petitioner pleaded non vult to a charge of selling alcoholic beverages to minors brought by the Township Committee of Frelinghuysen Township and that, on November 29, 1954, the said Township Committee suspended her license for a period of fifteen days, with a remission of five days for the confessional plea, leaving a net suspension of ten days, effective December 1, 1954.

The conviction in the criminal proceedings and the charge in the disciplinary proceedings were based upon the same facts. Since the suspension heretofore imposed against the petitioner in the disciplinary proceedings brought by the Township Committee appears to be adequate, the petitioner's request for lifting of the automatic suspension herein will be granted.

Accordingly, it is, on this 7th day of January, 1955,

ORDERED that the automatic suspension of License C-2, now held by Mary Pekari, t/a Johnsonburg Inn, for premises on Main Street, Johnsonburg, Frelinghuysen Township, be and the same is hereby lifted and said license is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS  
Director.

7. AUTOMATIC SUSPENSION - SUSPENSION OF LICENSE BY LOCAL ISSUING AUTHORITY ADEQUATE - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by

PAL'S TAVERN & LIQUOR STORE, INC. )  
1009 Elizabeth Avenue )  
Elizabeth, N. J., )

ON PETITION  
O R D E R

To Lift Automatic Suspension of )  
Plenary Retail Consumption License )  
C-78, issued by the Municipal Board )  
of Alcoholic Beverage Control of the )  
City of Elizabeth. )

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Magner & Abraham, Esqs., by Sam J. Abraham, Esq., Attorneys for  
Petitioner.

BY THE DIRECTOR:

It appears from a verified petition filed herein that on November 10, 1954, Michael Aliseo, a stockholder and officer of the corporate licensee, pleaded guilty before John L. McGuire, Judge of the Magistrate's Court of the City of Elizabeth, to the crime of selling alcoholic beverages to minors, in violation of R.S. 33:1-77, as a result of which he was fined the sum of \$100.00, which has been paid. Said conviction resulted in the automatic suspension of the license held by said corporation for the balance of its term. R.S. 33:1-31.1. On January 3, 1955, the license was picked up by an agent of this Division and turned over to the Acting Secretary of the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth. The petition herein prays that the automatic suspension be lifted at 2:00 a.m. January 18, 1955.

It further appears from the records of this Division that on January 4, 1955, the Municipal Board suspended the license of this corporation for a period of twenty days, less five for the confes- sive plea entered thereto, after it had pleaded non vult in disci- plinary proceedings to a charge alleging that it had sold alcoholic beverages to minors. Said suspension was made effective on January 3, 1955, the date upon which the license was picked up as aforesaid, and to terminate at 2:00 a.m. January 18, 1955. The complaint in the criminal proceedings and the charge in the disciplinary proceedings both arose out of the same transaction.

Since it appears that the suspension imposed by the Municipal Board was adequate, the requested relief will be granted.

Accordingly, it is, on this 13th day of January, 1955,

ORDERED that the automatic suspension of the license held by the petitioner be lifted effective at 2:00 a.m. January 18, 1955. In the meantime the statutory suspension of the license shall continue in full force and effect.

WILLIAM HOWE DAVIS  
Director.

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8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 5 DAYS.

In the Matter of Disciplinary Proceedings against )

CONSTANCE WEDEMEYER )  
T/a STANWALL INN )  
State Highway #88 & Central Avenue )  
Point Pleasant, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Point Pleasant. )

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Novins & Novins, Esqs., by Robert J. Novins, Esq., Attorneys for Defendant-licensee,  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant has pleaded not guilty to a charge alleging that she sold, served and delivered alcoholic beverages to a minor at her licensed premises, in violation of Rule 1 of State Regulations No. 20.

At the hearing herein Charles ---, 18 years of age, testified that between 8:30 and 9:00 p.m. on September 24, 1954 he purchased eight quart bottles of beer from John H. Dinardo, employed as bartender in defendant's licensed premises. It further appears from his testimony that in response to an inquiry by the bartender as to his age, prior to the delivery of the beer, Charles answered that he was twenty-one years old. He also admitted that when asked by the bartender for proof he displayed a Selective Service Card (marked Exhibit S-1 in evidence) which was altered by him so that it appeared he was born May 25, 1933, instead of the correct date of his birth, May 25, 1936. After inspecting the card, the bartender delivered eight bottles of beer to Charles who made payment therefor.

Defendant does not deny that John H. Dinardo, the bartender, sold the alcoholic beverages in question to the minor. Defendant contends, however, that the bartender made the sale in good faith relying upon the information as to the age of Charles given on the Selective Service Card and which card also bore the minor's signature, together with the minor's statement that he was twenty-one years of age.

The defendant maintains that the inquiry by the bartender previous to making the sale of the alcoholic beverages to the minor constitutes a complete defense under the statute relating thereto.

R. S. 33:1-77 provides that, "Anyone who sells any alcoholic beverage to a minor shall be guilty of a misdemeanor; provided, however, that the establishment of all of the following facts by a person making any such sale shall constitute a defense to any prosecution therefor: (a) that the minor falsely represented in writing that he or she was twenty-one (21) years of age or over, and (b) that the appearance of the minor was such that an ordinary prudent person would believe him or her to be twenty-one (21) years of age or over, and (c) that the sale was made in good faith relying upon such written representation and appearance and in the reasonable belief that the minor was actually twenty-one (21) years of age or over."

The defense outlined in the aforesaid statute has been ruled to be effective in disciplinary proceedings as well as in criminal proceedings. Cf. Caruso v. Jersey City, Bulletin 694, Item 1.

Although a Selective Service Card was presented by the minor with the date altered thereon to make it appear that the minor was twenty-one years of age, it is not a representation in writing within the meaning of R.S. 33:1-77. This evidence might well be considered merely as a mitigating circumstance in this case. Cf. Roey, Bulletin 747, Item 3.

Experience in cases similar to this indicates that for some reason licensees or their agents are reluctant to "embarrass" a minor by requiring him to reduce to writing his name, age and address. If licensees are willing to use their own methods of determining the age of a minor, rather than follow the statute, they do so at their peril and must accept the consequences of their own neglect. It would appear no more difficult for the licensee to follow the statutory requirement of having the patron sign a representation of his age than asking him to produce a draft card, driver's license or similar document for the licensee's purported examination. Where the licensee follows the statutory method, there is always the desirable and substantial possibility that the patron, if a minor, will refuse to commit himself to writing and will leave the establishment.

I find defendant guilty as charged.

Defendant has no prior adjudicated record. In the absence thereof the usual penalty imposed for a violation of the kind now under consideration is ten days. Cf. Re Kopf, Bulletin 981, Item 6. In view of the mitigating circumstances appearing herein, I shall suspend defendant's license for a period of five days.

Accordingly, it is, on this 24th day of January, 1955,

ORDERED that Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Point Pleasant to Constance Wedemeyer, t/a Stanwall Inn, State Highway #88 & Central Avenue, Point Pleasant, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. January 31, 1955, and terminating at 2:00 a.m. February 5, 1955.

WILLIAM HOWE DAVIS  
Director.

9. STATE LICENSES - NEW APPLICATIONS FILED.

El Dorado Transportation Company, Inc.  
266 Surf Avenue, Stratford, Conn.

Application for Transportation License filed February 9, 1955.

Kasser Distillers Products Corp.  
Third and Luzerne Streets, Philadelphia, Pa.

Application filed February 10, 1955 for Wine Wholesale License.

WILLIAM HOWE DAVIS  
Director.

10. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
 LOCUST INN, INC.  
 114 Locust Street  
 Roselle, N. J.,  
 Holder of Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Roselle.

CONCLUSIONS AND ORDER

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 Hyman Isaac, Esq., Attorney for Defendant-licensee.  
 William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold alcoholic beverages at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulations No. 30.

The file herein discloses that on December 15, 1954, ABC agents entered defendant's licensed premises and asked the clerk therein the cost of a case of "Four Roses" fifths. After perusing the current Minimum Consumer Resale Price List and figuring the allowable discount, the clerk quoted the correct price of \$55.29. When one of the agents opined that he could do better, the clerk replied "OK, I'll tell you what I'll do. I'll charge you \$54.00. That's about \$2.00 below the price." The agents agreed and paid the latter price with identifiable currency. The clerk packaged the twelve bottles of the size and brand requested, which the agents took from the counter and left the premises. Returning immediately, the agents made known their identity and seized, for evidential purposes, the marked money, the whiskey and the slip of paper on which the original calculations were made. The clerk, who identified himself as Bruno Goul, president of defendant corporate licensee, verbally admitted the aforesaid sale.

Defendant has no prior adjudicated record. I shall suspend its license for ten days (the minimum period for an unaggravated first offense of the kind charged herein). Re Mack Drug Co., Inc., Bulletin 1020, Item 8. Five days will be remitted for the plea entered, leaving a net suspension of five days.

Accordingly, it is, on this 25th day of January, 1955,

ORDERED that Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Roselle to Locust Inn, Inc., 114 Locust Street, Roselle, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. January 31, 1955, and terminating at 2:00 a.m. February 5, 1955.

WILLIAM HOWE DAVIS  
Director.

11. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

STEPHEN PETRACH & ANDREW PETRACH  
T/a PETRACH'S BAR  
19 Mercer Street  
Carteret, N. J.,

CONCLUSIONS  
AND ORDER

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Holders of Plenary Retail Consumption License C-30, issued by the Borough Council of the Borough of Carteret.

Petrach & Petrach, by Stephen Petrach, partner.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

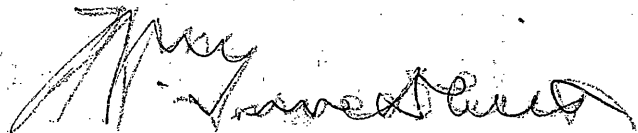
Defendants have pleaded non vult to a charge alleging that they possessed on their licensed premises alcoholic beverages in bottles bearing labels which did not truly describe the contents thereof, in violation of Rule 27 of State Regulations No. 20.

The file herein discloses that on January 10, 1955, an ABC agent making a routine inspection of defendants' licensed premises tested and gauged twenty-five open bottles of assorted brands of alcoholic beverages. The contents of all but two bottles of Scotch Whiskey were apparently genuine as labeled. The agent seized the two bottles, the contents of which appeared off in color and low in proof, and submitted them to the Division's chemist for analysis. The chemist's report shows the contents of each bottle to be "entirely too high in solids" and the contents of one bottle to be low in proof when compared with samples of the genuine product.

Defendants have no prior adjudicated record. The minimum period of suspension for the violation in the instant case is fifteen days. Re Huntington Lodge, Inc., Bulletin 979, Item 7. I shall suspend defendants' license for the minimum period, and remit five days for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 3rd day of February, 1955,

ORDERED that Plenary Retail Consumption License C-30, issued by the Borough Council of the Borough of Carteret to Stephen Petrach & Andrew Petrach, t/a Petrach's Bar, for premises 19 Mercer Street, Carteret, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. February 14, 1955, and terminating at 2:00 a.m. February 24, 1955.



William Howe Davis  
Director.