

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

BULLETIN 1061

MAY 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 1061

MAY 16, 1955

1. APPELLATE DECISIONS - MOSKOWITZ v. NEWARK.

MORRIS MOSKOWITZ,)

Appellant,)

v.)

On Appeal

MUNICIPAL BOARD OF ALCOHOLIC
BEVERAGE CONTROL OF THE CITY)
OF NEWARK,)

Respondent.)

CONCLUSIONS and ORDER

LeRoy J. D'Aloia, Esq., Attorney for Appellant.
Vincent P. Torppey, Esq., by Nicholas Albano, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

This is an appeal from that part of respondent's amended order whereby it suspended appellant's license for ten days, effective January 27, 1955. The order was entered after respondent had found appellant guilty, by a two-to-one vote, on a charge alleging that on November 5, 1954, he allowed, permitted and suffered in and upon the licensed premises a brawl, act of violence, disturbance and unnecessary noises and allowed, permitted and suffered the licensed place of business to be conducted in such manner as to become a nuisance, in violation of Rule 5 of State Regulations No. 20. The licensed premises are located at 60 Waverly Avenue, Newark.

Upon the filing of this appeal an order, dated January 17, 1955, was entered by me staying said suspension until the entry of a further order. R. S. 33:1-31.

At the hearing held herein the transcript of the testimony taken below was submitted in evidence, and additional testimony taken in accordance with the provisions of Rule 8 of State Regulations No. 15.

Appellant alleges that the finding of guilt was contrary to the weight of the evidence, and that appellant did everything possible to prevent the violation.

From all the evidence it clearly appears that a brawl and disturbance occurred on appellant's licensed premises on the evening of November 5, 1954, and, hence, the only question to be decided is whether the appellant, or his agents, allowed, permitted or suffered the brawl and disturbance in violation of Rule 5 of State Regulations No. 20.

The records of the Newark District Telegraph Company disclose that said company received a "disturbance alarm" from appellant's premises at 9:30 p.m. on the evening in question and immediately notified the Newark Police Department. In response to said call two members of the Newark Police Department arrived at appellant's premises about 9:37 p.m. The police officers

testified that, when they arrived, the disturbance had ended but that they took to the hospital two patrons (Marjorie Watson and Ulysses Relfort), both of whom had been injured. Marjorie testified that she went to the hospital and that six stitches were required to close a cut on her head. Ulysses testified that he went to the hospital and that seventeen stitches were required to close a cut on his neck.

The version of this affair given by the witnesses for appellant differs radically from the version given by the witnesses called by respondent. On behalf of appellant, Arthur Goldfein, a bartender, testified that at 9:30 p.m. he heard a noise "like somebody hit;" that he immediately "pushed the button" and then went from behind the bar, separated Marjorie and Ulysses, who were struggling, and took Ulysses down to the other end of the room. He also testified that the brawl lasted a few minutes --- five minutes at the most. At the hearing below his testimony was substantially corroborated by Terry Lewis, the other bartender, and at the hearing of the appeal his testimony was substantially corroborated by three patrons.

On the other hand, Marjorie Watson, who was called as a witness by respondent, testified that she entered the premises between 9 p.m. and 9:15 p.m.; that, shortly thereafter, Ulysses spoke to her; that her boy friend came in and told Ulysses to leave her alone; that "the next thing I know a bottle was thrown and I got six stitches in my head" and "then all Hades broke loose." She further testified that she left the premises; tried unsuccessfully to get someone to take her to the hospital, and that, when she returned to the premises about five minutes later, bottles "were still being thrown." Ulysses testified that he entered the premises about 9 p.m.; that, after Marjorie's boy friend objected because he spoke to her, Marjorie threw a bottle at him and he threw one at her; that, when other patrons came at him, he grabbed a stool and tried to keep them off; that the bartender came from behind the bar and got between him and the crowd; that it "didn't do no good;" and "everybody was throwing bottles." He estimated that about one-half hour elapsed between the time he spoke to Marjorie and the time the policemen arrived. Marjorie's boy friend testified that "a lot of people there" were throwing bottles and chairs; that a bartender came from behind the bar and held Ulysses "in the back to keep the crowd from bothering him." He estimated that "it all didn't last over fifteen minutes." Thus, the evidence given by respondent's witnesses indicates that the disturbance was not a sudden incident which could not be anticipated but, rather, that it was a general disturbance which lasted a considerable period of time.

The burden of establishing that respondent's action was erroneous and should be reversed rests with appellant. After considering all the testimony, I find that appellant has failed to sustain this burden.

The action of respondent will be affirmed, the appeal will be dismissed, and the ten-day suspension originally imposed will be reimposed. Pribila v. Linden, Bulletin 1045, Item 4; Boyd Casino, Inc. v. Newark, Bulletin 1047, Item 1.

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

ORDERED that the ten-day suspension by respondent of

License C-346, issued to Morris Moskowitz for premises 60 Waverly Avenue, Newark, be and the same is hereby restored and reimposed to commence at 2 a.m. May 3, 1955, and terminate at 2 a.m. May 13, 1955.

WILLIAM HOWE DAVIS,
Director.

2. APPELLATE DECISIONS - THE PINES OF WATCHUNG v. WATCHUNG AND COHEN AND ABRAMSON.

THE PINES OF WATCHUNG,)	
)	
Appellant,)	
v.)	On Appeal
)	
MAYOR AND COUNCIL OF THE BOROUGH)	CONCLUSIONS and ORDER
OF WATCHUNG, AND SIDNEY COHEN)	
AND BEN ABRAMSON, trading as BEL-)	
AIR LODGE,)	
Respondents.)	
-----)	

Harry W. Herzog, Esq., Attorney for Appellant.
James W. Hurley, Esq., Attorney for Respondent Mayor and Council of the Borough of Watchung.
No appearance for Respondents Cohen and Abramson.

BY THE DIRECTOR:

This is an appeal from the action of respondent Mayor and Council whereby it denied an application for a transfer to appellant of a plenary retail consumption license held by respondents Cohen and Abramson. The premises are located at 154 Bonnie Burn Road, Borough of Watchung.

As a matter of pleading, the person consenting to a transfer of a license is neither a necessary nor a proper party to an appeal filed from denial of an application to transfer a license. Hence I shall strike out the names of Sidney Cohen and Ben Abramson, trading as Bel-Air Lodge, as parties respondents herein.

As to the merits: The evidence discloses that appellant's application was denied by respondent at its meeting held on February 10, 1955, and that no reasons for denial are set forth in the minutes of said meeting. It has repeatedly been pointed out that, in all fairness, a local issuing authority should state the reasons for its decision but such failure is not fatal. Haba Realty Corp. v. Long Branch, Bulletin 984, Item 1, and cases therein cited.

In its petition of appeal appellant alleges in effect that the refusal to grant the transfer was an abuse of discretion.

In its answer respondent Mayor and Council denies that it abused its discretion and alleges that the transfer was denied for reasons which may be summarized as follows:

1. The premises operated as a nonconforming use and, as a matter of law, the use has been entirely abandoned;
2. The premises are operated solely for the benefit of persons not residents of the Borough and are operated

by and cater to members of the negro race, and the Borough does not have one negro resident;

3. The premises have been under investigation for violation of law by agencies of the Federal government, County Prosecutor's office and municipal police;
4. The premises are in such a state of disrepair that the building is unsafe for public use and the premises are in violation of the health code of Watchung and the State of New Jersey.

I shall consider each of the alleged reasons in the order hereinabove set forth.

As to 1: The premises in question are owned by Walter S. Heinzer who held a plenary retail consumption license for said premises until it was transferred more than three years ago to Sidney Cohen and Ben Abramson. The latter individuals obtained renewals of said license for each licensing year thereafter to and including the licensing year beginning July 1, 1954. They have not operated under their license since October 1954, when they voluntarily closed the premises because, as Mr. Abramson testified, "we reached the end of our financial rope and we were looking for a buyer." No evidence was produced as to the existence of any zoning ordinance and, in the absence thereof, no question can arise as to the nonconforming use of the property. I find no merit in reason 1.

As to 2: Mr. Abramson testified that, while he and his partner operated under the license, they catered to "white as well as colored" patrons, but admitted that, from October 1953 until they ceased to operate in October 1954, the overwhelming percentage of their patrons were negroes. At the hearing herein Mayor Gray denied that he has any "prejudice as to the negro race" and stated that he "does not have any objection to them being catered to in a tavern in the Borough of Watchung." It was stipulated that Councilmen Drapeau and Federston, who attended the hearing, would, if called to the stand, testify in the same manner as the Mayor. The evidence does not lead me to conclude that the transfer was denied because of reason 2 and, in any event, it has been decided in numerous cases that a local issuing authority may not discriminate against colored patrons. Sears Roebuck & Co. v. Absecon and Jones, Bulletin 185, Item 10; Jones v. Absecon, Bulletin 218, Item 1; Williams v. Hillsborough, Bulletin 268, Item 7. I find no merit in reason 2.

As to 3: Mayor Gray testified that, prior to the time the present application was considered, he received confidential information that Federal and State investigations were being made concerning the alleged use and sale of narcotics at the licensed premises during the summer of 1954. He further testified that, at the time the application was denied, these investigations, so far as he knew, were still pending. Chief of Police Barrett testified that, prior to the time the present application was filed, he had reported to the Mayor and Council that the above investigations had been

instituted and were being continued. At the hearing a former patron testified that, during the summer of 1954, a bartender in the licensed premises introduced him to another man from whom he purchased marijuana cigarettes in the lavatory of the premises. Another former patron testified that, during the summer of 1954, he smoked a marijuana cigarette at the bar and saw a girl pass a marijuana cigarette to a male patron at the bar. There is no evidence in the record that during the course of these investigations any accusations were made or charges preferred against Sidney Cohen or Ben Abramson or any of their employees. Nevertheless, I cannot conclude that respondent acted in an unreasonable manner in denying the pending application while the aforesaid investigations were still pending.

As to 4: Photographs introduced into evidence disclose the dilapidated condition of a bridge over which automobiles must pass to reach the licensed premises. They also disclose an accumulation of rubbish in and near the building on the property. The Borough engineer testified that he inspected the bridge on March 17, 1955, and that it is not safe for traffic. He further testified that he then entered the basement of the building and found a steel "I" beam "shimmed up" by pieces of wood, and stated that "if they were knocked out of place, the floor would sag." The Health Inspector of the Borough testified that on December 7, 1954, he recommended to the Mayor and Council that six things should be done before the premises were reopened. He testified that up to the date of the hearing there has been no compliance with any of his recommendations. It has been decided that a local issuing authority may lawfully refuse to issue, renew or transfer a license when it appears that the premises are unfit or unsanitary. Lipnicki v. Trenton, Bulletin 30, Item 6; Marriot v. Trenton, Bulletin 34, Item 10; Miche v. Hoboken, Bulletin 592, Item 12.

After considering all the evidence, I conclude that the transfer was properly denied because of reasons 3 and 4 hereinabove set forth. Hence, the action of respondent Mayor and Council will be affirmed.

Accordingly, it is, on this 27th day of April, 1955,

ORDERED that the action of respondent Mayor and Council of the Borough of Watchung be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS,
Director.

3. APPELLATE DECISIONS - CUMMINS v. HIGHLANDS (AMENDED ORDER).

Minnie Cummins, trading as Cummins)
Tavern & Tropical Gardens,)

Appellant,)

v.)

Borough Council of the Borough)
of Highlands,)

Respondent.)

On Appeal

AMENDED ORDER

BY THE DIRECTOR:

It appearing that on April 18, 1955, respondent adopted a resolution reciting that, considering all the surrounding circumstances, a reduction of the penalty from fourteen to ten days is fair and equitable and resolving that a recommendation be made to me to reduce said penalty accordingly; and no reason appearing to the contrary,

It is, on this 22nd day of April, 1955,

ORDERED that the Order heretofore entered by me herein be amended to read as follows:

"ORDERED that the suspension of fourteen days (subsequently reduced to ten days) hereinbefore imposed by respondent against appellant's license C-13, be and the same is hereby reimposed to commence at 2 a.m. April 20, 1955, and to terminate at 2 a.m. April 30, 1955."

WILLIAM HOWE DAVIS,
Director.

4. STATE REGULATIONS - AMENDMENT OF RULE 3 OF STATE REGULATIONS NO. 14 - SOLICITORS' PERMITS - ONLY ONE PHOTOGRAPH REQUIRED TO BE FILED WITH NEW APPLICATION, NONE REQUIRED WITH RENEWAL APPLICATIONS.

TO ALL MANUFACTURING, WHOLESALING AND WAREHOUSE RECEIPTS LICENSEES:

Experience has demonstrated that it would be advantageous to have solicitors' permits expire on May 31st of each year with renewals thereof to be made as of June 1st of each year and that such a program will not only greatly ease the administrative burdens and workload of this Division but also be advantageous to the industry members affected.

For the same reasons, it appears advisable to eliminate the requirement for the filing of photographs with applications for renewals of solicitors' permits. The elimination of such requirement will not only inure to the benefit of renewal applicants who will be spared the time and money expended in obtaining photographs, but will also facilitate divisional procedure and simplify divisional forms.

One photograph will, however, be required to be furnished by a person applying for permit for the first time.

Accordingly, effective July 1, 1955, Rule 3 of State Regulations No. 14 is hereby amended as follows:

"Rule 3. The fee for Solicitor's Permit is Ten Dollars (\$10.00) per annum for solicitors employed exclusively by licensees whose license permits sale of malt alcoholic beverages only, and is Fifteen Dollars (\$15.00) per annum for solicitors employed by other wholesale or manufacturing licensees. All such permits expire on the May 31st following their issuance unless otherwise specified therein. Each applicant for his first such permit shall accompany the application with one (1) passport-type photograph of the applicant, two (2) inches by two (2) inches, taken not more than thirty (30) days prior to the date of the application. The fingerprints shall be marked 'non-criminal' and shall be filed with the Director."

Solicitors' permits for the 1954-55 period will expire June 30, 1955. Solicitors' permits for the next and other succeeding periods will expire on May 31st of each year.

Applicants for permits for the balance of the current period expiring June 30, 1955, must submit two of the foregoing photographs pursuant to existing rule, the amendment of which will not take effect until July 1, 1955.

Persons who have heretofore obtained solicitors' permits or who obtain permits for the balance of the current period need not file any photograph in connection with any application filed for a solicitor's permit for any fiscal period after July 1, 1955.

Applicants who have not held solicitors' permits for any period prior to July 1, 1955, but who desire such permits for any period after July 1, 1955, will be required to file only one photograph with the application.

WILLIAM HOWE DAVIS,
Director.

Dated: April 25, 1955.

Effective: July 1, 1955.

Filed with Secretary of State of New Jersey: April 25, 1955.

5. STATE REGULATIONS - AMENDMENT OF RULE 14 OF STATE REGULATIONS NO. 17 - TRANSPORTATION INSIGNIA - NEW EFFECTIVE AND EXPIRATION DATES.

TO ALL LICENSEES:

Administrative experience has demonstrated that it would be advantageous and more convenient not only to the Division of Alcoholic Beverage Control but also to all licensees to have transportation insignia expire on April 30th of each year and to require renewal thereof to be made as of May 1st of each year, starting May 1, 1956.

Accordingly, effective July 1, 1955, Rule 14 of State Regulations No. 17 is hereby amended as follows:

"Rule 14. All transportation insignia expire on the 30th day of April following their issuance unless previously terminated by order of the Director or by surrender, revocation or expiration of the license. Renewals must be applied for in the same manner as new insignia."

Transportation insignia for the 1954-55 period will expire June 30, 1955. Transportation insignia for the next and other succeeding periods will expire April 30th of each year.

WILLIAM HOWE DAVIS,
Director.

Dated: April 25, 1955.

Effective: July 1, 1955.

Filed with Secretary of State of New Jersey: April 25, 1955.

6. STATE REGULATIONS - AMENDMENT OF RULE 7 OF STATE REGULATIONS NO. 13 - EMPLOYMENT PERMITS - ONLY ONE PHOTOGRAPH REQUIRED TO BE FILED WITH NEW APPLICATION, NONE REQUIRED WITH RENEWAL APPLICATIONS.

TO ALL LICENSEES:

It appears advisable to eliminate the requirement for the filing of photographs with applications for renewals of employment permits. The elimination of such requirement will not only inure to the benefit of renewal applicants who will be spared the time and money expended in obtaining photographs but will also facilitate divisional procedure and simplify divisional forms.

One photograph will, however, be required to be furnished by a person applying for permit for the first time.

Accordingly, effective May 1, 1955, Rule 7 of State Regulations No. 13 is hereby amended as follows:

"Rule 7. Employment permits are not transferable from person to person. All such permits expire on the March 31st following their issuance unless otherwise specified therein. Each applicant for his first such permit shall accompany his application with one (1) passport-type photograph, two (2) inches by two (2) inches, taken not more than thirty (30) days prior to the date of the application. Each applicant shall be fingerprinted, without charge, under the supervision of the Division of Alcoholic Beverage Control at such time and place as shall be designated from time to time by the Director. The fingerprints shall be marked 'non-criminal' and shall be filed with the Director."

Applicants who have not heretofore held employment permits will be required to file one photograph with the application.

On the other hand, persons who have heretofore held employment permits need not file any photograph in connection with any application filed for employment permit.

WILLIAM HOWE DAVIS,
Director.

Dated: April 25, 1955.

Effective: May 1, 1955.

Filed with Secretary of State of New Jersey: April 25, 1955.

7. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LOUIS MARKOWITZ,)
t/a White Star Market,)
6812-6814 Ventnor Avenue,)
Ventnor City, New Jersey,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Distribution License D-14, issued by the Common Council of the City of Ventnor City.)

Paul M. Salsburg, 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 Charge 1 alleging that on Sunday, March 20, 1955, he sold an alcoholic beverage in an original container for off-premises consumption, in violation of Rule 1 of State Regulations No. 38. In lieu of a plea to Charge 2 alleging that he failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, inspection and examination, defendant entered into a stipulation with the Division wherein he admits the facts hereinbelow set forth, contending, however, that "these facts do not constitute hindering as alleged in Charge 2."

The file herein discloses that on Sunday, March 20, 1955, an ABC agent entered defendant's licensed premises and gave the licensee a card upon which were listed several grocery items and one pint of Four Roses Whiskey. The licensee gathered the groceries, placed them in a bag and gave them to the agent. He then handed the agent a pint of Four Roses Whiskey, telling him to "Stick it in your pocket." The agent paid for the merchandise with a ten-dollar bill and observed the licensee ring up on the cash register a \$5.83 sale. The agent then phoned a second agent and while awaiting his arrival identified himself to the licensee who verbally admitted the sale and asked the agent to forget it. When the second agent arrived and his identity made known, the licensee was requested to hand over the cash register tape verifying the sale. He refused and, tearing the tape from the register, pocketed it, and after repeated demands for its production, eventually told the agents he had destroyed it. He also refused to tell the agents the location of his license certificate.

From the facts it is apparent that defendant did not hinder the agents in their investigation respecting the violation as defendant admitted the sale in question prior to the request by the agents that he surrender the tape. However, once having admitted the violation he was obligated to facilitate the investigation so that it might be concluded. This he failed to do. I might attribute this failure to his advanced years, his physical condition and other attendant circumstances submitted by his attorney in a letter to this Division, all of which I have considered in mitigation of Charge 2.

Defendant has a prior adjudicated record. Effective January 26, 1948, his license was suspended for five days by this Division for a sale below the minimum consumer price. Re Markowitz, Bulletin 792, Item 9. Since the prior violation is dissimilar in nature to that now under consideration and occurred more than five years ago, I shall not consider it in fixing the penalty herein. Re The 134 Tavern, Inc., Bulletin 1050, Item 4. Under the circumstances, I shall suspend defendant's license for fifteen days on the first charge. Re Pawlowski's Tavern, Inc., Bulletin 1055, Item 5. Taking into account the mitigating circumstances I have previously referred to, I shall suspend defendant's license for an additional five days on the second charge, making a total suspension of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 22nd day of April, 1955,

ORDERED that Plenary Retail Distribution License D-14, issued by the Common Council of the City of Ventnor City to Louis Markowitz, t/a White Star Market, 6812-6814 Ventnor Avenue, Ventnor City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 9:00 a.m. May 2, 1955, and terminating at 9:00 a.m. May 17, 1955.

WILLIAM HOWE DAVIS,
Director.

8. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT PRINTING - INDECENT PICTURES) - LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
DORIS I. D'OLIVO,
t/a Jockey Hollow Tavern,
13 Market Street,
Morristown, New Jersey,

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-17, issued by the Board of Aldermen of the Town of Morristown.)

Scerbo, Porzio & Kennelly, 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 charges alleging that she (1) allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets and playing shuffleboard games for stakes of money in and upon her licensed premises, in violation of Rule 7 of State Regulations No. 20; (2) allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as a raffle or drawing, to be sold and offered for sale and had possession of and allowed, permitted and suffered such tickets and participation rights in the aforementioned lottery in and upon her licensed premises, in violation of Rule 6 of State Regulations No. 20; (3) allowed, permitted and suffered a lottery, commonly known as a "horse race pool", to be conducted in and upon her licensed premises and sold and offered for sale and had possession of and allowed, permitted and suffered tickets and participation rights in such aforementioned lottery in and upon her licensed premises, in

violation of Rule 6 of State Regulations No. 20; and (4) allowed, permitted and suffered in and upon her licensed premises and had in her possession obscene, indecent, filthy, lewd, lascivious and disgusting printing, pictures and other representations, in violation of Rule 17 of State Regulations No. 20.

An examination of the file herein discloses that on February 5, 1955, two ABC agents visited defendant's licensed premises. One of the agents played shuffleboard with a patron called "Tip" and during the afternoon inquired of him whether he could place a bet on a horse in the premises. "Tip" asked Ralph (subsequently identified as Ralph D'Olivo, husband of the defendant-licensee and manager of the establishment), who was tending bar at the time, for a sheet of paper and a pencil. Ralph handed a pad and pencil to "Tip" who in turn handed the pencil and a sheet of paper to the agent. "Tip" cautioned the agent not to write the name of the horse in the barroom and, pursuant thereto, the agent entered the men's room followed a short time thereafter by "Tip." The agent handed him the slip of paper whereon he had written the name of the horse together with a \$2.00 bet. Both men then left the men's room and went to the bar. A short period thereafter, "Tip" spoke to Mike (subsequently identified as Michael J. Geary, a bartender employed by defendant-licensee) and at the same time handed Mike something which he slipped into a pocket of his trousers. A short time thereafter the agents left the premises.

On February 19, 1955, the agents returned to defendant's premises and one of them engaged in a shuffleboard match with "Tip" whom he had met on the prior occasion. "Tip" suggested playing for money stakes and, previous to one of the games, both the agent and "Tip" placed the money stakes on the bar, calling this to the attention of Harry (subsequently identified as Harry Dunlop), the bartender, who told them it was all right to leave the money there. Before leaving the premises one of the agents purchased a ticket from Michael J. Geary, the bartender, for a raffle to be held at a future date.

On February 22, 1955, the ABC agents again visited defendant's premises and during the time they remained there one of them placed a bet with Michael J. Geary, aforementioned, on a horse running in a race that day.

On March 1, 1955, the ABC agents returned to defendant's premises and one of them attempted to place a bet with Michael J. Geary but was told by him that, "Oh no, the heat's still on. The town is real hot." Thereafter, one of the agents telephoned to the county prosecutor's office and then the agents made known their identity to Michael J. Geary. Members of the prosecutor's staff arrived at defendant's premises and they immediately requested Michael J. Geary to empty his pockets. He produced therefrom six lottery tickets (50-50 drawing), two sweepstake tickets and one receipt therefor, and other racing paraphernalia. A search of the premises resulted in the finding of various pictures and drawings of nude men and women in filthy and unspeakably vile poses and practices, and also indecent printing matter in a drawer in the back bar of defendant's licensed premises.

Defendant has no prior adjudicated record. Under the circumstances appearing in the instant case, I shall suspend defendant's license for a period of fifty days. Cf. Re Gavlak, Bulletin 910, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of forty-five days.

Accordingly, it is, on this 22nd day of April, 1955,

ORDERED that Plenary Retail Consumption License C-17, issued by the Board of Aldermen of the Town of Morristown to Doris I. D'Olivo, t/a Jockey Hollow Tavern, 13 Market Street, Morristown, be and the same is hereby suspended for a period of forty-five (45) days, commencing at 2 a.m. May 2, 1955, and terminating at 2 a.m. June 16, 1955.

WILLIAM HOWE DAVIS,
Director.

9. DISCIPLINARY PROCEEDINGS - SALE 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
RARITAN LIQUORS, INC.,
25 Mine Brook Road,
Bernardsville, N. J.,
Holder of Plenary Retail Distribution License D-1, issued by the Common Council of the Borough of Bernardsville.

CONCLUSIONS
and
ORDER

Raritan Liquors, Inc., Defendant-licensee, by John Sturges, Vice President.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold 12 quart bottles of Bellows Reserve Whiskey - A Blend, at less than the effective Minimum Consumer Resale Price, in violation of Rule 5 of State Regulations No. 30.

The file herein discloses that an ABC agent entered defendant's licensed premises on March 30, 1955, and inquired of a clerk (subsequently identified as Manuel Sturges, manager of defendant's licensed premises) as to the price of a case of quarts of Bellows Reserve Whiskey. The clerk told the agent that the price for the case (less permissible discount) would be \$57.00. The agent said he would let him know if the price was satisfactory to the "Club" and the clerk then stated that he could have the case of whiskey for \$55.00. The effective price per case of 12 quarts of the brand of whiskey in question on March 30, 1955 was \$60.00, less a permissible discount of five per cent., or a net price of \$57.00. Manual Sturges, aforementioned, signed a statement admitting the sale of the whiskey for \$55.00.

Defendant has no prior adjudicated record. I shall suspend its license for ten days, the minimum penalty for an unaggravated offense of this kind. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Brooke, Bulletin 1002, Item 12.

Accordingly, it is, on this 22nd day of April, 1955,

ORDERED that Plenary Retail Distribution License D-1, issued by the Common Council of the Borough of Bernardsville to Raritan Liquors, Inc., 25 Mine Brook Road, Bernardsville, be and the same is hereby suspended for a period of five (5) days,

commencing at 9 am. May 2, 1955, and terminating at 9 a.m. May 7, 1955.

WILLIAM HOWE DAVIS,
Director.

10. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against)

NINE O'CLOCK CLUB, INC.,)
South Washington Avenue,)
Piscataway Township,)
PO New Market, New Jersey,)

CONCLUSIONS

Holder of Plenary Retail Consumption License C-11, issued by the Township Committee of the Township of Piscataway;)
and transferred during the pendency of these proceedings to:)

and

ORDER

ERNEST W. SMITH, JR. and MARY SMITH,)
and EUGENE M. DODA and LOUISE H. DODA,)

for the same premises.)
-----)

John T. Keefe, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On Friday, February 4, 1955, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to persons under the age of twenty-one (21) years, viz., Louis N. ---, age 19, and John P. ---, age 20, 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."

The testimony of Louis N. --- and John P. ---, 19 and 20 years of age, respectively, is substantially in agreement that at approximately 9:30 p.m., on Friday, February 4, 1955, they arrived at defendant's licensed premises and remained there until 11:30 p.m.; that during the time they spent in defendant's premises they each had approximately eight glasses of beer at the bar; that a bartender called "Scotty" (subsequently identified by them at the instant hearing as Hugh Johnstone McCullough) was the first bartender to serve them beer but they were not certain whether or not the same bartender made service of additional rounds of beer; that no one who made service of the beer to them inquired of them or required them to produce proof as to their ages; that at about 11:30 p.m. one of the minors became involved in a dispute with another patron and that shortly thereafter both minors left the defendant's premises.

Defendant produced several witnesses, among whom were an officer of the defendant-corporation, two bartenders, a waitress, and a patron. All of these witnesses testified that

they were in defendant's premises on the evening of February 4, 1955. Hugh Johnstone McCullough, employed by defendant as a bartender, testified that he neither saw nor served either of the minors on the evening in question, and that he did not know who was involved in the "rumpus" that night. Thomas Edward Woolf, another bartender employed by defendant, testified that he did not see the two minors come into the premises nor did he see them at the bar or serve them during the evening. He further testified that the first time he saw the two minors was when a commotion started in the premises, at which time there were approximately 150 or 160 people in the place. Barbara Ann Stout, a waitress employed by defendant, testified that she served various patrons at tables in the defendant's premises but did not see either of the minors therein on the evening of February 4, 1955. Eugene Maxim Doda, the secretary-treasurer of the defendant-corporation, testified that he attended to the service bar and did not see the minors come into the premises that night; that, upon being informed by the waitress that there was an argument going on near the front door, he immediately went over to the scene of the argument which was in progress, at which time he observed one of the minors involved therein. He requested that the minor leave the premises and, when he failed to do so, asked the other minor, whom he learned to be a friend of the one involved in trouble, to try to get his companion out of the establishment. William Robert Starkey testified that he came into defendant's premises between 9:45 and 10:00 p.m. during the evening of February 4, 1955, and remained there until 1 a.m. the following day; that he sat at the bar and was served by "Scotty" (Hugh Johnstone McCullough); that he spoke to Louis N. ---, one of the minors, for about ten minutes during the evening but that he did not observe the other minor, John P. ---, until the said minor was involved in an argument with a woman; that he did not see either of the minors served beer or any type of alcoholic beverages that evening; that there were 145 to 155 patrons in the premises and that he did not pay too much attention to the persons who were being served by the bartenders.

I am satisfied after careful consideration of all the evidence presented herein that the two minors have given a truthful version of what happened in defendant's licensed premises on the evening of February 4, 1955. I cannot accept the contention by defendant's attorney, contained in his memorandum filed herein, that the minors were motivated to testify falsely under oath because of vindictiveness toward the "proprietor". Both minors identified "Scotty" (Hugh Johnstone McCullough) as the bartender who served them their initial glasses of beer although they were uncertain if any other person made service to them thereafter. I believe the minors' testimony that they purchased and consumed beer at the bar during the time that they remained in defendant's licensed premises on the evening of February 4, 1955. I, therefore, find defendant guilty of the charge preferred herein.

Defendant has no prior adjudicated record. Under the circumstances, I shall suspend its license for ten days, the minimum penalty for a violation of this character. Cf. Re Spievy, Bulletin 1054, Item 11.

Accordingly, it is, on this 27th day of April, 1955,

ORDERED that Plenary Retail Consumption License C-11, issued by the Township Committee of the Township of Piscataway to Nine O'Clock Club, Inc., South Washington Avenue, Piscataway Township, and transferred during the pendency of these proceedings

to Ernest W. Smith, Jr. and Mary Smith, and Eugene M. Doda and Louise H. Doda, for the same premises, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. May 4, 1955, and terminating at 2:00 a.m. May 14, 1955.

WILLIAM HOWE DAVIS,
Director.

11. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against)	
)	
HARRY BURNS,)	On Petition
t/a Lemke's Tavern,)	
247 Piaget Avenue,)	
Clifton, New Jersey,)	ORDER

Holder of Plenary Retail Consumption License C-127, issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton.)
)

BY THE DIRECTOR:

An order having been entered herein on April 15, 1955, suspending defendant's license for a period of ten days commencing at 3 a.m. April 25, 1955, and terminating at 3 a.m. May 5, 1955, and

It appearing from a verified petition filed herein that petitioner's daughter is being married on April 30, 1955, and that plans have been made for a reception to be held at the licensed premises and at defendant's home on the second floor above the licensed premises, and

It appearing to my satisfaction that numerous innocent persons would be inconvenienced by suspension of defendant's license for the period commencing April 25, 1955,

It is, on this 22nd day of April, 1955,

ORDERED that the suspension of ten days heretofore imposed in this proceeding, instead of commencing at 3 a.m. April 25, shall, in lieu thereof, commence at 3 a.m. May 2, 1955, and terminate at 3 a.m. May 12, 1955.

WILLIAM HOWE DAVIS,
Director.

12. RETAIL LICENSEES - ENTERTAINMENT - HEREIN OF PROSTITUTES, PERSONS OF ILL REPUTE AND PAT WARD.

April 15, 1955.

The Stage Coach Inn, Inc.,
South Hackensack, New Jersey.

It is reported in the Newark Evening News of April 13, 1955, in a column captioned "That's Earl" by Earl Wilson as follows:

"New York--Pat Ward of the Minot F. (Mickey) Jelke case tells us that New Jersey will be first to see her in her new role--that of a night club singer.

"She's committed to play first at the Stage Coach Inn, South Hackensack. The management says she'll probably open late in June, 'after the prom season.'

"Pat will receive \$3,500 a week for singing-- and she insists there'll be no comedy in the act or any reference to her recent court appearance.

"Her manager said, 'She'll be demure, a simple-looking kid.'

"Pat said, 'I'll have my motorcycle clubs come out there. That should help business.'

"Vito Petretti and Abe Wagner, proprietors of the Stage Coach Inn, said Pat will play one week only."

Obviously, Miss Ward's attraction as an "entertainer" will be primarily, if not solely, because of her recent starring appearance as a principal in the Jelke vice-for-hire trial which received nation-wide publicity because of its sordidness.

As you should know, Rule 4 of State Regulations No. 20 provides in part:

"No licensee shall allow, permit or suffer in or upon the licensed premises any prostitute...or other person of ill repute...."

All licensees should realize that permitting the appearance as an "entertainer" of a person of Miss Ward's admitted practices, proclivities and resulting reputation would be in flagrant violation of the rule and necessarily subject the license to suspension or revocation.

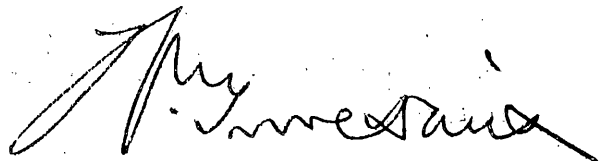
You will be well advised to be guided accordingly.

WILLIAM HOWE DAVIS,
Director.

13. STATE LICENSES - NEW APPLICATION.

Joseph Cohen and Robert Dickman,
t/a Lake Beverage Distributors,
Rear 95 West Main Street,
Denville, New Jersey.

Application filed May 12, 1955 for transfer of State Beverage Distributor's License SBD-15 from Edward Cicccone, t/a Ed Chicco, Importer,
S.W. Cor. Ohio Avenue & Absecon Boulevard,
Atlantic City, New Jersey.



William Howe Davis,
Director.