

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

BULLETIN 1685

July 27, 1966

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Atlantic City) - NUISANCE (APPARENT HOMOSEXUALS) - PRIOR SIMILAR RECORD OF CORPORATION WITH COMMON STOCKHOLDER - LICENSE SUSPENDED FOR 120 DAYS.
2. DISCIPLINARY PROCEEDINGS (Bordentown Township) - SALE TO MINORS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
3. DISCIPLINARY PROCEEDINGS (Atlantic City) - ORDER IMPOSING DEFERRED SUSPENSION.
4. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT STILL AND EQUIPMENT ON PREMISES - STILL, EQUIPMENT, ALCOHOL AND MOTOR VEHICLE USED IN CONNECTION WITH OPERATION ORDERED FORFEITED.
5. STATUTORY AUTOMATIC SUSPENSION - ORDER STAYING SUSPENSION.
6. DISCIPLINARY PROCEEDINGS (New Shrewsbury) - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
7. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.
8. DISCIPLINARY PROCEEDINGS (New Brunswick) - SALE TO A MINOR - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Kearny) - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
10. STATE LICENSES - NEW APPLICATION FILED.

New Jersey State Library

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

BULLETIN 1685

July 27, 1966

1. DISCIPLINARY PROCEEDINGS - NUISANCE (APPARENT HOMOSEXUALS) -  
PRIOR SIMILAR RECORD OF CORPORATION WITH COMMON STOCKHOLDER -  
LICENSE SUSPENDED FOR 120 DAYS.

In the Matter of Disciplinary )  
Proceedings against )

Val's Bar, Inc., )  
t/a Val's Bar, )  
114 S. New York Ave., )  
Atlantic City, N. J., )

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption )  
License C-225, issued by the Board )  
of Commissioners of the City of )  
Atlantic City. )  
----- )

Jacobson & Silverman, Esqs., by Louis C. Jacobson, Esq.;  
Norman Alexander Oshtry, Esq. and Murray Powlen, Esq.,  
Co-Counsel; Attorneys for Licensee  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic  
Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"During the early morning hours of Sunday July 25 and Saturday July 31, on the nights of Friday, August 6 and Thursday, August 19 and on Friday night September 10 into early morning hours of Saturday, September 11, 1965, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered persons who appeared to be homosexuals, e.g. males impersonating females in and upon your licensed premises, allowed, permitted and suffered such persons to frequent and congregate in and upon your licensed premises; and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

The factual setting for the Division's case was developed through the testimony of six ABC agents. Acting upon specific assignments to investigate alleged homosexual activities at the above licensed premises, they visited the said premises on the early mornings of July 25 and July 31, on the nights of Friday, August 6 and Thursday, August 19, and on Friday night September 10 into the early morning hours of Saturday, September 11, 1965.

On July 25, 1965, at about 12:05 a.m., Agents G and M visited the said premises and remained there until 1 a.m. They then left the premises and returned at about 3 a.m., at which time they remained until 3:30 a.m. On both visits they noted that the premises were packed to capacity with about one hundred

fifty patrons, all of whom were males, with the exception of "two or possibly four [females] at the most." About ninety-five per cent. of the patrons attracted their attention because they appeared to be males impersonating females, or homosexuals. They made this observation because these patrons had high-pitched voices, effeminate mannerisms; almost all were dressed in "tight chino pants, the short Bermuda, very tight Bermuda pants, the bulky knit sweaters." The agents also noted that, when they spoke in these high-pitched and lispy voices, they made such comments as "Hon, Sweetie, et cetera." There was also a very strong odor of perfume which was emitted from these persons.

The next visit to these premises was made by Agents D and G on Saturday, July 31, 1965, at about 12:45 a.m. On this occasion there were about seventy male patrons but no female patrons. About ninety per cent. of them attracted the attention of the agents because they appeared to be homosexuals. The agents further noted that they were conversing in groups, and their appearance was described as follows: While sitting at the bar they had their "elbows tucked in, puffing their cigarettes effeminately, holding it at the end of their fingers, using a limp wrist action, sipping their drinks, rolling of the eyes when in conversation or perhaps just looking at another one endearingly. On occasion they touched one another." They wore tight-fitting trousers and bulky knit sweaters. When walking about they seemed to swish, moving their hips from side to side. They wore sneakers, loafers, and beach sandals. They frequently addressed each other as "Dear and Sweetie."

The next visit to the premises was made on August 6, 1965, at about 9:45 p.m. by Agents D and R. On this occasion the agents observed that at the height of activity there were fifty-five males and six females; of the fifty-five males about seventy per cent. of them attracted their attention because they appeared to be males impersonating females, or homosexuals. The basis for their conclusion was as follows: The patrons sat in groups or in couples conversing with each other in high-pitched, lispy tones of voice. Their clothing in some instances consisted of "a bulky mohair-type sweater, tight-fitting trousers, sandals or sneakers or perhaps oxford shoes, loafers." They used a limp-wrist action, sipping their drinks; and in conversation they fluttered and rolled their eyes at each other. When walking, their hips would swish from side to side in an effeminate manner.

Agents H and S, pursuant to assignment, next visited the licensed premises on August 19, 1965, at about 9:20 p.m. and remained on the premises for about two hours. During this period they noted that there were about twenty to twenty-five patrons, of whom all were male, except for two females. Of these about twenty attracted their attention because they appeared to be males impersonating females, or homosexuals. On this occasion the males "wore sandals or white sneakers with no socks, very tight-fitting pants, bulky mohair sweaters with no T-shirt underneath. Several of the males wore their hair long and apparently combed up and around the back rather than parted as most males would." Their actions and mannerisms were "affected and feminine in appearance in that the limp-wrist motions, the tucked-in elbow, the small steps and swishing or rolling gait to exaggerate hip motion was used as they walked about the premises." Endearing terms such as "Dear, Sweets and Darling" were frequently used, and one male specifically referred to another male as "Darling."

Agent S engaged in conversation with the bartender and asked him where all these "fags" come from. Replied the bartender, "Beats me. I don't know, but I really wish they would go

away. It gets to be kind of a drag after a while."

The final visit to these premises was made by Agents D and H on Friday, September 10, 1965, at approximately 10:15 p.m., and the agents remained at the premises until 1:45 a.m. on Sunday, September 11. Upon entering the premises they noted that there were two bartenders (subsequently identified as John Schultz, who was the acting manager of these premises, and John Gunzer), who were serving approximately twenty male patrons at the bar. The patronage increased so that at the height of activity there were sixty male patrons and two female patrons. The two female patrons appeared to be lesbians, while over ninety per cent. of the males appeared to be males impersonating females, or homosexuals. Some of these apparent homosexuals were dressed in very tight-fitting chino pants, bulky mohair sweaters, brightly colored sports shirts and white sneakers. Several of these persons appeared "to wear powder on their face to lessen any effect of a day-old beard. I noticed that at least two of these males obviously had had their eyebrows plucked and repencilled with eyebrow pencil. A smell of perfume. By this I don't mean after-shaving lotion. Perfume, female perfume, was very obvious."

Agent H described their actions and conduct as follows: They took very small steps; they "moved their hips in rather an exaggerated motion and kept their hands very tight to their sides although often stood with, say, one hand on the hip while walking." He noted also their limp-wrist motion while talking or drinking; they held their cigarettes in a rather delicate fashion with the smaller two fingers raised. They would occasionally touch the face of the other person to whom they were speaking; "their voices were very affected, in that they were obviously trying to imitate a female inflection or feminine inflection of voice." Such terms as "Dear and Sweetie" when referring to other males were used quite frequently. There was also occasional hand-holding and frequent blowing of kisses from one male to another which would be received by the recipient in a girlish manner by lowering or fluttering the eyelashes and smiling.

At approximately 1 a.m. Agent H approached a bearded male person who was seated near the door. It was assumed that he was an employee because he was seen ejecting or barring the entry of several persons. This person (later identified as C. Wallace O'Donnell) was a bouncer employed by the licensee. Agent H opened the conversation by saying, "My friend and I really goofed tonight. We came here looking for girls." Replied O'Donnell, "You sure did. You'll never find any in here." And then, "Well, why did you stay here? How come you stuck around so long?" The conversation continued with Agent D joining in and asking, "Where do all these queers come from?" O'Donnell then said to Agent D, "Tell me, were you getting that creepy feeling?" Agent D answered, "Yes, I was. I really felt surrounded over there with all those fags." Replied O'Donnell, "I know just how you feel, I feel the same way myself sometimes being surrounded by these guys. That's why I don't mind sitting over here by the door." O'Donnell then added, "Have a seat. It's a pleasure talking to a couple of straight guys for a change." He was then asked where all these people come from and he responded, "They come from all over, Montreal, Florida, New York. This is practically a headquarters for these guys." O'Donnell then explained that his duty was to keep out "the more apparent stewed bums, the drunks that tried to gain entry, two of whom he had already ejected." He further added, with respect to the licensee's operation, "I guess they've got a good thing going and they want to keep it." O'Donnell also explained that the main reason he got the job, beside the fact that he was tall, was that he had a full beard and he was informed that a straight male wearing a full beard would attract homosexuals to these premises. During the

course of their conversation with O'Donnell they were interrupted when O'Donnell barred entry to some obviously intoxicated persons.

At about 1:30 a.m. on September 11 the agents identified themselves and explained to O'Donnell that it was a violation to permit the congregation of homosexuals on the premises. O'Donnell answered, "I knew that. I was aware of that." At this point a person, who identified himself as Thomas ---, approached the agents. He was a person about twenty-four years of age, built slenderly, had a fair complexion, blonde hair, and affected a high-pitched voice similar to those of the other male patrons. The agents informed him that the congregation of apparent homosexuals was a violation. Thomas --- said, "Oh dear, Mother has had it." He explained the "mother" as being a reference to the bar. Then he said, "What's wrong with being a homosexual? Everybody in here is one. In fact, I'm president of both societies."

Several minutes later, Mark Weintraub (the president of the corporate licensee) entered the premises and was apprized of the alleged violation. He then said, "Well, point out a homosexual to me and I will throw him out of here." When the agents called his attention to the fact that ninety-five per cent. of the patrons at that time appeared to be homosexuals, including the two females who were seated at the bar, he then said, "Well, maybe they are, but at least they're very well behaved," and added, "We don't allow any drag in here ... we don't allow any fooling around."

The only witness produced on behalf of the licensee was Doctor Wardell B. Pomeroy, a practicing psychologist and former Director of Field Research at the Kinsey Institute, Bloomington, Indiana. Dr. Pomeroy discoursed in detail on the nature of homosexuals and homosexual behavior based upon his studies of sexual conduct. He suggested that there are changing attitudes toward the homosexual, and "we find a more acceptance attitude in 1966 than we did in 1946. Our culture appears to be changing in the direction of being more accepting of the homosexual." In detailing the characteristics of the homosexual he described their recognized manifestation as "the way they dress, the way they move their hands and feet, the way they walk, their voice and so on." He also admitted that, if he saw two males looking into each other's eyes or walking into a tavern, holding hands lightly or walking with a swishing or swaying movement, these also would be identifiable manifestations. He was then asked the following:

"Q And if you were to go into a tavern or into any room or into any place and if you saw a large number of these persons with these identifiable manifestations, would you come to an opinion that they were apparent homosexuals?

A I think I would, yes."

He then emphasized that in his opinion the congregation of these homosexuals in a tavern would be "of benefit to the surrounding community, to the culture, to keep them from cruising on the streets, in the parks ...," explaining that "these men are going to be more likely to cruise in other places that might be more offensive to the public such as in toilets, in the subways, in parks, streets, and that this is a better solution to their need and interest in congregating together than any other solution we can think of;" adding that this was the best method of containing and controlling these individuals.

The psychologist agreed that the use of alcohol tends to make people more relaxed and less inhibited, and that it is likely that a heterosexual person who may have underlying homosexual tendencies, which are dormant, might have those tendencies come to the fore after imbibing alcoholic beverages. I then asked this witness the following question:

"The Hearer: Now, did I understand you correctly also, Doctor, to say that you would prefer that the homosexuals congregate in a tavern because, by so doing, they might not frequent places such as public toilets or parks or Turkish baths?

The Witness: I didn't include Turkish baths.

The Hearer: I believe you said bath. I don't believe you used the word Turkish. That's true. Did I understand you to say that, that this would be perhaps a substitute for their going to these other places?

The Witness: This is a possibility, yes.

The Hearer: And in that respect do you consider that it would be socially desirable, that they be permitted to congregate in taverns?

The Witness: Yes."

In further questioning this witness as to the effect that congregation of such homosexuals would have upon normal young people coming into the tavern, the psychologist said that they had a choice of either remaining or leaving; that, if they decided to remain, "perhaps they were amused, perhaps they were interested in this sort of behavior." He reasoned that, since these persons would have the alternative of either remaining or leaving, the effect of such congregation would not be socially undesirable.

As was pointed out hereinabove, the factual narrative and observations of the Division's witnesses remain uncontroverted and unchallenged by the licensee because no witnesses were produced to rebut such testimony. Thus the quantitative effect on the Division's testimony remains unchallenged and must be accepted as true. The only real challenge is as to the qualitative substance of such testimony, and valid legal conclusions to be drawn therefrom.

In a memorandum submitted by counsel for the licensee in summation, the following asserted arguments are raised in support of dismissal of the said charge: (1) that the charge was brought under the wrong rule of Regulation No. 20; (2) that there was no satisfactory evidence in the record to establish homosexuals were upon the premises; (3) even if there were such evidence, there is nothing in the law designating homosexuality as a crime; (4) there is no evidence in the records establishing the existence of a nuisance; (5) that the licensee's constitutional rights would be violated if it were required to prevent the congregation of homosexuals, and (6) that the licensee would be committing an illegal act by barring such persons from licensed premises.

In answer to these arguments it might be well to state certain applicable principles which have become well settled in the administration of the Alcoholic Beverage Law, and the conduct and supervision of licensed premises. The liquor business must be carefully supervised and tightly restrained in the public interest, in accordance with the manifest design of the Alcoholic Beverage Act. In re Olympic, Inc., 49 N.J. Super. 299. A liquor license is a mere privilege. Paul v. Gloucester County, 50 N.J.L. 585; Mazza v. Cavicchia, 15 N.J. 498. As the court said in Benedetti v. Trenton, 35 N.J. Super. 30, at p. 35:

"In the public interest, the right to prescribe the conditions under which intoxicants may be sold is practically limitless."

Judge Jayne, speaking for the court in In re 17 Club, Inc., 26 N.J. Super. 43, at p. 52, said:

"The governmental power extensively to supervise the conduct of the liquor business and to confine the conduct of that business to reputable licensees who will manage it in a reputable manner has uniformly been accorded broad and liberal judicial support."

And as was pointed out in Re Polka Club Inc., Bulletin 1045, Item 6:

"Rigid enforcement of the regulations ... is essential to the preservation of decency and the protection of the public morals ...."

The fundamental answer to the asserted contention that there is no satisfactory evidence in the record to establish that homosexuals were upon the licensed premises is contained in the expressed opinion of the ABC agents, who have had a considerable background of experience in the investigation of charges of alleged homosexual activity; their testimony lends sufficient support to this charge. Their opinions can be compared to that of persons testifying as to their observations of apparently intoxicated persons. It has been consistently held by this Division and the courts that it is not necessary to be a doctor or medical expert in order to testify as to whether a person is apparently intoxicated. It is well-established that whether a man is sober or intoxicated is a matter of common observation, not requiring any special knowledge or skill. Castner v. Sliker, 33 N.J.L. 95; McHugh v. Borough of Hasbrouck Heights, 144 Atl. Rep. 799; Re Sullivan, Bulletin 1450, Item 4; Re Hoover, Bulletin 1521, Item 1, aff'd App.Div. Nov. 22, 1963 (not officially reported).

In fact, the expert witness for the licensee admitted that, on the basis of the description of these individuals given by the Division's witnesses, their conduct, mannerisms, dress and so forth, he would have concluded that these persons were apparent homosexuals. Additionally, the evidence is abundantly clear that the licensee's employees, including its president, knew that these premises were a hangout for these apparent homosexuals. Weintraub, according to the agent's testimony, felt that, as long as they behaved themselves, it was permissible to have them congregate; and O'Donnell, more elaborately, pictured these apparent homosexuals as being attracted to these premises from such places as Canada, New York and other distant places. It is obvious that under these circumstances the description given of these patrons by the Division agents, similarly identified by the licensee's own witnesses and reinforced by the admissions of the licensee's employees, unmistakably establishes without the necessity of specific pinpointing by the agents that there was a congregation of these apparent homosexuals.

One further point: It is not necessary to prove that these individuals were in fact homosexuals. The charge clearly delineated that there was a congregation of apparent homosexuals, which is sufficient to sustain the said charge.

As the court stated in Paddock Bar, Inc. v. Division of Alcoholic Beverage Control, 46 N.J. Super. 405 (App.Div. 1957):

"If the evidence here failed adequately to prove that the described patrons were in fact homosexuals,

it certainly proved that they had the conspicuous guise, demeanor, carriage, and appearance of such personalities. It is often in the plumage that we identify the bird. The psychiatrist constructs his deductive conclusions largely upon the ostensible personality behavior and unnatural mannerisms of the patient."

Cf. Re Murphy's Tavern, Inc., Bulletin 1374, Item 2.

In this connection it might be well to note that the court stated in Murphy's Tavern, Inc. v. Division of Alcoholic Beverage Control (App.Div. 1961), 70 N.J. Super. 87 (reprinted in Bulletin 1395, Item 3):

"It should not be thought that the court is callous to the problem of the homosexual, medically or socially. The public interest in tight control over the liquor business, In re Olympic, Inc., 49 N.J. Super. 299, 306 (App.Div. 1958), certification denied 27 N.J. 279 (1958), involves, however, neither the curative approach of the physician nor the analytical view of the sociologist. The primary concern in this regard is maintenance of accepted standards of public decency and morality, and when these standards are, as here, impinged upon, proper sanctions are not only justified but are demanded."

We next come to the matter of the congregation of these apparent homosexuals. This Division and the court have held that the congregation of persons manifesting these characteristics is sufficient foundation for an inference as to their actual condition and tendencies, and warrants punishment of any licensee who acquiesces in their assemblage upon his premises. Paddock Bar, Inc. v. Division of Alcoholic Beverage Control, supra. Such a result is justified by the Division's policy, supported in law and in its own long-term practice of thwarting reasonably apprehended sexual misconduct upon licensed premises in its embryonic stages. Cf. In re Schneider, 12 N.J. Super. 449 (App.Div. 1951), and Murphy's Tavern, Inc. v. Division of Alcoholic Beverage Control, supra.

The authority is well established for the premise that overt acts need not be committed nor are they the true measure in determining whether the pertinent rule has been violated. It has been consistently held that the congregation of such persons on liquor licensed premises constitutes a nuisance and, as such, is in violation of Rule 5 of State Regulation No. 20. As was stated in Re Hoover, Bulletin 1521, Item 1:

"Proper liquor control, bearing in mind that our primary responsibility is to protect the public welfare, dictates that the congregating of homosexuals or apparent homosexuals or males impersonating females on licensed premises be staunchly prohibited. The situation disclosed by the records in this case constitutes a nuisance and, as such, is a clear violation of Rule 5 of State Regulation No. 20 as alleged in the charge."

See also Carelis v. Division of Alcoholic Beverage Control, Bulletin 1393, Item 2 (aff'd by Appellate Division on Dec. 21, 1961, not officially reported, reprinted in Bulletin 1430, Item 1).

This is the significant reply to the contention of licensee's counsel that the charge should have been brought under Rule 4 rather than Rule 5 of State Regulation No. 20. The distinction here is the misconduct of permitting apparent homosexuals, as hereinabove described, to habitually and in inordinate numbers

(on several occasions as many as 150) congregate at the tavern. It is this proscribed activity which constitutes a nuisance within the contemplation of the rule. Paddock Bar, Inc. v. Division of Alcoholic Beverage Control, supra; Re Kaczka & Trobiano, Bulletin 1063, Item 1; Re Rutgers Cocktail Bar, A Corp., Bulletin 1133, Item 2.

Furthermore, I must reject the contention of the licensee's witness that normal persons entering into licensed premises accommodating a large congregation of apparent homosexuals had the alternative of either remaining or leaving the premises; that, if they remained, they were probably amused or had some other reason for so doing. The fact is that such congregation and conduct, as described by the Division's witnesses, may have a harmful effect on some members of the public and, thus, are a threat to the safety and morals of the public; and these persons should not be required to make the alternative decision as to whether to remain or leave. The careful supervision of the liquor business in the public interest requires that it be free from any such immoral acts or conduct which are contra bonos mores. In re Schneider, supra. I consider as tenuous, useless and without merit this witness' thesis that, unless these apparent homosexuals are contained or controlled in a tavern, they might express anti-social acts in the public toilets, parks or bath-houses. The tavern is not the proper place to contain or control such persons within the concept of the Alcoholic Beverage Law for the obvious reasons as expressed hereinabove.

We pass to consider counsel's contention that the licensee's constitutional rights would be violated, and it would be committing an illegal act in refusing to sell or serve liquor to the congregation of such individuals. This argument was disposed of in Re One Eleven Wines & Liquors, Inc., Bulletin 1656, Item 5. In that case the Director cited Re Plaza Hotel-O'Leary, Bulletin 188, Item 9, to the effect that a tavern owner may not refuse service to an individual because of his race, creed or color or for some cause or reason not "applicable alike to all citizens of every race, creed and color, and regardless of race, creed or color, or of previous condition of servitude", citing Shubert v. Nixon Amusement Co., 83 N.J.L. 101 (Sup.Ct. 1912). It was held that a licensee has an absolute right to refuse to sell or serve liquor to an unlawful congregation provided such refusal is not based on race, creed or color. He further pointed out that "The reason for this is that tavern keepers, like all liquor licensees, have great responsibilities under the law ...", and further citing Re Rollka, Bulletin 142, Item 4:

"The licensee is Master of his tavern. He who is responsible for the conduct of it has the right to decide for himself what behavior he shall permit."

He further cited State v. Lynch, 23 N.J.L.J. 45, wherein Judge, afterwards Justice, Fort held that a saloon was not a public place within the meaning of that term in "An Act Concerning Disorderly Persons." The court said:

"A saloon is not a public place. No one has a right to be or remain therein if the proprietor objects to his being there. Persons there, as in any other place of business, are mere licensees, subject to be ejected at the will of the proprietor."

See State v. Colgan (Sup.Ct. 1919), 92 N.J.L. 307.

The proposition that the congregation of apparent homosexuals may not be barred from licensed premises is frivolous,

and has most recently been rejected in Re Jo-Stem Corporation, Bulletin 1625, Item 2. To the same effect, see Re Kaczka & Trobiano, supra; Re V.M. & S., Inc., Bulletin 1345, Item 6; Re Bader, Bulletin 1073, Item 4.

I therefore conclude that the constitutional rights of this licensee have not been violated and that it would not be performing an illegal act in refusing to serve such patronage. Indeed, it would be acting in consonance with the Alcoholic Beverage Law in barring the congregation of apparent homosexuals.

The evidence sustains the conclusion that not only was this type of patronage not barred but was, indeed, encouraged, and these licensed premises appear to have gained quite a reputation far and wide as a place where such patronage was wholeheartedly welcomed.

After reviewing the entire record and the written argument of counsel, I conclude that the Division has established the truth of this charge by a fair preponderance of the believable evidence -- indeed, by substantial evidence -- and I recommend that the licensee be found guilty of said charge.

Although the licensee corporation has no previous record of suspension of license, the license then held by K & K Corp. for the same premises, in which Mildred S. Kusek (a 1% stockholder of the licensee corporation and holder of a purchase price security agreement) was the holder of five of eleven shares of stock, was suspended by the municipal issuing authority for twenty-five days effective February 8, 1953, for sale to minors and by the Director for fifty-five days effective October 6, 1964, for permitting apparent homosexuals on the licensed premises. Re K & K Corp., Bulletin 1588, Item 3.

It is therefore recommended that the prior record of suspension of license of K & K Corp. (to which the licensee corporation is linked by the stockholding and security interest of Mildred S. Kusek -- cf. Re Jervic, Inc., Bulletin 1603, Item 5; Re White Poodle, Inc., Bulletin 1530, Item 4; Re C.A.R. Corporation, Bulletin 1574, Item 8) for dissimilar violation in 1953 occurring more than five years ago be disregarded but that the prior record of suspension of license for similar violation occurring in 1964 within the past five years be considered, and that the license be suspended for one hundred twenty days. Re Charmac, Inc., Bulletin 1637, Item 1.

#### Conclusions and Order

Exceptions to the Hearer's report and argument thereto were filed by the licensee's attorney, pursuant to Rule 6 of State Regulation No. 16.

I find that the matters contained in the exceptions had been considered in detail by the Hearer in his report and that they are without merit. Consequently, having considered the entire record herein, including the exceptions filed, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions.

Accordingly, it is, on this 9th day of June, 1966,

ORDERED that Plenary Retail Consumption License C-225, issued by the Board of Commissioners of the City of Atlantic City to Val's Bar, Inc., t/a Val's Bar, for premises 114 S. New York Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1966, commencing at 7:00 a.m. Thursday, June 16, 1966; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 7:00 a.m. Friday, October 14, 1966.

JOSEPH P. LORDI,  
DIRECTOR.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )  
 )  
Mary Maione )  
t/a Jim's Tavern )  
Route #130 )  
Bordentown, N. J. )  
Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Bordentown. )  
----- )

CONCLUSIONS  
and  
ORDER

James F. McGovern, Jr., Esq., Attorney for Licensee  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 20, 1966, she sold mixed drinks of alcoholic beverages to two minors, age 19 and 20, in violation of Rule 1 of State Regulation No. 20.

Licensee has a record of suspension of license by the Director for ten days effective May 31, 1966 (currently in effect and terminating at 2:00 a.m. June 10, 1966) for similar violation. Re Maione, Bulletin 1682, Item 6.

The prior record of suspension for similar violation within the past five years considered, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Re Fun Fair Bowl, Bulletin 1625, Item 6.

Accordingly, it is, on this 8th day of June, 1966,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Bordentown to Mary Maione, t/a Jim's Tavern, for premises on Route #130, Bordentown Township, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Friday, June 10, 1966, and terminating at 2:00 a.m. Thursday, June 30, 1966.

JOSEPH P. LORDI,  
DIRECTOR.

3. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING DEFERRED SUSPENSION.

In the Matter of Disciplinary Proceedings against )  
 )  
172 Corp., t/a Fort Pitt Cafe, )  
170 South New York Avenue )  
Atlantic City, N. J. )  
Holder of Plenary Retail Consumption License C-40, issued by the Board of Commissioners of the City of Atlantic City. )  
----- )

SUPPLEMENTAL ORDER

Angelo D. Malandra, Esq., Attorney for Licensee  
Morton B. Zemel, Esq., Appearing for Division of Alcoholic  
Beverage Control

BY THE DIRECTOR:

On March 17, 1966, I entered an order herein suspending the current license for twenty days because of the farming out of the 1963-64 and 1964-65 licenses and deferring the effective date of the suspension because it appeared that the licensed business was not then being conducted. Re 172 Corp., Bulletin 1671, Item 9.

Report of recent inspection discloses that the licensed business is now being conducted. Consequently, I am satisfied that the deferred suspension may now be imposed.

Accordingly, it is, on this 9th day of June, 1966,

ORDERED that Plenary Retail Consumption License C-40, issued by the Board of Commissioners of the City of Atlantic City to 172 Corp., t/a Fort Pitt Cafe, for premises 170 South New York Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1966, commencing at 7:00 a.m. Thursday, June 16, 1966; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 7:00 a.m. Wednesday, July 6, 1966.

JOSEPH P. LORDI,  
DIRECTOR.

4. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT STILL AND EQUIPMENT ON PREMISES - STILL, EQUIPMENT, ALCOHOL AND MOTOR VEHICLE USED IN CONNECTION WITH OPERATION ORDERED FORFEITED.

In the Matter of a Seizure on )  
April 13, 1966 of a quantity of )  
alcoholic beverages, still parts, )  
including two pumps, a motor, oil burner, )  
copper coil and one 1957 Ford sedan, in )  
a 2½ story frame building on Route 54, )  
2/10 mile east of Second Road, in the )  
Town of Hammonton, County of Atlantic )  
and State of New Jersey. )

On Hearing  
CONCLUSIONS and ORDER

I. Edward Amada, Esq., Appearing for the Division of Alcoholic Beverage Control

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapters 1 and 2, Revised Statutes of New Jersey and State Regulation No. 28, to determine whether nine containers of alcoholic beverages, still parts, including two pumps, a motor, oil burner and copper coil, and a 1957 Ford sedan, more particularly described in a schedule attached hereto, made part hereof and marked Schedule "A", seized on April 13, 1966 in a 2½ story frame building on Route 54, 2/10 mile east of Second Road, in the Town of Hammonton, Atlantic County, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R.S. 33:1-66 and R.S. 33:2-5, no one appeared to oppose forfeiture of the seized property.

Reports of ABC agents and other documents in the file

disclose the following facts: As a result of a continuing investigation by ABC agents of an alleged still operation in a 2½ story, white, cinder block building located at the aforementioned premises, the agents obtained a search warrant from Atlantic County Judge Thomas W. Rauffenbart, authorizing a search thereof.

On April 13, 1966 the ABC agents, accompanied by New Jersey State Troopers proceeded to the building and observed a male drive up in a motor vehicle and enter the said premises. They also detected a strong odor of alcohol. They forced the rear door open which was used by this male in entering the premises and found one Dominic Noto stirring the mash vats.

Noto orally admitted that this was a still operation, and that he had performed certain electrical work in setting up the said still. He also had on his person a set of keys to the motor vehicle located in a parking lot; an examination of the said vehicle revealed jugs of alcohol and sugar granules. The motor vehicle was seized together with the still parts, described in Schedule "A", attached hereto.

Dominic Noto was thereupon arrested, charged with possession of an unregistered still in violation of R.S. 33:2-10 and possession of untaxed alcoholic beverages in violation of R.S. 33:1-50.

Charles Ripa was also arrested and charged with aiding and abetting in violation of R.S. 33:1-50(d). They were released in bail pending hearing in the Hammonton Municipal Court on the said charges.

Neither the still, nor any part thereof, is registered with this Division. The motor vehicle, which was especially equipped with heavy duty shock absorbers and heavy duty springs, was used in connection with the said still operation and contained untaxed alcoholic beverages.

The alcohol is illicit because it was manufactured illegally and without payment of tax on alcoholic beverages. Such illicit still, appurtenant equipment, and alcohol, seized on the premises, as well as the motor vehicle used in its transportation and in connection with its operation, constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(i and y); R.S. 33:1-2; R.S. 33:1-66; R.S. 33:2-5; Seizure Case No. 11,169, Bulletin 1556, Item 5.

Accordingly, it is DETERMINED and ORDERED that the Ford sedan, more particularly described in Schedule "A", annexed hereto, constitutes unlawful property and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66 and that it be offered for sale at public sale pursuant to State Regulation No. 29 and sold by the Director of the Division of Alcoholic Beverage Control if a bid satisfactory to him is obtained; and it is further

DETERMINED and ORDERED that the balance of the seized property, more particularly described in Schedule "A", attached hereto, constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66 and R.S. 33:2-5, and retained for the use of hospitals and State, county and municipal institutions, or destroyed, in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Dated: June 8, 1966.

JOSEPH P. LORDI,  
DIRECTOR.

SCHEDULE "A"

- 9 - containers of alcoholic beverages
- 2 - pumps; motor, oil burner; copper coil
- 1 - 1957 Ford sedan, Serial No. C73G242396,  
New Jersey Registration KXD779.

5. STATUTORY AUTOMATIC SUSPENSION - ORDER STAYING SUSPENSION.

Auto. Susp. #284 )  
 In the Matter of a Petition to Lift )  
 the Automatic Suspension of Plenary )  
 Retail Consumption License C-158, )  
 issued by the Board of Commissioners )  
 of the City of Passaic to )  
 )  
 Rosario Elmo )  
 t/a Club 296 )  
 296 Passaic Street )  
 Passaic, N. J. )

On Petition  
O R D E R

-----  
BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on April 11, 1966, licensee-petitioner was fined \$50 and \$5 costs in the Passaic Municipal Court after pleading guilty to a charge of sale of alcoholic beverages to a minor on April 8, 1966, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of petitioner's license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

It further appears that disciplinary proceedings are in contemplation but have not yet been instituted by the municipal issuing authority against the licensee because of said sale of alcoholic beverages to the minor. In fairness to petitioner, I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Kornblau, Bulletin 1662, Item 7.

Accordingly, it is, on this 7th day of June, 1966,

ORDERED that the aforesaid automatic suspension of license C-158 be stayed pending the entry of a further order herein.

JOSEPH P. LORDI,  
Director.

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

In the Matter of Disciplinary Proceedings against  
 )  
 )  
 Locust Grove Inn, Inc.,  
 t/a Locust Grove Inn  
 n/s Asbury Avenue  
 New Shrewsbury  
 PO RD #2, Neptune, N. J.,  
 )  
 )  
 Holder of Plenary Retail Consumption License C-2, issued by the Mayor and Council of the Borough of New Shrewsbury.  
 )

CONCLUSIONS and ORDER

-----  
 Joseph F. Mattice, Esq., Attorney for Licensee  
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 4, 1966 it sold four quart containers of beer to a minor, age 19, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Champion, Bulletin 1656, Item 8.

Accordingly, it is, on this 7th day of June 1966,

ORDERED that Plenary Retail Consumption License C-2, issued by the Mayor and Council of the Borough of New Shrewsbury to Locust Grove Inn, Inc., t/a Locust Grove Inn, for premises n/s Asbury Avenue, New Shrewsbury, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Tuesday, June 14, 1966, and terminating at 2 a.m. Friday, June 24, 1966.

JOSEPH P. LORDI,  
Director.

7. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #285  
 In the Matter of the Automatic Suspension of Plenary Retail Consumption License C-8, issued by the Mayor and Borough Council of the Borough of Netcong to  
 )  
 )  
 The Canteen, Inc.,  
 t/a Canteen Bar  
 85 Main Street  
 Netcong, N. J.  
 )  
 )

ORDER

BY THE DIRECTOR:

On June 3, 1966, Paul Hensby, vice-president of the licensee-corporation, was fined \$200 in the Morris County Court after plea of guilty to a charge alleging that he sold alcoholic beverages to a minor on January 1, 1966, in violation of R.S.33:1-77. Said conviction resulted in the automatic suspension of the license for the balance of its term. R.S. 33:1-31.1.

By order dated March 2, 1966, I suspended the license for thirty days, commencing March 9, 1966 and terminating April 8, 1966, in disciplinary proceedings involving, inter alia, a charge alleging that the licensee sold alcoholic beverages to the same minor. Re The Canteen, Inc., Bulletin 1667, Item 4. Under the circumstances, the suspension having been served, I shall, on my own motion, enter an order lifting the statutory automatic suspension. Re Triple T. Inc., Bulletin 1645, Item 6.

Accordingly, it is, on this 14th day of June, 1966,

ORDERED that the statutory automatic suspension of said license C-8 be and the same is hereby lifted effective immediately.

JOSEPH P. LORDI,  
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - PRIOR DIS-SIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
Yusko's Tavern, Inc.  
66 Easton Avenue  
New Brunswick, New Jersey,  
Holder of Plenary Retail Consumption License C-38, issued by the Board of Commissioners of the City of New Brunswick.

CONCLUSIONS  
and  
ORDER

-----  
Licensee, by Mary Hoffman, Secretary-Treasurer, Pro se  
Edward F. Ambrose, Esq., Appearing for Division of  
Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 13, 1966, it sold two quart containers of beer to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license for three days effective May 20, 1962, for sale during prohibited hours.

The prior record of suspension of license for dissimilar violation occurring within the past five years considered, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Wilson, Bulletin 1645, Item 7.

Accordingly, it is, on this 13th day of June 1966,

ORDERED that Plenary Retail Consumption License C-38, issued by the Board of Commissioners of the City of New Brunswick to Yusko's Tavern, Inc., for premises 66 Easton Avenue, New Brunswick, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1966, commencing at 2 a.m. Monday, June 20, 1966; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2 a.m. Tuesday, July 5, 1966.

JOSEPH P. LORDI,  
DIRECTOR

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

In the Matter of Disciplinary Proceedings against )  
 Kearny Yacht Club (A Corp.) )  
 427 Passaic Avenue )  
 Kearny, New Jersey )  
 Holder of Plenary Retail Consumption License C-11, issued by the )  
 Town Council of the Town of Kearny )  
 ----- )

CONCLUSIONS AND ORDER

Sarccone and Mascia, Esqs., by C. Robert Sarccone, Esq.,  
 Attorneys for Licensee.  
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on February 12, 1966, it sold mixed drinks of alcoholic beverages to a minor, age 19, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Champion, Bulletin 1656, Item 8.

Accordingly, it is, on this 27th day of June, 1966,

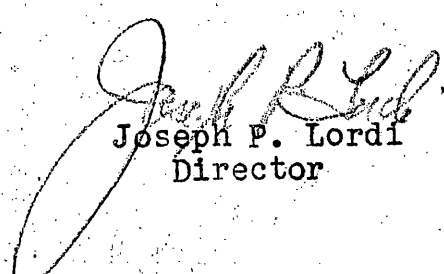
ORDERED that Plenary Retail Consumption License C-11, issued by the Town Council of the Town of Kearny to Kearny Yacht Club (A Corp.) for premises 427 Passaic Avenue, Kearny, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Sunday, July 3, 1966, and terminating at 2:00 a.m. Wednesday, July 13, 1966.

JOSEPH P. LORDI  
 DIRECTOR

10. STATE LICENSES - NEW APPLICATION FILED.

Home Beverage Inc.  
 824 E. St. George Avenue  
 Linden, N. J.

Application filed July 26, 1966 for place-to-place transfer of State Beverage Distributor's License SBD-59 from 732 E. St. George Avenue, Linden, New Jersey



Joseph P. Lordi  
 Director