

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

Ambrose

January 9, 1968

BULLETIN 1771

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Rahway) - LEWDNESS AND IMMORAL ACTIVITY (ROOM RENTING) - LICENSE SUSPENDED FOR 90 DAYS.

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1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY
(ROOM RENTING) - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary Proceedings against

Cross Keys Hotel & Rest., Inc.
37 W. Cherry Street
Rahway, New Jersey,

Holder of Plenary Retail Consumption License C-15, issued by the Municipal Board of Alcoholic Beverage Control of the City of Rahway.

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402/67
CONCLUSIONS
and
ORDER
revised 4/3/68
after not appernea
for the hearing
by County Council
or judge

Francis C. Foley, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On September 30 and October 7, and 11, 1966, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of arrangements for the renting of rooms, the offering to rent and the renting of rooms for the purpose of illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20."

Three ABC agents participated in the investigation which culminated in the preferment of the charge.

Agent G testified that, pursuant to specific assignments to investigate charges not related to the charge being tried, accompanied by Agent V, he entered the licensed premises, the first time on September 30, 1966 at approximately 8:20 p.m.

The building containing the licensed premises was described as "a three and four story hotel-type building." The first floor contains a barroom and a banquet area, and the basement contains a large barroom referred to as the "Go-Go" room. The upper floors contained hotel accommodations.

Upon entry the agents positioned themselves at the large bar in the downstairs "Go-Go" room to the right of the stage. Three males were tending bar, one of whom was referred to as Tony (later identified as Anthony Hanigoski). The agent and Tony engaged in conversation and, after the agent asked Tony whether he had his own pad, Tony replied that "there were plenty of rooms upstairs."

Agent G, again accompanied by V, revisited the licensed premises on October 7, 1966 at approximately 9:45 p.m. and sat at the upstairs bar. Tending bar was a male identified as Joseph Blanco. The witness noted "Behind the bar there was a piano, telephone, and what appeared to be several books, like hotel registers, and attached to the wall behind the piano was a slotted box, like an index box, with numbered slots."

Continuing, the agent testified, "Some of the slots appeared to have cards in them."

The testimony developed the following:

- "Q Did you have conversation with him [Joseph Blanco] ?
 A Yes. After he served us we asked Joe --
 Q Instead of saying 'we' say whether you did.
 A I asked Joe, 'Who rents the rooms?' He answered he does. I asked him how much he charges for the rooms. He said, 'Five dollars for a single and nine dollars for a double.' In conversation I asked him if there was a private entrance because we had a couple of scum bags we wanted to bring up, and he said, 'Yes.' He was asked if we could obtain rooms for next Tuesday because we had a date with a couple of girls and wanted to get laid. He told us that he comes on duty at six-thirty p.m. and he could take care of us any time after that.
 Q Did you ask him anything in particular with respect to the rooms?
 A In conversation we -- I asked him if we could have two single rooms, and he told us --
 Q Did you say for how long?
 A Just to get laid. -- and he told us we could have a single room or double room for -- he said we could all pile in one room and have an orgy, and he added, 'Be my guest.'"

The agents departed from the barroom at approximately "11:30, 11:45."

On October 11, 1966, ABC Agent D collaborated with Agents G and V in conducting the investigation of the licensed premises. At approximately 10 p.m. G and V entered the downstairs "Go-Go" room. G had in his possession two marked five-dollar bills. The agents departed from that room at approximately 11 p.m., contacted D outside, and then entered the upstairs barroom and positioned themselves at the bar. Joseph Blanco was on duty catering to several males and females seated at the bar.

The questioning proceeded as follows:

- "Q When you approached the bar was there any exchange between you?
 A Yes. As we entered the barroom and proceeded to the bar and took positions at the bar we exchanged greetings with Joe, and he came over to us and he said, 'I got a couple of rooms for you.' We said, 'O.K., fine.' Then we ordered a drink. Joe came back with the drinks. He served us. Then I asked Joe if we had to sign some kind of book. Joe went over to the back bar and from an area there he took

two cards, and he came over to the bar, and he laid them on the bar in front of us along with a pen, and he said, 'Here, fool around with these a while.'

When questioned as to the data he wrote on the card, the agent responded:

"Dean Martin. I put down the name 'Dean Martin,' and I filled in the street, 'Care of Hollywood,' capital 'C,' and alongside the word 'city' I put down California, and state, opposite state, I put 'California.' Where it says 'car license' I filled in, '1, 2, 3, 4, 5, 6,' and alongside of where it says, 'make of car' I wrote in, 'Caddy.' Where it says, 'number in party,' I put down, '2,' and I circled it."

He saw Agent V write on his card the name "John Dempsey" and alongside street "745 Wilson Street" and alongside the city the letters "N.J." alongside car license "1, 2, 3, 4, 5, 6" and a letter. Blanco read the cards and remarked, "Dino, baby! ... They are all here tonight." Both cards were admitted in evidence. Blanco entered the surnames, which corresponded with the names the agents had written on the cards, in a registry book. The book was admitted in evidence. Blanco asked payment of \$10 plus 30¢ tax, and payment was made by handing Blanco the two marked five-dollar bills and 30¢. After receiving payment Blanco separated a stub (containing a corresponding number) from each card. Blanco "filled in the stubs." Each stub bore the initials "JB." The stubs were received in evidence. In addition to the stubs, each agent received a key. The witness received key No. 26 and Agent V received key No. 41.

The questioning concerning the agents' contact with Blanco then proceeded as follows:

"Q Were you served?

A Yes. He served us drinks as we ordered them.

Q Being served did you have any further conversation or ask him anything in particular?

A Yes. After we had finished filling out these cards and received our keys I asked Mr. Blanco, I said, 'Do we need suitcases?' He laughed and he said, 'I just saw you take them up.'"

Concerning a slip of paper admitted in evidence (containing Agent G's handwriting), the agent testified as follows:

"Shortly after the conversation about the suitcases I asked Mr. Blanco if he would give me a piece of scratch paper as I wanted to write a note. He gave me a piece of paper and gave me a pen. On the paper I wrote, 'Girls, Dean in Room 26. Jack in Room 41.' I handed it to Mr. Blanco, and I asked him when the girls come in and ask for Dean would he give them this note. He said, 'Yes.' He took this and put it on the till, on the top shelf of the register, and he turned and said, 'I am afraid what these girls are going to look like.'"

In response Agent G said, "We are going to shack up; we are not going to marry them."

Shortly thereafter G departed from the barroom and re-entered after contacting D. He then proceeded upstairs and, upon finding Room 26, he entered therein alone.

After a short interval G opened the door in response to a knock and saw Agent D in the hallway, accompanied by the bartender Blanco and Officer Henderson of the Rahway Police Department. Agent D identified himself to G and asked G what he was doing there. Upon showing the receipt and advising him that he had rented the room for a while, D asked G as to whether he was alone. When D questioned G as to whether it was his wife, G replied "No. I was waiting for a girl.... No. I was just going to shack up." In response to D's inquiry directed to Blanco, "Did you know this?" Blanco replied "That was the impression I got when I rented the room."

Immediately thereafter a Mr. Anthony Cerami (identified as the major stockholder of the licensee corporation and in active management of the licensed premises) came in the room and asked "What is going on?" ABC Agent D informed Cerami that he was checking some rooms, and then related the conversation quoted hereinabove. Agent D informed Cerami that he wanted to check another room. The group proceeded elsewhere in the building and G proceeded to a large lobby downstairs. Later the group, which now included Agent V, assembled at a table in the "lobby or dining room." After Cerami asked "What is going on?", G testified:

"We all identified ourselves to Mr. Cerami as the ABC. At this time I informed him what had transpired, renting the rooms, that it was a violation. I explained to him we had been there as I just now testified previous. I explained to him what had transpired, the conversations with Mr. Blanco, he knew what we were doing renting out the rooms, and here we are. And he said, in other words, 'This is a frame.' and there was some words I don't remember exactly after that but then Mr. Cerami turned to Mr. Blanco, and he said, 'Is that right?' to Joe, and Joe just hung his head. Then Mr. Cerami said, 'I work my ass off for this place, and you do this to me?'"

On cross examination Agent G testified that he was specifically assigned to investigate allegations of "sales to minors, it was go-go girls available for immoral purposes, and go-go girls performing in lewd or indecent manner."

He reiterated that, on the night of October 11, 1966, Blanco said "I've got a couple of rooms for you" after an exchange of greetings and prior to the agent making any reference thereto.

The agent admitted that none of the other rooms was checked on the night of October 11, 1966, and that no

rooms were checked on the night of October 7 or September 30.

Later, the following testimony was elicited on cross examination:

"Q Did you talk to Joe [Blanco] with respect to the go-go girls?

A No, sir.

Q What was your purpose in asking about the renting of the rooms?

A Well, in conversation with Mr. Hanigoski where he led us to believe rooms could be rented for immoral purposes, and we then proceeded upstairs to find out who rented the rooms and if they could be rented.

Q When you broached the subject to him did you ask him if the rooms could be rented, as you set forth, for immoral purposes?

A The opening questions that I asked Mr. Blanco in reference to the rooms being available did not include, 'Were they available for immoral purposes?'

Q In other words, you just wanted to know whether or not there were rooms available to be rented in that hotel?

A The very first question was in reference to rooms being available in the hotel, yes, sir.

Q Who broached the discussion or conversation with respect to immoral purposes?

A I think I did.

Q You are sure it was yourself and not V?

A I asked Mr. Blanco about the rooms being available. Then we got in the discussion on single and double rooms. I am thinking out loud. I asked Mr. Blanco about taking girls up. So, I, to the best of my recollection, I broached this to Mr. Blanco in reference to taking girls up to the rooms.

Q Your purpose in asking that question was to obtain a violation of the ABC rules?

A The purpose in asking the question was to establish if this was happening because at any time he could say 'No' and until he says 'No' we pursued this particular investigation."

The matter of bringing females up to the rooms was not broached until the price of the rooms was established. Later, the testimony revealed the following:

"Q Do I understand it was you and not V that broached the subject of girls?

A Yes, sir.

Q What was it you said the first thing to this bartender, Joe, with respect to girls?

A That we each wanted a single room because we wanted to bring a couple of girls up and we didn't want to be all in the same room.

Q How long was it after you struck up conversation with him this question was asked?

A This was all within a period of time. I would have to think of it. About five minutes, give or take a minute. It was all in the same conversation.

- Q Were you joking with this man?
A Was I joking?
Q Yes.
A No. I wasn't joking.
Q Did you use the word 'scum bag' on your first opening to him with respect to girls or was this in a subsequent conversation?
A No. Investigator V used that phrase, and that came when I told Mr. Blanco we wanted two rooms separate, two singles, and we didn't want to be in the same room. Then V said -- this is when he entered into this -- he said, 'We've got a couple of scum bags.'"

Additional cross examination elicited the following:

- "Q This Joe, Mr. Blanco, he did not push the renting of rooms to you, did he?
A He did not offer it.
Q All of the conversation you had with him was for the purpose of getting him to rent a room to you for immoral purposes?
A No, sir. The conversation was to find out if there were rooms available to be rented for immoral purposes. We did not get him to where you may say 'force.' We did not use any trickery or force.
Q You did not ask him if rooms were rented in the past for that purpose, did you?
A No, sir.
Q You had no information rooms were rented for that purpose in the past?
A Yes, I did.
Q Is that referred to in your report?
A Yes, sir.
Q Tell me where it is referred to in your report.
A In the last paragraph where it says, 'Your agents in conversation with Tony learned that rooms above the premises could be rented out for a short stay for immoral purposes. Your agents did not pursue this during this investigation as your agents did not want to leave this area of the premises.' That is where it says that.

Later the agent testified that Tony Hanigoski told him that the room-renting was done upstairs, "he did not handle it." The agent did not ask Hanigoski concerning the use of the rooms for immoral purposes and that anything in his report of activity or testimony concerning Hanigoski was his conclusion of what Hanigoski said to him.

On redirect examination the agent testified that to his original assignment was added the additional direction to "follow up the lead of the renting of the rooms."

ABC Agent D testified that he was assigned to participate in the investigation of the licensed premises with Agents G and V. Pursuant thereto he accompanied the agents to the licensed premises on October 11, 1966, and arrived in

the vicinity at 9:50 p.m. Agent G had two marked five-dollar bills in his possession. Agents G and V first entered the downstairs area and emerged therefrom at approximately 11 p.m. They went to the upstairs portion, emerged at approximately 11:25, spoke to D, and then re-entered the upstairs area. Pursuant to a call that D made to the Rahway Police Department, Officer Barry Henderson joined D in the investigation at approximately 11:30 p.m. D and Henderson proceeded to the upstairs bar. Concerning his confrontation with Blanco, he testified as follows:

"I identified myself to Mr. Blanco as an inspector of the Division of Alcoholic Beverage Control, and I told him Patrolman Henderson and myself were in the process of investigating renting rooms for immoral purposes. I asked him did he rent any rooms this evening. He said, 'Yes. Four of them.' I asked him if they were in any kind of register or guest book. He got a register and pointed out four names in the register of people he had rented rooms to this evening."

Continuing, the agent testified that Blanco pointed out that the last two names recorded on page 39 of the Register Book were Dempsey and Martin and that, upon examination of the contents of the cash register, he found the two marked five-dollar bills hereinabove referred to. Upon the agent's request, Blanco directed the agents and Officer Henderson to Room No. 26. When asked what occurred at Room No. 26, the testimony of the agent proceeded thusly:

"A I knocked on the door, a voice from inside asked, 'Who is it?' I said, 'It is the manager,' he opened the door, and Investigator G was standing there in the doorway, and I proceeded to question him.

Q Tell us what you said to him and what he said to you.

A I asked him what is he doing here. He said he was waiting for a girl. I asked him was it his wife. He said, 'No. I am only going to shack up for a while.' I turned around to Mr. Blanco, and I asked him if he was aware of this. He stated that 'This was the impression I was under when I rented him the room.'"

After Cerami entered upon the scene, D requested Cerami to direct him to Room No. 41. In the presence of the agent, Blanco and Officer Henderson, Cerami opened the door to Room No. 41, using a key. In response to the question "What happened at Room 41?", the agent replied:

"When he opened the door Investigator V was standing there. I questioned him as to what he was doing there. He said he was waiting for a girl. I asked him if it was his wife. He said, 'No.' I says, 'What are you going to do in the room?' He says, 'I am going

to get laid when the girl gets here.' At that time I informed Mr. Cerami and Mr. Blanco both of these individuals were agents of our Division and we immediately went downstairs."

Thereafter the entire group proceeded to the dining room adjoining the upstairs bar, and sat around a table. The testimony proceeded as follows:

"Q What did you tell him [Cerami] ?

A I told him during the course of investigation we were in receipt of information rooms were available for immoral purposes, and I proceeded to tell him we went about to establish whether this was a matter of fact or not. I told him Investigators G and V came in this evening and they rented rooms for these immoral purposes from this bartender Mr. Blanco.

Q Where was Mr. Blanco?

A He was right there.

Q Continue.

A I told him the entire situation as to marked money, and he was present when we went to V's room, and I informed him what transpired with G. When I completed telling him exactly what happened, what transpired, he said, 'In other words, this is a frame,' and I told him, 'No. All your bartender had to merely say was "No" when he was aware rooms were going to be used for immoral purposes.'

Q What, if anything, did Mr. Cerami say or do at that time?

A At that time he just pushed his chair back and was looking at Joe, and he said, 'Thanks, Joe. Thanks a lot. I work my ass off and this is what I get,' and Joe just hung his head down.

Q Did Joe make any response?

A He dropped his head."

In the presence of Cerami, Blanco admitted that the registration card bearing the name "Dean Martin" was filled out by Agent G, and the other card bearing the Dempsey name was filled out by V. The note purportedly addressed to the females that the agents were meeting (prepared by Agent G) was found on top of the cash register. Blanco admitted that he entered the names "Martin" and "Dempsey" into the registry book.

On cross examination the agent testified that Blanco pointed out two additional names of persons to whom he had rented out rooms and the room numbers assigned to each on the same night. Those rooms were not checked out for illegal activity. He observed no illegal conduct other than what he had observed at the rooms assigned to the agents. The remainder of the agent's testimony was corroborative of the testimony elicited on direct examination.

V testified that in September and October of 1966, while employed as an investigator by the Division of

Alcoholic Beverage Control, he participated in the investigation of the charge which is the subject matter of the instant proceedings. In essence, V's testimony corroborated the testimony given by ABC Agent G relative to the occurrences of September 30, October 7 and October 11, 1966.

On October 11 V registered for a hotel room and, upon receipt of key to Room 41 from Blanco, he proceeded to Room 41. Hearing a knock on the door, he opened it and saw Agent D, Officer Henderson and Cerami. V then testified as follows:

- "Q What happened when you opened the door?
 A Inspector D asked me what was I doing there, and I said, 'I am waiting for a girl.' And he says, 'Your wife?' and I said, 'No, it isn't my wife. He said, 'What are you going to do?' I said, 'I am going to get laid.'"

After the group, including Agent G, assembled in a "meeting hall in the bar", V's testimony reflected the following:

- "Q Was there some conversation among the group?
 A Mr. Cerami said to Joe, 'I work my ass off for this place, and you do this to me!'
 Q What, if anything, did Mr. Blanco say or how did he respond to that?
 A He didn't say anything."

On cross examination the witness admitted that he and G engaged in conversation with Blanco in order to get him to rent rooms for immoral purposes and that Blanco said nothing prior to the conversation to indicate that the premises were available to be rented for immoral purposes, and the conversation which he and G had with Blanco was conducted in a "joking manner."

On redirect examination the witness testified as follows:

- "Q Although the conversation was in jocular vein were you sincere in your investigation?
 A Well, definitely we were sincere.
 Q What was your purpose in asking these questions, Mr. V?
 A To see if we could make Mr. Blanco rent us a room."

In defense of the charge the licensee called on its behalf Barry Henderson who was employed as a patrolman by the City of Rahway. During the period of time mentioned in the charge he was employed five nights a week. Pursuant to official order, he visited the licensed premises five nights a week.

On the night of October 11, 1966 he was detailed to assist ABC agents in their investigation of the licensed premises. He met Agent D who explained to him that there was a possible violation "of using rooms for immoral purposes" and he wanted to check a cash register for two marked five-dollar bills. Agent D identified himself to Blanco and, upon check-

ing the cash register used by Blanco, they found the two marked five-dollar bills. D informed Blanco of the alleged violations, and Blanco said he would like to have Cerami present. Cerami was informed by D upon entering the upstairs bar that he wanted to check some rooms. Cerami was "shocked" and said, "You can check any room in the place." The group first proceeded to Room 26. From there the group proceeded to Room 41. Cerami repeatedly stated, "You can check any room." The officer stated that he had no knowledge of such activities being carried on at the licensed premises, Cerami was always cooperative with the police in the performance of their duties and he was surprised to learn of the alleged violation.

On cross examination the witness admitted that he "had heard" that prostitutes frequented the premises. When Agent D apprized Blanco of the alleged violation, Blanco "didn't say anything." When Cerami addressed himself to Blanco to the effect "I work my ass off for this place. Thanks a lot", Blanco made no response.

Later the witness testified that he had no information or knowledge that the licensed premises was a "hangout" for prostitutes.

Agent P, of the Division of Alcoholic Beverage Control, was next called as a witness by the licensee. He testified that, prior to September 30, 1966, ABC agents had been originally assigned to investigate complaints of alleged immoral activity by "Go-Go" girls, indecent performances and sales to minors. After Agents G and V handed in their report subsequent to the investigation which they conducted at the licensed premises on September 30, 1966, the agents were requested to follow through on an assignment relative to the renting of rooms for immoral purposes.

After identifying himself as a part-time employee of the licensee corporation (working evening hours), Joseph Blanco testified as follows:

"Q Did you ever prior to the 11th day of October, 1966, rent a room in that premises to any one for immoral purposes?

A No, sir."

He then testified that the hotel is used mainly by permanent residents and usually there are only one, two or three rooms available for transient guests. Agents G and V might have been at the bar on Friday night, October 7, 1966; however, he did not recall offering to rent them rooms on that night. Concerning the occurrence of October 11, 1966, Blanco admitted renting the rooms to ABC Agents G and V, and then testified as follows:

"Q After you rented the rooms to them and they filled out the cards what conversation took place?

A I don't recollect the exact wording, but I believe these gentlemen were talking in risque conversation. I just threw comments back at them. The con-

versation starts with their line, and I throw back the line. If it is conversation in risque line, I believe that is part of my job to keep the customers entertained.

Q Was sex the predominant theme of the conversations these people carried on with you?

A Yes, it was. I stated it was risque conversation; whether sex or sex in general I couldn't say.

Q What did they indicate to you with respect to using the rooms?

A Exactly what they indicated?

Q Yes.

A They alleged they were going to have some women in the place. I didn't pay much attention. It was all kept very light."

On cross examination the witness first stated that he couldn't specifically recollect that the agents were in the establishment on Friday night, October 7, 1966. Later the testimony elicited the following:

"Q We are talking of the night of October 7. You now remember they were at your bar?

A Yes."

Thereafter he testified as follows:

"Q There is no question and you do admit on October 11 you rented two single rooms one to each of these agents?

A Yes.

Q Do you also admit they told you each one of them was going to bring a girl into the room?

A After they had the rooms rented, yes. I don't know how the exact conversation went. They allowed it to be, you know.

Q At least before they went upstairs you knew they were going to bring some women who were not their wives into the rooms for the purpose of sexual intercourse?

A I knew them stating this. To begin with, these men came in in light manner, something carried on, and sometimes people say things that are not necessarily true, they are just talking.

Q In any event, Mr. Blanco, after they did bring this to your attention, whether before or after they rented the rooms, what, if anything, did you do to stop them from following through on anything like that? Anything at all?

A Nothing. I didn't believe they were going to actually carry it out.

Q Didn't Mr. Cerami say to you, 'This is a fine thing you are doing to me. I work my "a" off and you do something like this to me'?

- A He said something to that effect, yes.
- Q At no time did you say anything like 'What these agents are telling you is not true'? You didn't deny it, did you?
- A I didn't agree with it, either.
- Q You didn't express that you didn't agree with it, did you?
- A No, I didn't express it."

He recalled one of the agents handing him a card in which he had filled in the name "John Dempsey" and an address "745 Wilson Street, New Jersey." He did not question as to where Wilson Street was located. When interrogated as to whether he questioned the car license "1, 2, 3, 4, 5, 6", he replied, "I didn't make a thorough examination of the card."

Interrogation of the witness concerning the card bearing the name "Dean Martin" revealed the following:

- "Q Who filled this in?
- A I guess the inspector who didn't fill out the other one.
- Q Mr. G?
- A Yes.
- Q In the street address it says, 'Care of Hollywood. City California.'
- A Yes.
- Q Did you ever hear of a city 'California'?
- A I didn't thoroughly inspect the card.
- Q Who is Dean Martin?
- A The alias used by one of the inspectors.
- Q It is his alias?
- A Yes.
- Q Dean Martin is a famous singer?
- A I believe so.
- Q You knew this gentleman wasn't Dean Martin?
- A I didn't know he wasn't Dean Martin. I knew he wasn't the same singer.
- Q Did you make any expression to the agents after you took the cards back?
- A Yes. I thought it was a humorous coincidence.
- Q What did you say?
- A I don't recollect."

Blanco concluded his testimony as follows:

- "Q When the agents brought home to your attention in whatever manner you say they brought it home to you that they might bring girls into the rooms do you remember how Mr. G said it to you?
- A No.
- Q Did he say it this way, 'We're only going to shack up. We're not going to marry them'?
- A He might have. The conversation was very risque. I wasn't paying too much attention.

- Q Just prior to that did you precede that statement with any statement of your own?
- A If I can't recall the exact statement how can I?
- Q Did you say to them, 'I am afraid to see what they are going to look like'?
- A It sounds like something like that."

John J. Sinnott testified that he is in the fuel oil business and his place of business is located adjacent to the licensed premises. In the winter months he is at his place of business six or seven days a week "from 7, 7:30 in the morning" to "10 or 11 at night." He never observed any conduct which would indicate that the licensed premises had been used for immoral purposes or the renting of rooms for immoral purposes. He frequents the bar "a couple of times a week, something like that." He observed Cerami's sons help out at the hotel. After the charges were publicized in the newspaper, business dropped off.

On cross examination the witness admitted that he sold oil to the licensee. He hadn't "seen anything wrong", nor had he looked particularly.

In concluding his testimony the witness testified that Cerami operates his business "very well."

Warren W. Argentiore, who was employed as a detective in the Police Department of the City of Rahway, testified that his hours of duty run from 4 p.m. to midnight, and that he regularly visits places licensed to sell alcoholic beverages. He visits Cross Keys Hotel "almost every night" that he is on duty. He visits all areas of the licensed premises and has never observed any conduct which would indicate that the licensee was renting rooms for immoral purposes. When asked for an opinion as to whether the reputation of Cross Keys (prior to the time the charge appeared in the newspaper) was good, bad or indifferent, the witness replied "indifferent, as far as I am concerned." As to the upstairs bar, he characterized it generally as a neighborhood type bar, and its reputation "good."

On cross examination the witness admitted that he was not in the licensed premises on the night of October 11 into the morning of October 12, and had no knowledge of the alleged occurrence.

Anthony Cerami (the major stockholder of the licensee corporation and actively in charge of the operation of the business conducted by the licensee) testified that he was the "owner" of the establishment "almost six years." He considered his hotel business to be residential and not transient, "there is seldom more than four or five rooms open." He developed a dinner and banquet trade and brought in entertainment at the establishment. His wife and children assisted him in the operation of the business. The bartenders were authorized to serve as "hotel clerks." He cautioned his employees against allowing the "younger or rougher element" in the premises and not to allow "immoral acts on the premises or in our rooms." As a result of the newspaper publicity relative to the alleged violation, most of his banquet business was cancelled.

Cerami's testimony concerning his contact with the

ABC agents on the night of October 11, 1966, proceeded as follows:

- "Q What, if anything, did you say to them [ABC agents] with respect to the examination of the rooms in your hotel?
 A I told them to go into every room in the hotel and check every room in the hotel if they wanted to check to see every one there.
 Q Did they accept that request?
 A Partially.
 Q What?
 A They asked me to go to the other room they had rented.
 Q This is when you characterized it to them as a frame?
 A Yes. They wouldn't go into any others. They said they had enough."

On cross examination Cerami testified that Joseph Blanco was his "upstairs bartender" on the dates mentioned in the charge and had authority to rent rooms. Blanco is still in the employ of the licensee. Some rooms rented for \$3, some for \$5 and some for \$9.

I have related a large quantum of the essential testimony in order to develop a proper perspective in deciding the legal and factual matters involved herein.

In essence, licensee argued (1) there is insufficient evidence to sustain a finding of guilt, and (2) licensee was entrapped into committing the alleged violation.

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

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

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

I have had an opportunity to observe the demeanor of the witnesses as they testified and have made a careful analysis and evaluation of their testimony.

After carefully considering all of the evidence adduced herein, I am of the opinion that the Division has established the truth of the charge (in so far as it pertains to the date of October 11, 1966) by a fair preponderance of the evidence, and failed to establish the truth of the charge for the dates of September 30 and October 7, 1966.

It is my view that Blanco's actions clearly and overwhelmingly established his misfeasance and guilt. The data written on the registration cards by the ABC agents was patently fictitious.

Blanco's remark "Dino, baby" buttresses my view that he knew the names were fictitious. Additionally, Blanco's answer "I just saw you take them up" in response to ABC agent G's question "Do we need suitcases?", his acceptance of the note purportedly written to the "girls" combined with Agent G's oral message to Blanco to the effect that, when the "girls" asked for Dean, would he (Blanco) give them the note; and, finally, the repartee engaged in by Blanco and Agent G wherein G stated, "We are going to shack up; we are not going to marry them" to Blanco's remark "I am afraid what these girls are going to look like", justify my view that Blanco was well aware that the rooms were being rented for the purpose of illicit sexual intercourse in violation of the rule as charged.

It is pertinent to point out, in this connection, that it was Blanco who entered the names "Dempsey" and "Martin" and the respective room numbers assigned to each in the hotel register book. Additionally, it must be noted that the testimony of the agents, which was corroborated by the testimony of Patrolman Henderson and by Blanco's own testimony, reflected that Blanco made no response when Cerami exclaimed to Blanco "I work my ass off for this place. Thanks a lot."

Equally untenable is the licensee's defense of entrapment. Although no room-renting was consummated on October 5, the testimony of Agent G (supra) clearly establishes that Blanco was predisposed to renting rooms for the purpose of illicit sexual intercourse. A review of Blanco's testimony on cross examination fortifies my view that the ABC agents did not resort to entrapment.

The solicitation by the representatives of the Division was readily accepted; their activity, although planned in advance, merely afforded the licensee's employee the opportunity to perpetrate in specific instances what the evidence indicates he was prepared to do as a matter of routine practice. See State v. Rosenberg, 37 N.J. Super. 197 (App. Div. 1955), certif. denied 20 N.J. 303 (1956). See also Highlander Hotel Corp. v. Div. of Al. Bev. Con. (App. Div. 1963), not officially reported, reprinted in Bulletin 1533, Item 1.

I find no evidence from which it could be inferred that the agents implanted an unlawful design in the mind of the licensee's employee or that they practiced any trickery, persuasion or fraud to induce him to commit a wrongful act. The agents did not envisage the offense, plan it, and activate its commission by one not theretofore intending its perpetration. They did not lure or entrap the employee into committing an offense which he otherwise would not have committed. Rather, the agents, acting in good faith and in the

pursuit of their duties, merely furnished the opportunity for commission of the offense. The mere solicitation to rent rooms for immoral activity was not in itself an entrapment. The rationale of Masciale v. United States, 356 U.S. 386, 78 S. Ct. 827 (1958), affirming 236 F 2nd 601 (2 Cir. 1956), rehearing denied 357 U.S. 933, 78 S. Ct. 1367 (1958) is applicable. Hence, under the principles of established law, as above indicated, there was no entrapment herein.

Finally, it may be well to emphasize that, in disciplinary proceedings, a licensee is fully accountable for all violations committed or permitted by his servants, agents or employees. Knowledge on the part of the employer is not a prerequisite to a finding of guilt where an employee participates in the misdeeds. Rule 33 of State Regulation No. 20. Cf. In re Schneider, 12 N.J. Super. 449 (App. Div. 1951).

After carefully considering and evaluating all of the evidence adduced herein, and the legal principles applicable thereto, I conclude that the Division has proved its case by clear and convincing testimony and by a fair preponderance of the credible evidence.

I therefore recommend that the licensee be found guilty of the charge in so far as it refers to the date of October 11, 1966, and not guilty of that portion of the charge which refers to the dates of September 30 and October 7, 1966.

The licensee has no prior adjudicated record of suspension of license. I further recommend that the license be suspended for one hundred eighty days. Re Edna W. Fuller Company, Bulletin 1545, Item 3.

Conclusions and Order

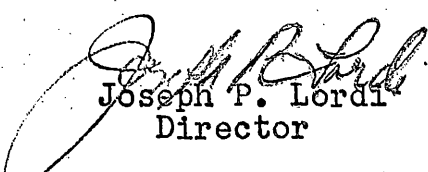
Written exceptions to the Hearer's report and argument thereto were filed by the licensee's attorney, pursuant to Rule 6 of State Regulation No. 16.

I find that the matters contained in the exceptions have either been considered in detail by the Hearer in his report or 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 herein but, in view of all the circumstances here present, I shall suspend the license for ninety days.

Accordingly, it is, on this 14th day of November, 1967,

ORDERED that Plenary Retail Consumption License C-15, issued by the Municipal Board of Alcoholic Beverage Control of the City of Rahway to Cross Keys Hotel & Rest., Inc. for premises 37 W. Cherry Street, Rahway, be and the same is hereby suspended for ninety (90) days commencing at 2:00 a.m. Tuesday, November 21, 1967, and terminating at 2:00 a.m. Monday, February 19, 1968.


Joseph P. Lordi
Director