

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

BULLETIN 1651

December 27, 1965.

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

December 27, 1965.

BULLETIN 1651

1. APPELLATE DECISIONS - EV-MAR CORPORATION v. PATERSON.

EV-MAR CORPORATION,	)	
t/a SURFSIDE CLUB,	)	
	)	
Appellant,	)	
	)	
v.	)	ON APPEAL
	)	CONCLUSIONS
	)	AND ORDER
BOARD OF ALCOHOLIC BEVERAGE	)	
CONTROL FOR THE CITY OF	)	
PATERSON,	)	
	)	
Respondent.	)	

-----  
Anthony R. LaDuca, Esq., Attorney for Appellant  
Adolph A. Romei, Esq., by William J. Rosenberg, Esq., Attorney  
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This is an appeal from the unanimous action of respondent whereby on February 24, 1965, it suspended appellant's plenary retail consumption license for thirty days effective March 8, 1965. The suspension was imposed when appellant was adjudged guilty of sale, service and delivery of alcoholic beverages to a minor on February 4, 1965, and on said date allowing, permitting and suffering consumption thereof by said minor on appellant's licensed premises, in violation of Rule 1 of State Regulation No. 20. Appellant's premises are located at 22 Hamilton Street, Paterson.

Upon the filing of the appeal an order dated March 5, 1965 was entered by the Director staying the effect of respondent's order of suspension pending the determination of said appeal.  
R.S. 33:1-31.

Appellant alleges in its petition of appeal that the action of respondent was erroneous in that:

"(A) The minor, Colleen ---, falsely represented herself in writing to be of age.

(B) That the minor's appearance was such that an ordinary prudent person would believe her to be of age.

(C) That the sale was made in reliance upon such written representation and appearance and in the reasonable belief that the minor was of age.

(D) That the representation made in writing by the minor was prior to the time of sale or service to said minor.

(E) That said writing was signed by the minor in the presence of an employee of the licensee and said writing contained the name, address, age, date of birth and a representation by said minor that she signed said writing to induce the licensee to make the sale of alcoholic beverages to her. After said writing had been signed by the minor, the appellant required the said minor to identify herself and in furtherance thereof said minor produced a driver's permit and a birth certificate."

Respondent in its answer denies the allegations set forth in appellant's petition of appeal and contends that the finding of guilt was based on the evidence adduced before said Board.

There is no dispute that Colleen (19 years of age) was served and permitted to consume a drink containing an alcoholic beverage on February 4, 1965.

The only issue to be resolved is whether appellant has established a defense under the provisions of R.S. 33:1-77 which provides:

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

Colleen testified that prior to the date in question, she had visited appellant's premises; that the first time she was served alcoholic beverages was on December 5, 1964. On that date, before service of alcoholic beverages, she exhibited a birth certificate and a driver's permit showing the name of Susan Gallo, whereon the date of birth was October 4, 1943. She said that, after representing to the waitress and Joseph Piccino (the bartender) that she was Susan Gallo, Piccino instructed the waitress to have her sign a statement regarding her age. Colleen testified that she represented in the statement that she was born October 4, 1943, and signed the name of Susan Gallo. She further testified that she had found the birth certificate and driver's permit of Susan Gallo in appellant's licensed premises. Colleen claimed that, on an occasion prior to February 4, 1965, Police Sergeant Malzone had made her show proof of her age and also "two or three other policemen checked my proof before, too."

The aforesaid testimony of Colleen was corroborated substantially by that given by Joseph Piccino. The latter further testified that although Colleen appeared to him to be more than twenty-one years of age, he nevertheless asked her to produce proof as to her age and sign a statement with reference thereto. He said that he "took this precaution because I was told any one without identification had to leave the premises regardless of age. Any one who couldn't produce identification, whether they were seventeen or seventy, they had to leave. It was my point I made it a point to ask them to sign affidavits if I didn't know the people at

the time, and at that time I didn't know her, and I asked her to sign it."

Police Sergeant Carmine Malzone testified that at about 11 or 11:30 p.m. on February 4, 1965, he and other police officers entered appellant's licensed premises, and that he questioned Colleen concerning her age, as a result of which she showed him a birth certificate and a driver's permit in the name of Susan Gallo. Sergeant Malzone then spoke to Piccino, who stated that he knew her as Susan Gallo and had observed her at the bar on the evening in question. He further testified, in answer to a question during cross examination whether he had ever asked Colleen on a previous occasion for identification, that he did not recognize her and could not say if he had ever checked her age. Colleen's real identity was discovered on February 4, 1965 by Police Officer McCann who knew her and saw her in appellant's premises at the time in question.

I put little credence in the contention of Colleen that Sergeant Malzone, along with any other officers, had on prior occasions made her produce proof of age. In so far as Sergeant Malzone is concerned, it is understandable that he could not definitely state that he had ever seen Colleen prior to February 4, 1965, as he testified that he has checked hundreds of people in appellant's premises, because it is a matter of official daily routine under his assignment to visit taverns "four or five times a night." No evidence appears that any police officer obtained a written statement from Colleen regarding her age.

I have carefully considered the testimony given in this case, and am satisfied that the statement allegedly signed on December 5, 1964 by Colleen also represented in writing that she was Susan Gallo and was born on October 4, 1943, and thus was twenty-one years of age. However, I am far from satisfied from Piccino's testimony that his method of operation is to ask all persons whom he does not know, and who could not identify themselves, to sign a statement. Certainly the mere display of a birth certificate or a driver's permit constitutes little probative value when presented by a stranger as to the contents therein. My personal observation of the minor's physical appearance on the date of the appeal hearing makes it understandable that opinions of ordinary prudent persons may differ concerning her age. Piccino testified that he was in doubt concerning Colleen's age after the production of the fictitious birth certificate and driver's permit and was then prompted to instruct the waitress to have Colleen sign a form regarding her age.

The three members of respondent Board, in adjudging guilt of sale to a minor, necessarily concluded that the appearance of Colleen was not that of an adult.

It has been held in cases such as that now under consideration that the Director should not substitute his judgment and fact-finding power to reverse the exercise of judgment and fact-finding of a municipal issuing authority in the absence of a clear indication of abuse of discretion or unwarranted finding of fact or mistake of law by such authority. In Abad v. Newark, Bulletin 619, Item 8, it was stated by former Commissioner Driscoll that;

"The ultimate question presented by the record on this appeal, therefore, is one of fact. Notwithstanding the 'de novo' character of the appeal, the Commissioner, in his determination of the issues, should affirm where there is competent evidence in the record from which the conclusion of the administrative tribunal (the local issuing authority) could be deduced." Cf. Vajtauer v.

Commissioner of Immigration, 273 U.S. 103, 106.  
Under the Rules governing Appeals, the burden of  
proving reversible error rests with the appellant."  
Rule 6 of State Regulation No. 15.

Although I might differ with respondent as to Colleen's age, it is apparent from the physical appearance of the minor that reasonable men, acting reasonably, might properly reach the decision that this minor was under the age of twenty-one years. See Rosner & Greenwald v. Montclair, Bulletin 1533, Item 3, and Tash v. Princeton, Bulletin 1585, Item 3.

I therefore find that the determination made by respondent is sufficiently supported by substantial evidence, and that the statutory defense has not been fully established.

It is recommended, therefore, that an order be entered affirming respondent's action, dismissing the appeal and fixing the effective dates for the thirty-day suspension heretofore imposed by respondent.

#### Conclusions and Order

Exceptions to the Hearer's report and answer thereto were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record, including the transcript of testimony, the exhibits, the Hearer's report and exceptions and answer thereto, I adopt the conclusions and recommendations of the Hearer as my conclusions herein, without subscribing to the Hearer's statement that "It has been held in cases such as that now under consideration that the Director should not substitute his judgment and fact-finding power to reverse the exercise of judgment and fact-finding of a municipal issuing authority in the absence of a clear indication of abuse of discretion or unwarranted finding of fact or mistake of law by such authority", which is deemed unnecessary for determination herein, particularly since, during the course of the hearing of the appeal, I personally viewed the minor who to me appeared to be under the age of twenty-one.

Accordingly, it is, on this 8th day of November, 1965,

ORDERED that the action of respondent in finding appellant guilty be affirmed and that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that Plenary Retail Consumption License C-190, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Ev-Mar Corporation, t/a Surfside Club, for premises 22 Hamilton Street, Paterson, be and the same is hereby suspended for thirty (30) days, commencing at 3:00 a.m. Monday, November 15, 1965, and terminating at 3:00 a.m. Wednesday, December 15, 1965.

JOSEPH P. LORDI  
DIRECTOR

2. APPELLATE DECISIONS - WHITE POODLE, INC. v. NEWARK.

WHITE POODLE, INC., )  
 Appellant, )  
 v. )  
 MUNICIPAL BOARD OF ALCOHOLIC )  
 BEVERAGE CONTROL OF THE CITY )  
 OF NEWARK, )  
 Respondant. )

ON APPEAL  
CONCLUSIONS  
AND ORDER

-----  
 Samuel Raffaelo, Esq., Attorney for Appellant.  
 Norman N. Schiff, Esq., by Anthony J. Iuliani, Esq., Attorney  
 for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This is an appeal from the action of respondent on May 26, 1965, whereby it suspended appellant's plenary retail consumption license for premises 339 Plane Street, Newark, for ninety days effective June 14, 1965, after appellant was found guilty of the following charges:

"1. They did on Wednesday, July 8, 1964, allow, permit and suffer lewdness and immoral activities in and about their licensed premises, viz: the making of arrangements for illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20.

"2. They did on Wednesday, July 8, 1964, allow, permit and suffer their licensed place of business to be conducted in such manner as to become a nuisance, in that they allowed, permitted and suffered on their licensed premises, lewdness and immoral activities, as hereinbefore alleged in Charge #1; and they otherwise conducted their licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

Upon filing of the appeal, an order dated June 8, 1965 was entered by the Director staying the suspension until further order herein. R.S. 33:1-31.

When imposing the suspension, the chairman of respondent stated that the members thereof who heard the matter were fully acquainted with all the facts and were of the opinion that the suspension was warranted.

Appellant in its petition of appeal alleges that the action of respondent was erroneous and should be reversed for the following reasons:

"(a) The verdict was contrary to the clear weight of the evidence.

"(b) It was unreasonable and unlawful.

"(c) The respondent failed to consider the evidence.

"(d) The testimony adduced by the City was meager, unclear, contradictory and weak.

"(e) The testimony of the City in part and of the appellant in toto very clearly and definitely showed that the appellant exercised every possible precaution and did everything possible to prevent the violation charged, and that, therefore, the appellant was not guilty as charged.

"(f) At the end of the respondent's case, attorney for appellant moved for a dismissal on the grounds that respondent failed to prove a prima facie case. The motion was denied and it is contended herewith that the respondent erred in denying the motion.

"(g) Appellant further contends that the penalty imposed was harsh, excessive and unduly severe."

Respondent in its answer denies the aforesaid allegations in the petition of appeal and asserts that respondent's decision was based upon "the factual testimony before the Board from which it, in its sound discretion, concluded that the penalty imposed substantiated such action."

The parties hereto agreed to present the appeal solely upon the stenographic transcript of the proceedings before respondent, pursuant to Rule 8 of State Regulation No. 15.

From that transcript it appears that Theodore --- testified that on one occasion he had visited appellant's licensed premises several weeks prior to July 8, 1964, and although he observed girls in appellant's premises, none of the females approached him. He further testified that on the July 8 visit (which is the date in question) to appellant's premises, he spoke to a female who sat next to him at the bar and whose name he subsequently learned to be Miss P---, hereinafter referred to as Mattie. It appears from Theodore's testimony that during the conversation, he suggested to Mattie that they go to a local hotel for the purpose of engaging in sexual intercourse. Further he stated that during the conversation with Mattie about engaging in sexual relations, the bartender was serving customers "ten or fifteen feet away, I would say. About in the middle of the bar." Also, the conversation was in whispers and, in his opinion, the bartender could not hear it. According to arrangements made by Mattie, he went to the hotel and rented a room and, a short time thereafter when Mattie came into the room, he gave her \$10; that while he and Mattie were undressing, several police officers entered and took both to police headquarters.

Mattie's testimony disclosed that she occasionally visited appellant's licensed premises, being there three weeks prior to July 8, 1964, when she met Theodore. She stated that during the conversation, Theodore suggested that they go out "for sexual purposes"; that she did not remember the price requested by her but said that she would discuss it with him in the hotel. Mattie admitted that she made the arrangements by telephone for a room in a hotel. Furthermore she said that when Theodore spoke to her concerning illicit relations, he did so "very quietly" and the bartender "wasn't anywhere close." Mattie denied that the bartender even attempted to arrange for her to engage in sexual relations with patrons.

Detective Joseph T. Smith testified that on July 8, 1964, while having appellant's premises under surveillance, he observed Theodore leaving appellant's premises and enter an automobile; that he and Detective Reilly, in an unmarked car, followed Theodore's automobile to the hotel; that some time thereafter while parked near the hotel, he observed Mattie enter, whereupon he and his fellow detective went to the room where he found the two persons in question.

During cross examination Detective Smith testified that he became suspicious when he observed Theodore come out of appellant's licensed premises and while parked at the hotel he recognized Mattie as a person who "carries a narcotic card" and also one who had been apprehended "at least four or five times" and charged with prostitution. Detective Smith further testified that he did not see Mattie come out of appellant's premises on the night in question.

The general rule is that findings must be based on competent legal evidence and grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042, p. 811. Respondent was required at the hearing below to establish its case by a fair preponderance of the credible evidence. Freud and Pittala v. Davis, 64 N.J. Super. 242; Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373; 42 Am.Jur. Public Administrative Law, sec. 132, p. 467. While there is no set formula for determining the quantum of evidence required, each case being governed by its own circumstances, the verdict must be supported by substantial evidence. See Walter v. Alt, 152 S.W. 2d 135, 141.

In the instant case not a scintilla of evidence was produced to indicate involvement by or knowledge of the bartender in the making of the arrangements by Theodore and Mattie to engage in illicit relations. In fact, both witnesses were in agreement that their conversation concerning the matter of engaging in sexual relations was in whispered tones, and that the bartender was not near them at the time. While testimony of the witnesses produced by respondent might give rise to suspicion that the licensee, through its bartender, may have been aware of the arrangements, such suspicion is not a proper substitute for proof. The evidence is insufficient to establish the guilt of appellant of the charges preferred herein.

Consequently, it is recommended for the reasons aforementioned that the action of respondent be reversed.

#### Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the record, including the transcript of the testimony and the Hearer's report, I adopt the conclusions and recommendation of the Hearer as my conclusions herein.

Accordingly, it is, on this 10th day of November 1965,,

ORDERED that the action of respondent in finding appellant guilty of the charges preferred herein and suspending its license be and the same is hereby reversed.

JOSEPH P. LORDI  
DIRECTOR

3. STATE REGULATIONS - REGULATION NO. 34, RULE 2 - DEFINITION OF "STANDARD CASE" REITERATED AND SUPPLEMENTED.

TO ALL MANUFACTURERS AND WHOLESALERS OF ALCOHOLIC BEVERAGES OTHER THAN MALT ALCOHOLIC BEVERAGES.

It has come to my attention that there has been an increasing tendency to submit caseprice filings in which the unit number of containers packaged in the case is either more or less than the unit number of containers usually packaged in what is commonly referred to as a standard case.

So that there will be no confusion, the definition of a "standard case" as set forth in Bulletin 426, Item 1 (3), dated October 19, 1940, is reiterated and supplemented to read as follows:

Except as to malt beverages a standard case shall consist of the exact number of units identical as to brand or trade name, capacity of containers, nature of contents and age and proof where stated on label, as described below:

<u>CAPACITY OF UNIT</u>	<u>NUMBER OF UNITS PER CASE</u>
One-half pint	48
One pint	24
One-half fifth (each unit 1/10th of a gallon)	24
One quart	12
One-fifth (each unit 1/5th of a gallon)	12
One-half gallon	6
One gallon	3 (not less than)

A standard case of containers not hereinabove mentioned shall consist of the same number of units as would be packaged in a standard case of the nearest comparable size container.

Quotations on cases of containers with a capacity of one gallon must be followed by a statement of the number of identical units comprising the case.

Wholesale licensees and manufacturers are herewith placed on notice that on and after February 20, 1966, price filings of cases of alcoholic beverages in accordance with State Regulation No. 34, except for good cause shown, will not be accepted if submitted in other than standard cases.

JOSEPH P. LORDI  
DIRECTOR

Dated: December 1, 1965

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - AGGRAVATING CIRCUMSTANCE - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

JOHN E. COLEMAN )  
t/a RICOE'S )  
614 Communipaw Avenue )  
Jersey City, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-162, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

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Licensee, Pro se.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on Sunday, October 24, 1965, he sold a half pint bottle of liqueur for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Licensee, then t/a Club 21, has a previous record of suspension of license then held for premises 545 Boulevard, Bayonne, (1) by the municipal issuing authority for ten days effective July 26, 1954, for sale to minors and permitting a brawl on the premises, and with respect to the present licensed premises by the Director (2) for fifteen days effective July 21, 1958, for sale in violation of State Regulation No. 38, (3) again for thirty days effective May 29, 1963, for sale in violation of State Regulation No. 38 and municipal hours ordinance, and (4) again for thirty days effective September 21, 1965 (terminating October 21, 1965), for sale in violation of State Regulation No. 38. Re Coleman, Bulletin 1239, Item 10; Bulletin 1518, Item 4; Bulletin 1641, Item 4.

The prior record of suspension of license for dissimilar violation in 1954 will be disregarded because occurring more than five years ago. However, considering the fact that this is the third similar violation occurring within the past five years, the license would normally be suspended for forty-five days (Re Costantino's Bar, Inc., Bulletin 1636, Item 3) but considering the additional fact that the instant violation occurred on October 24, only three days after the termination of the most recent suspension on October 21, I deem the violation aggravated and consequently one warranting suspension of license for sixty days (cf. Re Russo, Bulletin 1636, Item 11), to which will be added five days by reason of the record of suspension of license for similar violation occurring more than five but less than ten years ago (Re Stratford Inn, Inc., Bulletin 1641, Item 7), or a total of sixty-five days, with remission of five days for the plea entered, leaving a net suspension of sixty days.

The licensee will be well advised to take every precaution to prevent future similar violation, which may well result in outright revocation of the license.

Accordingly, it is, on this 8th day of November, 1965,

ORDERED that Plenary Retail Consumption License C-162, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to John E. Coleman, t/a Ricoe's, for premises 614 Communipaw Avenue, Jersey City, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. Monday, November 15, 1965, and terminating at 2:00 a.m. Friday, January 14, 1966.

JOSEPH P. LORDI  
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - FRONT - FALSE STATEMENTS IN LICENSE APPLICATION - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO LIFT AFTER 60 DAYS UPON PROOF OF CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Disciplinary Proceedings against )

ELVEE CORPORATION )  
t/a ANCHOR INN )  
76 Palisade Avenue )  
Cliffside Park, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Cliffside Park. )

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Licensee, by John Liggio, Treasurer, Pro se.  
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges as follows:

"1. In your application filed with the Mayor and Council of the Borough of Cliffside Park on June 3, 1964, upon which you obtained your 1964-65 plenary retail consumption license, in answer to Question No. 22, you falsely listed Frank Marciano as the holder of 10 shares, or 33 1/3%, of your issued and outstanding stock and, in answer to Questions No. 23 and 24 you falsely stated that no one held any beneficial interest, directly or indirectly, in the said stock held by Frank Marciano, whereas in truth and fact Frank Marciano held no beneficial interest in said stock and John Liggio, Charles Viola and Santos Stanzoni were the true and beneficial owners of said stock; in violation of R.S. 33:1-25.

"2. You failed to file with the aforesaid Mayor and Council, within ten days after the occurrence hereinafter stated, written notice of change of facts set forth in your answer to Question No. 31 of your above-mentioned license application, such change being that on or about February 15, 1965, you agreed to permit Frank Liggio to retain all of the profits and income derived from your licensed business; in violation of R.S. 33:1-34.

"3. From on or about February 15, 1965 to date, you aided and abetted Frank Liggio to exercise, contrary to

R.S. 33:1-26, the rights and privileges of your successive plenary retail consumption licenses; in violation of R.S. 33:1-52.

"4. In your aforesaid application, in answer to Question No. 32, you suppressed the material fact that Bettglor Realty Corp. held a chattel mortgage on goods, chattels and fixtures used in connection with the conduct of your licensed business; in violation of R.S. 33:1-25."

The facts are sufficiently set forth in the quoted charges when there is added the fact that John Liggio and Santos Stanzoni, mentioned in the first charge, are non-residents of New Jersey, viz., residents of New York.

Licensee has a previous record of suspension of license by the Director for fifteen days, effective March 2, 1965, for permitting hostess activity on the licensed premises. Re Elvee Corporation, Bulletin 1608, Item 6.

The license will be suspended on the first charge for thirty days (Re 7921, Inc., Bulletin 1631, Item 3), on the second and third charges for twenty days (Re The Sports Corner, Inc., Bulletin 1581, Item 7), and on the fourth charge for ten days (cf. Re Golia, Inc., Bulletin 1556, Item 6), to which will be added five days by reason of the record of suspension for dissimilar violation occurring within the past five years (Re Triple T. Inc., Bulletin 1639, Item 2), or a total of sixty-five days, with remission of five days for the plea entered, leaving a net suspension of sixty days.

To date there is no indication that correction of the unlawful situation has been accomplished. Hence the license will be suspended for the balance of its term, with leave granted to the licensee or any bona fide transferee of the license to apply for lifting of the suspension whenever the unlawful situation has been corrected but in no event will such suspension be lifted sooner than sixty days after the commencement of the suspension.

Accordingly, it is, on this 21st day of October, 1965,

ORDERED that Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Cliffside Park to Elvee Corporation, t/a Anchor Inn, for premises 76 Palisade Avenue, Cliffside Park, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1966, effective at 3:00 a.m. Thursday, October 28, 1965, with leave to the licensee or any bona fide transferee of the license to file verified petition establishing correction of the unlawful situation, for lifting of the suspension of the license on or after 3:00 a.m. Monday, December 27, 1965.

JOSEPH P. LORDI  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING SUSPENSION STAYED PENDING APPEAL TO APPELLATE DIVISION.

In the Matter of Disciplinary Proceedings against )

HALA CORPORATION )  
t/a MONTANARO'S )  
7400 S. Crescent Blvd. )  
Pennsauken, N. J. )

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-27, issued by the Township Committee of the Township of Pennsauken. )

-----  
Frank M. Lario, Esq., Attorney for Licensee.  
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On June 25, 1963, Conclusions and Order were entered herein suspending the license for fifty-five days commencing July 2, 1963, for possession of alcoholic beverages in bottles not truly labeled and for false statement in the license application. Re Hala Corporation, Bulletin 1525, Item 4.

Prior to the effectuation of the order of suspension, upon appeal filed, the Appellate Division of the Superior Court stayed the operation of the suspension until the outcome of the appeal.

During the pendency of the appeal, by order dated January 22, 1964, the matter was remanded to the Division for the taking of additional testimony. Pursuant to the order of remand, Supplemental Conclusions and Order were entered on April 27, 1964, in which the prior Conclusions and Order were reaffirmed with effective date of suspension deferred pending determination of the appeal. Re Hala Corporation, Bulletin 1566, Item 3.

The Appellate Division affirmed the Division action on April 12, 1965. Hala Corporation v. Tschupp, Acting Director (App. Div. 1965), not officially reported; recorded in Bulletin 1614, Item 1.

Prior to issuance of mandate on affirmance from the Appellate Division, petition for certification was filed with the New Jersey Supreme Court, which petition was denied on October 4, 1965. Hala Corporation v. Tschupp, 45 N.J. 592. Subsequent motion for stay was denied October 19, 1965.

Mandate on affirmance was received from the Appellate Division on November 5, 1965. Hence, the suspension may now be re-imposed.

Accordingly, it is, on this 9th day of November, 1965,

ORDERED that the fifty-five-day suspension of license heretofore imposed, and stayed during the pendency of proceedings on appeal, be reinstated against Plenary Retail Consumption License C-27, issued by the Township Committee of the Township of Pennsauken to Hala Corporation, t/a Montanaro's, for premises 7400 S. Crescent Blvd., Pennsauken, commencing at 2:00 a.m. Tuesday, November 16, 1965, and terminating at 2:00 a.m. Monday, January 10, 1966.

JOSEPH P. LORDI  
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - ORDER DEFERRING EFFECTIVE DATE OF SUSPENSION.

In the Matter of Disciplinary Proceedings against )

HALA CORPORATION )  
t/a MONTANARO'S )  
7400 S. Crescent Blvd. )  
Pennsauken, N. J. )

AMENDED ORDER

Holder of Plenary Retail Consumption License C-27, issued by the Township Committee of the Township of Pennsauken )

-----  
Frank M. Lario, Esq., Attorney for Licensee.  
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On November 9, 1965, I entered an order herein suspending the license for fifty-five days commencing November 16, 1965. Re Hala Corporation, Bulletin 1651, Item 6.

Licensee has this day filed notice of application and petition for review of judgment and stay of execution of penalty imposed. During oral presentation in support of the petition, the application for review of judgment was withdrawn, but request for imposition of the suspension until after January 1, 1966 was pressed.

For good cause appearing, I have granted the request for deferment of the effective date of suspension.

Accordingly, it is, on this 15th day of November, 1965,

ORDERED that the previous order of suspension herein is hereby vacated; and it is further

ORDERED that Plenary Retail Consumption License C-27, issued by the Township Committee of the Township of Pennsauken to Hala Corporation, t/a Montanaro's, for premises 7400 S. Crescent Blvd., Pennsauken, be and the same is hereby suspended for fifty-five (55) days, commencing at 2:00 a.m. Tuesday, January 4, 1966, and terminating at 2:00 a.m. Monday, February 28, 1966.

JOSEPH P. LORDI  
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING SUSPENSION STAYED DURING PENDENCY OF COMPLAINT IN CHANCERY DIVISION OF SUPERIOR COURT.

In the Matter of Disciplinary Proceedings against  
 ASK, INC.,  
 t/a HIALEAH CLUB  
 1917 Atlantic Ave. & 13-15 N. Michigan Ave.  
 Atlantic City, N. J.  
 Holder of Plenary Retail Consumption License C-57, issued by the Board of Commissioners of the City of Atlantic City.

SUPPLEMENTAL ORDER

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 Thomas W. Rauffenbart, Esq., Attorney for Licensee.  
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On September 15, 1965, I entered Conclusions and Order herein suspending the license for fifty-five days commencing September 22, 1965, for permitting hostess activity and possessing an alcoholic beverage in a bottle not truly labeled. Re Ask, Inc., Bulletin 1641, Item 2.

Prior to the effectuation of the order of suspension, upon complaint filed in the Chancery Division of the Superior Court, an order was entered staying the operation of the suspension until the disposition of the complaint.

On October 29, 1965, the complaint was dismissed for lack of jurisdiction. The suspension may now be reimposed.

Accordingly, it is, on this 9th day of November, 1965,

ORDERED that the fifty-five-day suspension heretofore imposed and stayed during the pendency of the complaint in the Superior Court, Chancery Division, be reinstated against Plenary Retail Consumption License C-57, issued by the Board of Commissioners of the City of Atlantic City to Ask, Inc., t/a Hialeah Club, for premises 1917 Atlantic Avenue and 13-15 N. Michigan Avenue, Atlantic City, commencing at 7:00 a.m. Tuesday, November 16, 1965, and terminating at 7:00 a.m. Monday, January 10, 1966.

JOSEPH P. LORDI  
 DIRECTOR

9. ACTIVITY REPORT FOR NOVEMBER 1965

<b>ARRESTS:</b>		
Total number of persons arrested - - - - -		31
Licensees and employees - - - - -	18	
Bootleggers - - - - -	15	
<b>SEIZURES:</b>		
Alcohol - gallons - - - - -		7.41
Distilled alcoholic beverages - gallons - - - - -		6.51
Wine - gallons - - - - -		7.45
Brewed malt alcoholic beverages - gallons - - - - -		64.33
<b>RETAIL LICENSEES:</b>		
Premises inspected - - - - -		559
Premises where alcoholic beverages were gauged - - - - -		472
Bottles gauged - - - - -		7,391
Premises where violations were found - - - - -		54
Violations found - - - - -		99
Unqualified employees - - - - -	64	
Application copy not available - - - - -	12	
Other mercantile business - - - - -	4	
Reg. #38 sign not posted - - - - -		2
Other violations - - - - -		17
<b>STATE LICENSEES:</b>		
Premises inspected - - - - -		32
License applications investigated - - - - -		4
<b>COMPLAINTS:</b>		
Complaints assigned for investigation - - - - -		365
Investigations completed - - - - -		353
Investigations pending - - - - -		206
<b>LABORATORY:</b>		
Analyses made - - - - -		95
Refills from licensed premises - bottles - - - - -		12
Bottles from unlicensed premises - - - - -		11
<b>IDENTIFICATION:</b>		
Criminal fingerprint identifications made - - - - -		8
Persons fingerprinted for non-criminal purposes - - - - -		311
Identification contacts made with other enforcement agencies - - - - -		211
<b>DISCIPLINARY PROCEEDINGS:</b>		
Cases transmitted to municipalities - - - - -		3
Violations involved - - - - -		3
Sale to minors - - - - -	2	
Sale during prohibited hours - - - - -	1	
Cases instituted at Division - - - - -		28*
Violations involved - - - - -		34
Beverage Tax Law non-compliance - - - - -	8	
Permitting immoral activity on prem. - - - - -	4	
Sale during prohibited hours - - - - -	3	
Fraud in application - - - - -	3	
Sale to intoxicated person - - - - -	3	
Permitting gambling on premises - - - - -	2	
Sale to minors - - - - -	2	
Permitting foul language on prem. - - - - -		2
Conducting business as a nuisance - - - - -		1
Sale below filed price - - - - -		1
Sale to non-members by club - - - - -		1
Failure to close prem. dur. proh. hrs. - - - - -		1
Employee working while intoxicated - - - - -		1
Permitting lottery activity - - - - -		2
Cases brought by municipalities on own initiative and reported to Division - - - - -		17
Violations involved - - - - -		19
Sale to minors - - - - -	10	
Conducting business as a nuisance - - - - -	2	
Permitting brawl on premises - - - - -	2	
Hindering investigation - - - - -	2	
Employee working while intoxicated - - - - -		1
Employment w/o ident. card (local reg). - - - - -		1
Sale during prohibited hours - - - - -		1
<b>HEARINGS HELD AT DIVISION:</b>		
Total number of hearings held - - - - -		38
Appeals - - - - -	4	
Disciplinary proceedings - - - - -	20	
Eligibility - - - - -	7	
Seizures - - - - -		2
Tax revocations - - - - -		3
Applications for license - - - - -		2
<b>STATE LICENSES AND PERMITS ISSUED:</b>		
Total number issued - - - - -		1,577
Solicitors' permits - - - - -	26	
Employment permits - - - - -	213	
Disposal permits - - - - -	81	
Social affair permits - - - - -	405	
Miscellaneous permits - - - - -		237
Wine permits - - - - -		313
Transit insignia - - - - -		283
Transit certificates - - - - -		19
<b>OFFICE OF AMUSEMENT GAMES CONTROL:</b>		
Licenses issued - - - - -	16	
Enforcement files established - - - - -	7	

JOSEPH P. LORDI  
 Director of Alcoholic Beverage Control  
 Commissioner of Amusement Games Control

\*Includes one cancellation proceeding - licensee convicted of crime involving moral turpitude and non-resident.

Dated: December 6, 1965

10. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY  
LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )  
 )  
 RAYMOND J. BURATTI )  
 t/a East End Tavern )  
 97 E. Blackwell Street )  
 Dover, N. J. )  
 Holder of Plenary Retail Consumption License C-8, issued by the Board of Aldermen of the Town of Dover. )

CONCLUSIONS  
AND ORDER

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 Donley and Korpita, Esqs., by George Korpita, Jr., Esq.,  
 Attorneys for Licensee.  
 Morton B. Zemel, Esq., Appearing for Division of Alcoholic  
 Beverage Control.

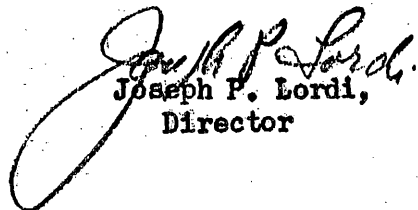
BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on September 29, 1965, he possessed an alcoholic beverage in one bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re The Count Cafe, Bulletin 1643, Item 3.

Accordingly, it is, on this 22nd day of November 1965,

ORDERED that Plenary Retail Consumption License C-8, issued by the Board of Aldermen of the Town of Dover to Raymond J. Buratti, t/a East End Tavern, for premises 97 E. Blackwell Street, Dover, be and the same is hereby suspended for five (5) days, commencing at 1 a.m. Monday, November 29, 1965, and terminating at 2 a.m. Saturday, December 4, 1965.

  
 Joseph P. Lordi,  
 Director