

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

BULLETIN 1676

JUNE 2, 1966

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DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N. J. 07102

BULLETIN 1676

JUNE 2, 1966

1. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 120 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

RENEE MARCUS)
t/a RENEE'S BAR and LIQUOR STORE)
534-536 Kaighn Ave.,)
Camden, New Jersey,)

CONCLUSIONS

and

Holder of Plenary Retail Consumption License C-38, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

ORDER

-----)
Cahill, Wilinski & Mohrfeld, Esqs., by Robert Wilinski, Esq.,
Attorneys for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on March 4 and 10, 1966, she permitted acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days effective February 13, 1961, for employing a criminally disqualified person, and by the Director for sixty days effective March 22, 1965, for permitting acceptance of numbers bets. Re Marcus, Bulletin 1612, Item 5.

The prior record of suspension for dissimilar violation occurring more than five years ago disregarded but the record of suspension for similar violation occurring within the past five years considered, the license will be suspended for one hundred twenty days (Re Bacsko, Bulletin 1632, Item 1), with remission of five days for the plea entered, leaving a net suspension of one hundred fifteen days.

In addition, the licensee is pointedly warned that any future similar violation may result in outright revocation of the license.

Accordingly, it is, on this 12th day of April 1966,

ORDERED that Plenary Retail Consumption License C-38, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Renee Marcus, t/a Renee's Bar and Liquor Store, for premises 534-536 Kaighn Avenue, Camden, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1966, commencing at 2 a.m. Tuesday, April 19, 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. Friday, August 12, 1966.

JOSEPH P. LORDI
DIRECTOR

2. APPELLATE DECISIONS - NORTH JERSEY RETAIL LIQUOR STORES ASSOCIATION v. PATERSON and SHOPPERS LIQUOR, INC.

North Jersey Retail Liquor Stores Association,)
)
Appellant,)
v.)
Board of Alcoholic beverage Control for the City of Paterson and Shoppers Liquor, Inc., t/a Shoppers Liquor (a/k/a Shoppers Bar and Liquors, Inc.),)
)
Respondents.)

ON APPEAL

CONCLUSIONS
and

ORDER

Sellinger & Chester, Esqs., by Robert H. Chester, Esq., Attorneys for Appellant
Marino Tedeschi, Esq., Attorney for Respondent Board of Alcoholic Beverage Control
Shavick, Thevos, Stern, Schotz & Steiger, Esqs., by Barry I. Croland, Esq., Attorneys for Respondent Shoppers Liquor, Inc.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This appeal challenges the action of respondent Board of Alcoholic Beverage Control for the City of Paterson (hereinafter Board) whereby on September 22, 1965 it granted the application of respondent Shoppers Liquor, Inc., a corporation of New Jersey (hereinafter Shoppers) for a person-to-person and place-to-place transfer of plenary retail consumption license from Efcharis Carelis, t/a Hollywood Cafe, to Shoppers and from premises 49-53 West Broadway to 106 West Broadway, Paterson.

At the commencement of this hearing counsel for Shoppers stated that, pursuant to direction of this Division, it filed a change of name with the Secretary of State and its amended change of name is now Shoppers Bar and Liquors, Inc.

The petition of appeal, as amended at the hearing herein, alleges that the action of the Board was erroneous and should be reversed for the following reasons:

1. The granting of the said transfer is "against the demands of public convenience and necessity;"
2. Proposed use to which the transferee intends to put the premises is "not within the purviews.

of a plenary retail consumption license."

Answers filed by the Board and Shoppers deny the allegations of the said petition and in addition list five separate defenses (similar in both answers) which may be summarized as follows:

1. The action of the Board was fair and reasonable because the premises which are the subject of this appeal are of new and modern construction and "are replacing three licenses formerly in the same immediate area."
2. The license was transferred to premises located approximately one and one-half blocks from the prior location and "is in the same immediate area."
3. The transfer was justified because "two previously existing C-licenses in the same block were removed when prior existing properties were demolished at 134 West Broadway and 85 Water Street" in 1961.
4. The transfer is justified because of a "substantial increase in population in the area" and such action was consonant with "public need and convenience."
5. The Board acted within its sound discretion after a fair and impartial hearing.

The resolution, however, was not produced at this hearing and thus I am unable to ascertain whether it set forth specific reasons for its action as required by Rule 10 of State Regulation No. 6 as amended, in view of the requirement that such reasons must be set forth where objections were entered at the said hearing. The apparent reasons for denial were set forth in the answer, and developed in some length in this appeal de novo.

The record at the hearing herein reflects the following: During the month of August 1965 Shoppers applied for a person-to-person and place-to-place transfer of a plenary retail distribution license then held by Herman Silver, t/a Sloty's Liquor Store, to premises at 160 West Broadway, Paterson. This application was denied by the Board because the proposed new location was less than one thousand feet from an existing "D" license and thus did not meet the distance requirements of the applicable ordinance. Several weeks thereafter the subject application was filed for a person-to-person and place-to-place transfer of the plenary retail consumption license, as aforesaid. A full hearing was held thereon on September 18, 1965, and the objector was heard. On September 22, 1965, the Board unanimously voted to grant Shoppers' application for the said transfer.

I shall examine the allegations in the petition of appeal in the light of proofs presented and the applicable law.

I

Appellant argues that there is no need and necessity for the said license and that, therefore, the Board acted erroneously in granting Shoppers' application for transfer. The three members of the Board were produced and documented their reasons for voting favorably for the said transfer. Chairman Anthony Pasquariello testified that he was satisfied that this license was being transferred to premises within the same general area "only about two blocks up the street." This license was transferred from a location which was a

"trouble spot" which gave much concern to the local police authority. The new location within the same general area serves the needs and convenience of the vicinity because there was a considerable amount of new construction therein. Such new construction of housing facilities resulted in three or four fewer licenses than were in this area previously.

Member Joseph Cheevers supported the reasons advanced by the previous witness and added that in his opinion the action of the Board was justified by the fact that the new housing projects brought in additional residents to the area. He also felt that the public interest would benefit by the said transfer because of the fact that a "trouble spot" was being eliminated.

Member Edwin Englehardt similarly felt that the action of the Board was justified because the present location is "much more desirable" than the location from which the said license was transferred. He also expressed the feeling that the license was actually being transferred to the same area; that it was not adding any new licenses to that area; that, with new housing introduced because of an urban renewal program, there were "many more families than had been there the last five years previous." He therefore concluded that such action was in the best interest of the community.

No witnesses were produced by the appellant to support its contention that the said transfer would aggravate the number of licenses in the area and that no public need exists for the license at the premises to which the transfer was approved. On the contrary, the witness who did testify supported the Board's position that this transfer operated to move the license within the same area and thus did not aggravate the number of licenses therein. See Smith et als. v. Newark and Black, Bulletin 1481, Item 2; Union County Retail Liquor Stores Association v. Elizabeth and Miller and Cooperstein, Bulletin 886, Item 2. Cf. Bivona v. Hock, 5 N.J. Super. 118, reprinted in Bulletin 860, Item 1; Piccirillo v. Lyndhurst, Bulletin 1578, Item 2, affirmed sub. nom Moderelli and Lyndhurst v. Piccirillo, App. Div. 1966, not officially reported, recorded in Bulletin 1662, Item 1; Bomwell v. Newark, Bulletin 1639, Item 1, affirmed App. Div. 1966, not officially reported, recorded in Bulletin 1667, Item 1; L. Kubisky Inc. v. Paterson, Bulletin 1662, Item 2.

It is clear that the Board took into consideration the fact that a "trouble spot" frequented by undesirables was being eliminated by the said transfer; that the transfer was in the same area within two blocks of the premises from which the said license was transferred; that the influx of new residents in that area by reason of the local urban renewal program satisfied it that such action was warranted. See Henderson v. Teaneck and Stanley's, Inc., Bulletin 1588, Item 1. Under the facts and circumstances appearing herein, it is my opinion that the Board's unanimous action was neither unreasonable, arbitrary nor unjust.

II

Appellant further contends that the "proposed use to which the transferee intends to put the premises" is not "within the purviews of a plenary retail consumption license." In support thereof it produced as its witness Stephen Goceljak, Jr., a private investigator, who gave the following account: At the request of the appellant he visited the present location and inspected the premises. He found that there was a bar "with a few stools on the left-hand side in the rear of the store." He observed customers purchasing bottled liquor products for off-premises consumption, and found a considerable

amount of shelving stocked with sealed bottles of liquor. He further noted that this license did not sell draught beer, but only bottle beer, and he never saw anyone seated at the bar.

On cross examination this witness admitted that he made several visits during the early evenings on Monday, January 10, and Monday, January 24, and at 2:30 p.m. on Saturday, February 5. On each of these occasions he remained at the premises for about a half-hour. He also admitted that the bar was a U-shaped bar containing about seven or eight stools.

Irwin Krams (the president of Shoppers) identified plans for the proposed premises which were submitted to this Division with respect to the proposed construction of the interior of the premises to which the said license was transferred. A letter from this Division, dated October 20, 1965, addressed to Shoppers, received in evidence, states in pertinent part as follows:

"You have submitted to this office on October 11, 1965, a sketch depicting the interior arrangements of proposed licensed premises to be constructed by you at the above address under a plenary retail consumption license without the 'broad package privilege' presently held by you. We initially note that an appeal has been filed with this Division objecting to the recent transfer to you of the license in question. Under the circumstances, our remarks herein are in no way binding upon any party with respect to any issues that may be the subject of the pending appeal.

"Please be advised that it is our opinion, ex parte, that the proposed premises, as shown on the plans, would not be in violation of the 'Broad Package Privilege Law' (R.S. 33:1-12.23 et seq.) or State Regulation No. 32, with respect to the sale or display for sale of package goods, provided that the depicted bar will be equipped with hand rail, foot rail, an adequate number of bar stools, sink, drain-board, hot and cold running water, utensils for preparing mixed drinks, and a sufficient number of opened bottles for the service of drinks of alcoholic beverages to be consumed upon the licensed premises, and further provided that no floor displays are placed in the barroom.

"We also advise that this approval applies only to the premises in question if it is completed in accordance with the submitted plans. You are therefore cautioned to submit to this office for advance approval any proposed change in the plans, particularly with respect to the size and location of the bar and the display of package goods."

This witness further stated that he has completed the construction of the interior of said premises in accordance with the said plans. He stated that he has a bar which contains the necessary equipment; that there are ten bar stools; that he has complied with the statutory requirements, and that he sells liquor in open containers for consumption on the premises and packaged goods in accordance with the provision of this license.

The rule has been well established that the matter of the proposed interior arrangement of premises to be licensed is not material to the fundamental question of whether the proposed building in its intended location should be licensed. Monmouth County Retail Liquor Stores Association et als. v. Middletown and Middletown Enterprises, Inc., Bulletin 1572, Item 1; Hollywood Liquors & Groceries Inc. v. Matawan and Towne and Country Liquor Store, Inc., Bulletin 1599, Item 2, affirmed App. Div. 1966, not officially reported, recorded in Bulletin 1664, Item 2. Therefore the evidence with respect thereto is irrelevant in these proceedings.

It is, of course, understood that failure of Shoppers to comply with the provisions of R.S. 33:1-12.23 et seq. and State Regulation No. 32 in its future operation under the license may result in appropriate disciplinary proceedings to either suspend or revoke the license.

For the reasons aforesaid, it is recommended that an order be entered affirming the action of the Board in approving the transfer in question, and dismissing the appeal.

Conclusions and Order

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

The Hearer's report notes that "The resolution...was not produced at this hearing and thus I am unable to ascertain whether it set forth specific reasons for its action as required by Rule 10 of State Regulation No. 6 as amended, in view of the requirement that such reasons must be set forth where objections were entered at the said hearing." A check with the secretary of the respondent Board discloses that in fact no resolution was prepared or adopted and that action taken was based solely upon a motion made at the meeting of the said Board. Consequently, there was no compliance with the said rule.

Since there were objections to the said transfer of license, a strict compliance with the appropriate rule is required. In the recent matter of L. Kubisky, Inc. v. Paterson, Bulletin 1662, Item 2, involving the same respondent Board, it was stated:

"The rule as quoted above was promulgated because this Division has consistently felt that fairness to the applicant requires that such reasons for its decision be made. Where such reasons are stated at the time the decision is made, there can be no charge of afterthought or disaffection against the issuing authority. Rosenvinge v. Metuchen; Bulletin 249, Item 6; cf. Plainfield-Union Water Co. v. Board of Public Utility Comm., 57 N.J. Super. 158, 174. While I do not recommend in this case that a remand be made to the Board for such appropriate statement, it is nevertheless suggested that this rule be scrupulously followed in similar matters in the future."

The necessity for compliance with this rule has also been noted and established in prior cases involving other parties. While I hesitate to remand this case to the Board for such appropriate statement, in view of the substantial record produced herein, I want to state, with strong emphasis, that I shall remand future matters

in all cases where there is evident failure of such regulatory compliance.

After having carefully considered the entire record herein, including the transcript of the testimony, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

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

ORDERED that the action of the Board of Alcoholic Beverage Control for the City of Paterson be and the same is hereby affirmed and that the appeal herein be and the same is hereby dismissed.

JOSEPH P. LORDI
DIRECTOR

- 3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - UNQUALIFIED EMPLOYEES - HINDERING INVESTIGATION - PRIOR SIMILAR AND DISSIMILAR RECORD OF LICENSEE AND CORPORATE STOCKHOLDERS - LICENSE SUSPENDED FOR 55 DAYS - NO REMISSION FOR PLEA ENTERED AFTER HEARING.

In the Matter of Disciplinary Proceedings against)

TRIPLE LAKE RANCH, INC.)
t/a TRIPLE LAKE RANCH, INC.)
1 Main Street)
Roxbury Township)
PO Succasunna, N.J.)

CONCLUSIONS

and

ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Township Committee of the Township of Roxbury.)

-----)
Paul R. Nusbaum, Esq., Attorney for Licensee)
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control)

BY THE DIRECTOR:

After not guilty plea, hearing, submission of Hearer's report and the filing of exceptions thereto, licensee withdrew its plea of not guilty and pleaded non vult to charges alleging that on November 21, 1965 it (1) sold drinks of alcoholic beverages to two minors, age sixteen, in violation of Rule 1 of State Regulation No. 20, (2) employed non-resident bartenders without requisite employment permit, in violation of Rule 5 of State Regulation No. 13, and (3) hindered investigation (verbal interference by Eli Gaynor, principal stockholder of the licensee corporation, during questioning of witnesses by ABC agents), in violation of R.S. 33-1-35.

Licensee has a previous record of suspension of license by the Director for ten days effective November 16, 1964 for possession of pin-ball machines. Re Triple Lake Ranch, Inc., Bulletin 1594, Item 9. In addition, when the license for the premises was issued to Eli and Janice Gaynor (officers and stockholders of the corporate licensee), such license was suspended by the municipal issuing authority for ten days effective January 8, 1962 for sale to minors.

The license will be suspended on the first charge for

twenty-five days (cf. Re Klein, Bulletin 1643, Item 7), on the second charge for five days (Re Moore, Bulletin 1659, Item 4), and on the third charge for ten days (Re S.M.S. Corp., Bulletin 1569, Item to which will be added fifteen days by reason of the record of two previous suspensions of license (one for similar violation of sale to minors and the other for dissimilar violation, both occurring within the past five years) (Re Jervic, Inc., Bulletin 1603, Item 6), or a total of fifty-five days, without remission for the confessional plea untimely entered after hearing. Cf. Re Blue Fountain, Inc., Bulletin 1647, Item 4.

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

ORDERED that Plenary Retail Consumption License C-11, issued by the Township Committee of the Township of Roxbury to Triple Lake Ranch, Inc., t/a Triple Lake Ranch, Inc., for premises 1 Main Street, Roxbury Township, be and the same is hereby suspended for fifty-five (55) days, commencing at 2 a.m. Tuesday, April 19, 1966, and terminating at 2 a.m. Monday, June 13, 1966.

JOSEPH P. LORDI
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

C.D.S. CORPORATION)
t/a BROWNIE'S GREEN GOOSE)
251 1/2 Kaighn Avenue)
Camden, New Jersey)

CONCLUSIONS

and

Holder of Plenary Retail Consumption License C-184, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

ORDER

-----)
Benjamin Asbell, Esq., Attorney for Licensee)
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control)

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on February 24, 25 and 26 and March 3, 9 and 10, 1966, it permitted acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Absent prior record, the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re DiGiuseppe, Bulletin 1659, Item 2.

Accordingly, it is, on this 12th day of April 1966,

ORDERED that Plenary Retail Consumption License C-184, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to C.D.S. Corporation, t/a Brownie's Green Goose, for

premises 251½ Kaighn Avenue, Camden, be and the same is hereby suspended for fifty-five (55) days, commencing at 2 a.m. Tuesday, April 19, 1966, and terminating at 2 a.m. Monday, June 13, 1966.

JOSEPH P. LORDI
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - FOUL LANGUAGE - BRAWL AND DISTURBANCE - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against

451 Corp.,
t/a Berkley Bar
451 So. 3rd Street
Camden, New Jersey,

)
)
) CONCLUSIONS

) and

Holder of Plenary Retail Consumption License of C-188, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

) ORDER
)

Rossetti and Rose, Esqs., by M. Zev Rose, Esq., 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:

"On October 29, 1965, you allowed, permitted and suffered foul, filthy and obscene language and brawls, acts of violence and disturbances in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20."

In behalf of the Division, Agent C testified that, pursuant to specific assignment to investigate an allegation of fights, brawls and foul language, he, together with Agent J, entered the licensed premises (described as a neighborhood tavern) on Friday, October 29, 1965, at approximately 10:35, 10:40 p.m. A Richard Burgess was tending bar. The tavern was crowded and the patronage was mostly male.

The agent's attention was immediately attracted to the undeniably foul and obscene language, a recital of which would serve no useful purpose. This language was used generally and to a high degree of fluency by the patronage.

At 11:15 p.m. the agent noted a female sitting at the bar and a female seated at a nearby table exchanging and directing foul and indecent epithets at each other for a period of about two minutes. This exchange of foul unpleasantries was followed by a fist fight between the two women. The fight, which started at the table and ended up against the bar, lasted a total of two or three minutes. Many of the patrons circled around the two females, some stood on

tables, clapping, exhorting them to intensify their display of fist-cuffs, frequently punctuating their oral exhortations with additional foul and filthy language.

During this time Mr. Burgess stayed behind the bar watching the fight. It appeared that his services as a bartender temporarily ceased -- the patrons were more interested in watching the embattled females.

No one, including Burgess, stopped the fight. The agent expressed it thusly: "They kind of stopped themselves...." There was a telephone available behind the bar, next to the cash register.

Upon the termination of the physical hostilities, the two females had a drink together (served by Mr. Burgess), whereupon the victor and the vanquished departed the premises together.

The same language continued for a period of fifteen or twenty minutes, after which the agents identified themselves to the bartender Burgess, and directed his attention to the foul and disgusting language. Burgess responded that he realized it was going on and questioned his ability to control it. When his attention was directed to the fact that he was behind the bar watching the two females fight, he replied, "Nobody was getting hurt. There was no guns or knives. There was no problem." When the agent advised him that it was his duty to control the patrons, Burgess responded, "I am not going to get out there in the middle of it and get hurt myself."

On cross examination the witness reiterated that Burgess did not say anything of any significance to any of the patrons, nor did he speak to the two women who were engaged in the brawl after his attention was drawn to them. Burgess declared that he had called the police about eight o'clock that evening and no police officers came to the tavern.

The attorneys stipulated that Agent J's testimony on direct examination (he had accompanied Agent C at the licensed premises on the night in question) would be the same as the testimony given by Agent C.

In behalf of the licensee, Jack Olevsky testified that he was the major stockholder of the licensee corporation and was in active supervision and the operator of the licensed business. On the evening in question he had to leave the tavern and instructed Burgess to tend bar and to obey his rules; more specifically, in the event of a disturbance or offensive language, "Give them two or three warnings and, if they don't listen to you or don't leave, call the police and let them escort them out of the bar."

Richard Burgess testified that, when he came in to tend bar on October 29, 1965, at approximately 6:30 p.m., Olevsky instructed him that, if the customers got out of line and if he couldn't handle them, he was to call the police. When questioned concerning what happened after he came on duty, Burgess responded, "I came on, started working, everything running along smoothly. By it being pay day the crowd was drinking, a little loud, curse words here and there. I called their attention to it, so they stopped, and continued working, and things smooth again. Outburst again. I told them once more." As to the conduct of the two women who later became involved in the altercation, he testified, "The two ladies over there, they was carrying on here and there. I asked them to be quiet. They kept on, see-saw, see-saw. I said, 'If you don't stop I am going to call the police department.' They continued." Later he

testified that he called the police department at about 9 p.m. and no police officers came to the tavern in response to the call. Whenever he heard cursing he would request the patrons to desist or he would call the police department. Additionally, he testified that Agent J called his attention to the fight between the two women while it was in progress, at which time the two Division agents displayed their credentials. He did not recall what he told the agents when they called his attention to the foul language and the fighting except that he mentioned that he had called the police earlier that evening and that they hadn't arrived.

On cross examination the questioning revealed the following:

- "Q. When you went to work at 6:30 what kind of crowd did you have? Lively crowd?
 A. Yes.
 Q. How about their language?
 A. Foul.
 Q. Is that common language in your place? Do they generally use that language?
 A. No, sir.
 Q. On this night they were?
 A. Yes, pay night, Friday.
 Q. What time was it after you went on you first said anything to them about using this bad language?
 A. It was around eight o'clock."

The witness admitted that, after he called the police at about 9 p.m., the foul language terminated and then, at about 10 p.m., it started up again. He warned the patrons at the bar to cease or depart from the premises. When questioned as to why he didn't call the police when the fight between the two women erupted, he responded that he was expecting the police. He stated that the fight lasted "a minute or so."

The licensee's attorney, with admirable forthrightness, conceded that obscene language was used and a disturbance lasting two minutes did actually occur. He argued, however, that the licensee did not allow, permit or suffer these occurrences and the licensee's agent took every reasonable action possible under the circumstances.

Unquestionably the foul, filthy and obscene language, as charged, was used in the licensed premises, and the brawl and disturbance, also as charged, did actually occur in the licensed premises.

Further, it is clear that the proscribed language (which I describe as being utterly revolting) was in general usage for a considerable period of time.

In so far as the brawl is concerned, the testimony of the licensee's bartender plainly indicates that the physical encounter engaged in by the two females (as described by Division agent) was preceded by an incident between these females earlier in the evening. Additionally, it must be emphasized that there was some prolonged name-calling indulged in between the pair prior to their engaging in physical hostilities.

A careful review of the testimony negates the thought that the brawl, disturbance and acts of violence erupted suddenly, were unanticipated and were not foreseeable. On the other hand, it was apparent that the conduct of the females was such that a brawl, a disturbance and acts of violence could reasonably be foreseeable and

anticipated. See Plikaytis v. Harrison, Bulletin 754, Item 1, and cases cited therein.

Considering all of the circumstances herein, I am satisfied that a brawl, act of violence and disturbance took place and that foul, filthy and obscene language was permitted on the licensed premises, as charged.

Additionally, I am convinced that the bartender "allowed, permitted and suffered" the violations to occur. See McCrate v. Harrison, Bulletin 1658, Item 4. See also Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup. Ct. 1947); Conner v. Fogg, 75 N.J.L. 245 (Sup. Ct. 1907). In the Fogg case Judge Trenchard, in considering the terms "permit" and "suffer", stated (at p.247):

"To permit is defined as meaning to authorize or to give leave (McHenry v. Winston, 49 S.W. Rep.4), but the term 'permit' has been often used synonymously with 'suffer', so that it may be said that one who suffers the doing of a thing which he might have prevented permits it."

It is to the public's best interest that a licensee be held strictly accountable for keeping his place and his patronage under proper control. Seidel v. Upper Freehold Township, Bulletin 1246, Item 1.

Applying the firmly established principles to the instant proceeding, I am of the opinion that the licensee's contention that it did not "allow, permit or suffer" the occurrences in question cannot prevail.

One additional basic principle is worthy of emphasis. A licensee is responsible for the misconduct of his employees and is fully accountable for their activities on the licensed premises. Kravis v. Hock, 137 N.J.L. 252 (Sup. Ct. 1948); In re Schneider, 12 N.J. Super. 449 (App. Div. 1951); Rule 33 of State Regulation No. 20.

A fair evaluation of the evidence and application of the legal principles applicable thereto clearly preponderate in favor of finding of guilt, and I so recommend.

The licensee has no prior adjudicated record of suspension of license. I further recommend that the license be suspended for twenty-five days. Re Ewtushek, Bulletin 1351, Item 2.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the entire record herein, including the transcript of the testimony and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 18th day of April, 1966,

ORDERED that Plenary Retail Consumption License C-188, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to 451 Corp., t/a Berkley Bar, for premises 451 South 3rd Street, Camden, be and the same is hereby suspended for twenty-five (25) days, commencing at 7:00 a.m. Monday, April 25, 1966, and terminating at 7:00 a.m. Friday, May 20, 1966.

JOSEPH P. LORDI
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - FALSE STATEMENTS IN LICENSE APPLICATION - UNQUALIFIED EMPLOYEE - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO LIFT AFTER 20 DAYS ON PROOF OF CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Disciplinary Proceedings against

THE THREE MUSKETEER'S, INC.
t/a THE NITE SPOT
534 E. 18th Street
Paterson, N.J.

CONCLUSIONS

and

Holder of Plenary Retail Consumption License C-269, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

ORDER

George S. Grabow, Esq., Attorney for Licensee
Morton B. Zemel, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads guilty to charges alleging that in its current application for license it (1) falsely stated that Louis Waco and Anne Waco, respectively 98 and 1 per cent. stockholders and president and secretary-treasurer of the corporation, were residents of New Jersey, whereas in fact they were residents of New York, in violation of R. S. 33:1-25, (2) failed to disclose the record of revocation effective December 15, 1953, of a New York retail liquor license in which Louis Waco held an interest, in violation of R.S. 33:1-34, and (3) from August 25, 1965 to March 14, 1966, employed Louis Waco, a non-resident of New Jersey, as manager without requisite employment permit, in violation of Rule 4 of State Regulation No. 13.

Absent prior New Jersey record, the minimum penalty on the first charge is suspension of license for ten days (Re Riddle Bar, Inc., Bulletin 1647, Item 6), on the second charge for ten days (Re Talk of the Town, Inc., Bulletin 1614, Item 3), and on the third charge for five days (Re Cletzky, Bulletin 1659, Item 6), or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Since to date no correction of the unlawful situation has been accomplished, 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 the lifting of the suspension whenever the unlawful situation has been corrected, but in no event sooner than twenty days after commencement of the suspension herein.

Accordingly, it is, on this 12th day of April 1966,

ORDERED that Plenary Retail Consumption License C-269, issued by the Board of Alcoholic Beverage Control for the City of Paterson to The Three Musketeer's, Inc., t/a The Nite Spot, for premises 534 E. 18th Street, Paterson, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1966, commencing at 3 a.m. Tuesday, April 19, 1966, with leave granted to the licensee or any bona fide transferee to file verified petition establishing correction of the unlawful situation for lifting of the suspension of the license on or after 3 a.m. Monday, May 9, 1966.

JOSEPH P. LORDI
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

HI-DE-HO CORP.
602 Paterson Plank Road
Union City, New Jersey

CONCLUSIONS

Holder of Plenary Retail Consumption License C-26, issued by the Board of Commissioners of the City of Union City

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 charges alleging that (1) on February 13, 1966, it sold drinks of beer to two minors, age 19 and 20, in violation of Rule 1 of State Regulation NO. 20, and (2) in its current application for license, failed to disclose the record of suspensions of license of Teddy Rigano, a stockholder, officer and director, in violation of R.S. 33:1-25.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective July 26, 1965, for permitting a brawl on the licensed premises. In addition, the license then held by Teddy Rigano for premises 615 Paterson Plank Road, Union City, was suspended by the Director for twenty-five days effective May 27, 1957, for permitting hostess activity; and the license then held by Club Hi-De-Ho, Inc. (of which Teddy Rigano was secretary-treasurer and 60% stockholder) for premises Baldwin Avenue and Route 46, Lodi, was suspended by the Director for forty-five days effective April 4, 1954, for permitting indecent entertainment and hostess activity, and (when Rigano was secretary and 50% stockholder) was again suspended by the Director for thirty-five days effective March 2, 1955, for hostess activity (Re Rigano, Bulletin 1174, Item 3), the concealment of this record being the subject of the second charge.

The prior record of suspensions of license for dissimilar violations occurring more than five years ago disregarded for penalty purposes, the license will be suspended on the first charge for fifteen days (Re Carl's Orchid Lounge, Inc., Bulletin 1649, Item 4) and on the second charge for ten days (Re Long, Bulletin 1666, Item 2), to which will be added five days by reason of the record of suspension of license for dissimilar violation occurring within the past five years (Re Long, supra), or a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 11th day of April, 1966,

ORDERED that Plenary Retail Consumption License C-26, issued by the Board of Commissioners of the City of Union City to Hi-De-Ho Corp, for premises 602 Paterson Plank Road, Union City, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. Monday, April 18, 1966, and terminating at 3:00 a.m. Friday, May 13, 1966.

JOSEPH P. LORDI
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - HOSTESS ACTIVITY- SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
FLORENCE DZIEDZIC
t/a DOG HOUSE BAR & GRILL
398 Comstock Street
New Brunswick, N. J.
Holder of Plenary Retail Consumption License C-51, issued by the Board of Commissioners of the City of New Brunswick.

CONCLUSIONS
and
ORDER

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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 charges alleging that (1) on February 11-12, 1966 she permitted waitresses to accept drinks at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20, and (2) on February 26, 1966, she sold twenty-four 12-ounce cans of beer for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective August 24, 1964, for sale to minors. In addition, the license then held in partnership with Joseph Dziejdzic for the same premises was suspended by the municipal issuing authority for five days effective January 24, 1954, for service to women at the bar, in

violation of local regulation.

The prior record of suspension for dissimilar violation in 1954 disregarded because occurring more than five years ago the license will be suspended on the first charge for twenty days (Re Subar, Inc., Bulletin 1586, Item 2) and on the second charge for fifteen days (Re Marino, Bulletin 1666, Item 8), to which will be added five days by reason of the record of suspension for dissimilar violation in 1964 occurring within the past five years (Re Sachs, Bulletin 1668, Item 4) or a total of forty days, with remission of five days for the plea entered, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 20th day of April 1966,

ORDERED that Plenary Retail Consumption License C-51, issued by the Board of Commissioners of the City of New Brunswick to Florence Dziedzic, t/a Dog House Bar & Grill, for premises 398 Comstock Street, New Brunswick, be and the same is hereby suspended for thirty-five (35) days, commencing at 2 a.m. Wednesday, April 27, 1966, and terminating at 2 a.m. Wednesday, June 1, 1966.


Joseph P. Lordi
Director