

BULLETIN 1198

NOVEMBER 25, 1957.

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STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1198

NOVEMBER 25, 1957.

1. APPELLATE DECISIONS - ROKAY WINES & LIQUORS, INC. v.  
PASSAIC.

ROKAY WINES & LIQUORS, INC., )  
trading as ROKAY WINES &  
LIQUORS, INC., )

Appellant, )

-vs-

BOARD OF COMMISSIONERS OF THE  
CITY OF PASSAIC, )

Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

Nicholas A. Carella, Esq., Attorney for Appellant.  
William N. Gurtman, Esq., Attorney for Respondent.  
Nicholas Martini, Esq., Attorney for Objectors.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Board whereby on June 4, 1957, it denied appellant's application for transfer of its plenary retail distribution license from 733 Main Avenue to 102 Main Avenue, Passaic.

"In its petition of appeal appellant alleges that respondent's action was erroneous in that:

- a. It was arbitrary and clearly unjustifiable.
- b. It infringed upon the appellant's right to protection as a licensee in effecting a transfer of said license.
- c. It violated Article 1, Paragraph 1 and 20, of the New Jersey Constitution of 1947.
- d. It violated the Fourteenth amendment of the United States Constitution.'

"Respondent in its answer denies appellant's allegations and asserts that the grounds for its action 'were the legal and valid evidence adduced at the hearing which, in the exercise of reasonable discretion, supported the decision of the respondent to deny the application of appellant.'

"The undisputed facts adduced at the hearing herein show that appellant's licensed premises are located in a 100% business area approximately 1-3/4 miles from the proposed site of transfer; that the section in which the proposed site is located is zoned for business and has three licensed premises all operated by retail distribution licensees; that the area bordering the section of the proposed site is residential in character; that a public hearing was held on appellant's application for transfer at which attorneys for the parties hereto and for objectors appeared and addressed respondent Board; that a petition containing the signatures of approximately 370 objectors to the transfer was submitted and that respondent, by unanimous vote, denied appellant's application. Respondent admits the fitness of appellant and the suitability of the proposed premises for licensing purposes.

"Cyril F. Harder (president of appellant corporation) testified that appellant has operated its licensed premises for a period of seven years; that said premises and the proposed premises are approximately twenty feet in width by sixty feet in depth; that, unlike the present site, the proposed site has 'no loading zones, no parking meters whatsoever, no one-hour parking limits; parking is permissible;' that the nearest 'package liquor store' is 900 feet from the proposed premises, and that there are approximately 406 families dwelling in the surrounding area of the proposed site.

"Respondent called as its witness an ordained minister, three distribution licensees operating in the section of the proposed site, and a resident of that area.

"The minister testified that, as pastor of a church in the vicinity of the proposed site of transfer, he owes a duty to his flock and to the community in general to protest against the granting of the transfer in question, believing that the three licensed premises in the area are sufficient to supply the needs and conveniences of the public.

"The retail distribution licensees testified that their business receipts indicate that another 'package store' in the area is not warranted. The resident testified that another licensed premises in the neighborhood would tend to increase existing juvenile delinquency.

"It is unnecessary to consider grounds b, c and d set forth in the petition of appeal since the appeal herein was heard de novo with full opportunity for counsel to present testimony under oath and to examine and cross-examine the witnesses. Vide Rule 6 of State Regulation No. 15; cf. Shapiro v. Long Branch, Bulletin 901, Item 2.

"The transfer of a liquor license is not a right inherent in the license but is, rather, a privilege which the issuing authority may grant or deny in the exercise of a reasonable discretion. When the transfer is denied on reasonable grounds, such action will be affirmed. Drucker v. Trenton, Bulletin 474, Item 9.

"The record herein discloses that respondent failed to state the reasons for its denial. While it has been indicated repeatedly that, in all fairness, a local issuing authority should state the reasons for its decisions (Rosenvinge v. Metuchen, Bulletin 249, Item 6; Paini v. Bloomsbury, Bulletin 300, Item 13; Haba Realty Corp. v. Long Branch, Bulletin 984, Item 1), such failure is not fatal. Appellant on this appeal has been afforded its full day in court. Furthermore, respondent's reasons were set forth in its answer on appeal (Trinity Methodist Church of Rahway, N. J. v. Rahway and Fox, Bulletin 972, Item 3.)

"With respect to the one remaining ground alleged for reversal in appellant's petition of appeal, I find no evidence that the members of respondent Board acted in an arbitrary, capricious or unreasonable manner in reaching its determination. Considering the oft-repeated holding of the Director that his function on appeals is not to substitute his judgment for that of the local issuing authority but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal views on the subject (Rafalowski v. Trenton, Bulletin 155, Item 8; Northend Tavern, Inc. v. Northvale et al., Bulletin 493, Item 5; Pettl v. Bayonne,

Bulletin 564, Item 7; Mulcahy et als. v. Maplewood et al., Bulletin 658, Item 4), I conclude that appellant has failed to sustain the burden resting upon it of establishing that the action of respondent was erroneous. I recommend, therefore, that the action of respondent in denying appellant's application be affirmed."

No exceptions were taken to the Hearer's Report within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the facts and circumstances herein, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 31st day of October, 1957,

ORDERED that the action of respondent Board of Commissioners of the City of Passaic be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS  
Director.

2. APPELLATE DECISIONS - PEPE AND FERRAZANO v. RIVER VALE TOWNSHIP.

SAMUEL PEPE & ANGELO FERRAZANO, )  
t/a NAPLES BAR, RESTAURANT &  
PIZZERIA, )

Appellants, )

-vs-

TOWNSHIP COMMITTEE OF THE )  
TOWNSHIP OF RIVER VALE, )

Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

Mario R. LaBarbera, Esq., Attorney for Appellants.  
Jos. Frederick Bratt, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This appeal is designated as an appeal from a resolution dated June 27, 1957, suspending appellants' license from July 15, 1957 to August 14, 1957, inclusive, for premises located on Rivervale Road, Township of River Vale.

"Upon the filing of the appeal the Director entered an order on July 10, 1957, staying the effect of respondent's order of suspension until the entry of a further order herein.

"The answer filed herein alleges that respondent's resolution adopted on June 27, 1957, was a single resolution renewing appellants' license and including a thirty-day suspension 'for conduct in the operation of the premises heretofore, which, in the opinion of the Township Committee, is not in the best interest of the community.'

"The evidence herein discloses that on March 1, 1957, both appellants gave written statements to Chief of Police Roberge, of the River Vale Police Department, concerning

an investigation then being conducted by agents of the Federal Bureau of Investigation. In their statements both of the appellants admitted that during the previous eight months they had accepted a number of packages from Alex --- at the licensed premises for delivery to a person known to them only as Joe. Pending delivery to Joe, some of these packages had been placed in the kitchen and, at the request of Alex, some had been placed in the basement of the licensed premises. There is a clear inference that the packages in question contained pharmaceutical products which had been stolen by Alex from his employer, but both appellants denied in their statements that they knew the contents of the packages or had any reason to believe that Alex was engaged in illegal activities. As of the date of hearing, no criminal charges had been preferred against either of the appellants in connection with the investigation conducted by the Federal Bureau of Investigation. In his statement Samuel Pepe admitted that appellants had not deducted any withholding taxes or social security payments from money paid to a man who 'worked for us at times over a period of about a year as a bartender.' It further appears that appellants have held a license for approximately five years, and that no disciplinary proceedings have ever been instituted against them.

"After appellants filed their application for renewal for the 1957-58 licensing year, respondent at its meeting held on June 20, 1957, adopted a motion that the application 'be denied at this time; that the applicants be advised of the Township Committee's action and be notified that they may have the opportunity of a hearing if they so desire, at which time the action of the Committee will be reviewed. This action is not final unless the applicants fail to apply for a hearing.' On June 24, 1957, applicants applied for a hearing which was held on June 27. At the hearing the appellants and their attorney appeared. The Committee heard testimony from Police Chief Roberge and Samuel Pepe and, after considering the matter, unanimously adopted the following resolution:

'RESOLVED that the license of Samuel Pepe and Angelo Ferrazano, t/a Naples Restaurant, Bar & Pizzeria be renewed for a period of one year, commencing July 1, 1957, and

'BE IT

'FURTHER RESOLVED that said license be and it hereby is suspended for a period of thirty days, commencing at 7:00 a.m., July 15, 1957, and ending August 14, 1957, for conduct in operation of the premises heretofore, which, in the opinion of the Township Committee, is not in the best interest of the community.'

"Appellants allege that the action of the Township Committee in suspending their license is erroneous because, admittedly, no charges were ever served by respondent upon the appellants. It is well established that in disciplinary proceedings it is necessary to prefer appropriate charges against the licensee and afford him a fair opportunity to be heard. Beam v. Caldwell, Bulletin 327, Item 1. However, it appears from the testimony of Committeeman Rehill (who was acting Chairman of the meeting held on June 27) that the members of the Committee did not consider the hearing held on June 27 as a hearing in disciplinary proceedings. He testified

that the members understood that there is no legal requirement for a hearing upon an application to renew, but that they gave appellants the opportunity for a hearing 'for the purpose of hearing their side of the story to find out if the activities which came to the attention of the Township Committee were so.' He further testified that 'we felt if we had the responsibility of insuring that the premises would be operated in a proper manner that we could take some action to increase the possibility of this proper action and could issue a conditional renewal.' However, the suspension imposed may not be viewed as a 'condition' within the meaning of the term as used in R. S. 33:1-32. In Hoffman v. Orange and DeLascia, Bulletin 598, Item 7, it was clearly pointed out that the action of an issuing authority in renewing a license and imposing a suspension without preferring charges is improper. In this case the decision to suspend the license is part and parcel of the resolution renewing the license and it is impossible to ascertain whether the members of respondent Township Committee would have renewed the license without the so-called condition. No opinion is expressed or entertained as to whether or not appellants are fit persons to hold a license. That issue should be determined primarily by the local issuing authority and, under the facts of this case, it does not appear that the local issuing authority has decided that issue. It is recommended, therefore, that the case be remanded to respondent to determine whether the application for renewal should be granted without being subject to the suspension imposed, or denied."

After the filing of the Hearer's Report herein, written exceptions and written argument thereon were filed by the attorney for appellants and answering written argument by the attorney for respondent. After considering the written arguments, I decided to hear oral argument and the case was argued orally before me on September 24, 1957.

I concur in the findings of fact in the Hearer's Report but I do not agree with the recommendation of the Hearer that the case be remanded. If, in this case, any violations have been committed by appellants, the Township Committee may institute disciplinary proceedings against the licensees but the Township Committee had no jurisdiction to impose a penalty against the license on renewal without preferring charges. Hoffman v. Orange and DeLascia, supra. Under the circumstances, I shall enter an order affirming respondent's action whereby it granted renewal of appellants' license and reversing respondent's action whereby it suspended the renewed license for thirty days.

Accordingly, it is, on this 7th day of November, 1957,

ORDERED that the action of respondent in granting appellants' application for renewal of their license be and the same is hereby affirmed; and it is further

ORDERED that the action of respondent in suspending appellants' renewed license for a period of thirty days be and the same is hereby reversed.

WILLIAM HOWE DAVIS  
Director.

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY  
(SOLICITATION FOR PROSTITUTION) - NUISANCE - LICENSE  
REVOKED.

In the Matter of Disciplinary )  
Proceedings against )

CLUB HI LI, INC. )

(renewed for 1957-58 licensing )  
year as Club Hi-Li) )

352 John Street, East Newark )  
PO Harrison, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-6 (for the 1956-57 )  
and 1957-58 licensing years), issued )  
by the Mayor and Council of the )  
Borough of East Newark. )

-----  
Jack L. Cohen, Esq., by William Gelfond, Esq., Attorney for  
Defendant-licensee.

Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charges:

'1. On January 26, 1957, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., solicitation for prostitution and the making of arrangements for illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20.

'2. On January 12, 13, 18, 23, 24 and 26, 1957, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you made offers to procure, allowed, permitted and suffered the making of offers to procure and procured females for male patrons for the purpose of illicit sexual intercourse; allowed, permitted and suffered unescorted females frequenting your premises to make overtures to male patrons for illicit sexual intercourse; allowed, permitted and suffered a female employed on your licensed premises to accept beverages at the expense of or as a gift from customers and patrons; permitted on your premises and possessed matter containing an indecent, filthy, lewd, lascivious and disgusting representation, viz., an assembly of items in a cardboard box bearing the legend "Have Fun"; failed to keep your licensed premises closed during the hours when sales of alcoholic beverages are prohibited in the Borough of East Newark; allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene language and conduct and otherwise conducted your place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20.'

"At the hearing herein the Division called as its witnesses three ABC investigators (hereinafter referred to as Agents D, S and M) who, on the dates alleged in the charges, participated in the investigation of defendant's licensed premises.



"The testimony of Agents S and M corroborates that of Agent D which, succinctly stated, shows that on January 12, 1957, the three agents entered defendant's licensed premises at about 11:55 p.m. and seated themselves at the bar behind which they observed a bartender named Al and, seated at the customers' side, Arthur Sarica (president of the corporate licensee herein). They also observed a female called Lorraine checking the patrons' garments and consuming alcoholic beverages served to her by Al who accepted payment from male patrons. Engaging Al in conversation, Agent D remarked 'The place is kind of dead' and added 'Where are all the broads?', and Al replied 'We'll have some in herein a couple of weeks. Right now we are taking it easy. This used to be an after hours spot, but not any more, now we are playing it legit, but we'll have some broads in here though.' Agent D then asked 'What is the story with that Lorraine over there?' and Al replied 'She is a "diz ball" .... She may stay with a guy and drink with him all night and then leave him, and other times she might meet a guy when we are closing and go home with him. These broads today don't know how to use what they got.' The three agents ordered and were each served a bottle of beer just before the closing hour of 2:00 a.m. and they remained on the premises consuming their drinks until 2:15 a.m. When the agents were leaving, Al suggested 'Why don't you come in during the week? Things are slow then and you might be able to score with her' and he looked toward Lorraine. Remaining in the vicinity of the licensed premises, the agents saw Al, Sarica, Lorraine and another female emerge at 2:25 a.m.

"On January 18, 1957, the agents entered defendant's licensed premises about 8:50 p.m. Al, Sarica and a bartender called Jerry were present. At about 9:10 p.m. Lorraine arrived and proceeded to check patrons' hats and coats, intermittently going to the bar to accept drinks paid for by male patrons. Agent D remarked 'Looks like Lorraine is all tied up tonight with that guy over there' and Al said 'You never can tell. The other night when you fellows were in here I ended up taking her home. She didn't like the old guy that was sitting with her.' When Agent D inquired if he had illicit relations with Lorraine, Al explained, in vulgar terms, why he didn't bother with 'these broads in here.' He later told the agents 'There is a lot of hustlers come in here. I'll point them out to you. There is one in particular named Phyllis ...' and he related how and where she would engage in illicit sexual relations, the price she would charge, and assured them that 'she is clean.' Shortly thereafter a female entered the premises and Al asked whether the agents wanted to meet her and, when told that they preferred to wait for Phyllis, Sarica, referring to the female, said 'Not bad, hey! Too bad she has to be home by twelve.' At about 11:20 p.m., when Phyllis failed to appear, the agents prepared to leave and Al said 'She might still be in. Why don't you give me a call later if you don't make out, and if she is in here I'll tell her to wait until you come back', to which Agent D replied 'Well, if we don't give you a call we'll probably be in Wednesday night' and Al said 'All right. I'll tell her to be here.'

"On January 23, 1957, the agents entered the licensed premises at about 8:50 p.m. Jerry was tending bar and Sarica came in later. Agent D inquired of Sarica if Phyllis was there, stating that 'Al was supposed to have her in here for us tonight' and Sarica said 'She was in Sunday night, though, and I know Al told her to be in here tonight, so she will probably be in later.' Jerry confirmed Sarica's statement, saying 'she latched onto some guy quick and left' and, when he was asked if Phyllis charged

\$5.00, he replied 'Yes, that is right.' At about 12 Midnight Sarica said 'I don't know what happened to her. She must be busy. Well, she is not the only one. Don't worry about her. There is plenty broads come in here. If she doesn't come in, what is the difference? A lay is a lay' and, when Agent D reminded Sarica that they had made a date to meet Phyllis, Sarica said 'Don't worry about her alone. Here is what I will do: I'll check with some of these broads that come in here and find out if they're waiting for somebody or if they're on the make, and if they're on the make I'll call you over and introduce you to them. For instance, there was a blonde in here earlier tonight, and she was waiting for some guy that she is hot for she met in here the other night. Now, something like that I wouldn't steer you to because I know you would spend your money on her and wouldn't make out. After all, I'm not just out to make dough. I'll take care of you, but all I can do is introduce you to the girl after I find out what is the score with her, and then the rest is up to you. I have to be very careful because there might be ABC men around, but the way I do it everything looks all right.'

"On January 26, 1957, Agents D and S entered the premises about 9:25 p.m. and were greeted by Al with 'Hey! You guys fouled me up .... Phyllis was in here last night, and I thought you would be in, I kept her in for about an hour and a half.' This statement was confirmed by Sarica. When it was suggested that Al was stringing the agents along, Al said 'No. She'll be in tonight for sure.' Sarica agreed. At 10:05 p.m. Phyllis arrived and, after Al and Sarica spoke to her, Al informed the agents 'It is all set up. She knows the score. It will be five bucks. Do you want me to bring her over?' and, when Agent D replied in the affirmative, Phyllis was presented and said 'Hi! I understand you fellows want to meet me. I'm Phyllis.' Phyllis later accepted a marked five-dollar bill from each agent and arranged to have illicit sexual relations with them in their car at a desolate spot suggested by Al. As the trio left the premises, Al waved to them and said 'Have a good time.'

"The two agents and Phyllis then proceeded toward the agents' car and were apprehended by Agent M and two local police officers to whom Phyllis admitted the illicit arrangements and turned over the marked money. Agents D and S, accompanied by the two police officers, reentered the licensed premises, identified themselves to Al, Jerry and Sarica, then searched the premises and found on the back bar a cardboard box containing indecent and suggestive material. When informed of the violations, Al commented 'Well, what can I say? I just thought you were a couple of good fellows and I introduced you to her; that is all' and, when Sarica asked 'You mean I can't introduce people to one another in here?', Agent D replied 'But we were introduced to a female by your bartender for the purpose of having illicit sexual intercourse, and on several occasions you also joined in the conversation regarding it.' 'Well, I guess there is no changing that' said Sarica, 'but don't make it out like I am running a whore house here, will you, because I run a pretty nice place.'

"Defendant called as its witnesses Sarica, its two bartenders and a patron. The patron testified that she had purchased the lewd article seized by the agents and had given it to her husband (a pharmacist) who 'took it out of his pocket in the bar and forgot it.' She further testified that Lorraine 'has taken my coat as a friend but not as a hat check girl' and

that at no time did she or her husband give Lorraine a tip. Respecting the licensed premises she testified 'I have never seen anything wrong or anything that would make me ashamed of being there or being seen there.'

"Al testified, in substance, that Lorraine was not employed as a hat-check girl in defendant's licensed premises and that the patron who bought drinks for her was her boyfriend George. He admitted that he conversed with the agents about 'girls, girls, girls' saying "You should have been here last night" or "the other night" and I never said "yes", "no" or "maybe" or give them a definite "yes" because you lose the customer. I am trying to hold the customer and yet not jeopardize the place.' He admitted that on one occasion he took Lorraine home because 'George had to go to work and he asked me to see her home;' that there was a conversation between him and the agents respecting Phyllis, and that 'I can't give you any particular conversation except, as I say, the conversation was general and based on the availability of women -- girls. I guess the conversation was constantly, "Who is this coming in? Who is that coming in? Who is this girl? Who is that girl?" That is about all the conversation was.' He could not recall or remember the various conversations in which the agents testified he engaged, and he denied that he introduced Phyllis to the agents for the purpose of making arrangements to have illicit sexual relations with them.

"Jerry testified, in substance, that he was not an employee on the licensed premises but tended bar occasionally to help out his friend Sarica; and that he was in the licensed premises on the nights of January 23 and 26, 1957, and saw the agents there but did not converse with them except, when Agent D asked if there was a girl by the name of Phyllis in the place, said 'I don't know. There is no such girl that I know of.'

"Sarica testified, in substance, that the agents were in the licensed premises on the dates alleged; that Lorraine was not employed by him; that she and her boyfriend George Smith were patrons; that Al worked as a bartender on Friday and Saturday nights and Jerry worked Wednesday night, January 23, but was not an employee; that he closed his place at 2:00 a.m. January 13, 1957; that a patron had left the lewd article on the bar and he told Al to 'Put it behind the bar; she will probably be back for it;' that he saw the agents converse with Al who 'spent quite a bit of time with them;' that he had no conversation with the agents about women or Phyllis; that he saw Phyllis with the two agents but didn't see the trio leave the premises; and that, when the agents identified themselves and he was told of Phyllis' solicitation, he said 'If that gets in the papers this will look like a house of ill repute.'

"Having carefully considered the testimony adduced herein, I find that, notwithstanding the exhaustive cross-examination of the agents, their testimony, which is highly credible in all respects, remained unshaken, and I conclude that the Division has sustained the burden of proof of defendant's guilt as to both charges by more than a fair preponderance of the believable evidence.

"It has long been established that solicitation for immoral purposes and the making of arrangements for illicit sexual intercourse cannot and will not be tolerated on licensed premises. The public is entitled to protection from these sordid and dangerous evils (Re 17 Club, Inc., Bulletin 949, Item 2; In re 17 Club, Inc., 26 N. J. Super. 43 (App. Div. 1953)).

"In the instant case the licensee, by its agents, not only permitted immoral activities on the licensed premises, but participated in the making of arrangements for illicit sexual intercourse and procured a prostitute for said purpose. The appropriate penalty for such unseemly conduct is revocation of defendant's license, which I recommend (Re Merjack Corporation, Bulletin 998, Item 1; Re Kaczka, Bulletin 1126, Item 3)."

Written exceptions to the Hearer's Report and argument in support thereof were filed within time pursuant to Rule 6 of State Regulation No. 16.

Having carefully considered the transcript of the proceedings herein, the Hearer's Report, the exceptions taken thereto and the argument advanced by defendant's counsel, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 21st day of October, 1957,

ORDERED that Plenary Retail Consumption License C-6, issued by the Mayor and Council of the Borough of East Newark to Club Hi Li, Inc., for premises 352 John Street, East Newark, be and the same is hereby revoked, effective immediately.

WILLIAM HOWE DAVIS  
Director.

4. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (INDECENT LANGUAGE AND CONDUCT) - MISLABELED BEER TAP - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

EUGENE W. FUER  
76 South Street  
Newark, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-787, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

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Joseph A. D'Alessio, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On September 14, 1957, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises in that on said date you allowed, permitted and suffered foul, filthy and obscene language and conduct and lewd, lascivious, indecent, filthy, disgusting and immoral acts, gestures and movements by a female person in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20.

"2. On September 14, 1957, you allowed, permitted and suffered two taps on your licensed premises to be connected with barrels of malt alcoholic beverages which taps did not bear markers which truly indicated the names or brands of the manufacturers of such malt alcoholic beverages, in that while one of said taps bore a Schaefer marker and the other a Krueger marker both were connected to barrels of Camden beer; in violation of Rule 26 of State Regulation No. 20."

An examination of the file herein discloses that at about 12:15 a.m. on Saturday, September 14, 1957, two ABC agents observed a woman patron embrace various male patrons and on each occasion place her hand on their private parts. She took a firm hold on one of the men and placed him on the floor and, descending to the floor with him, engaged in bodily movements simulating sexual intercourse. She then grabbed hold of the private parts of one of the agents and made an indecent comment concerning him. While this conduct was in progress the patrons in the establishment, by their actions, appeared to enjoy the indecent behavior. The bartender, although present, made no attempt whatsoever to prevent the continuance of the improper activities.

The agents identified themselves to the bartender, and also to the defendant who came into the premises a short time thereafter. An investigation of the basement of the licensed premises disclosed that two barrels containing beer were connected to taps bearing a brand of beer other than that shown on the markers in the barroom.

It is contended by the defendant, in mitigation of penalty, that he is ill and, therefore, cannot devote full time to the operation of the business but must rely on his employees to a large extent; further, that defendant was not present when the violation occurred. However, a licensee is under a duty to exercise close supervision over his licensed premises, and violations occurring there cannot be excused because the licensee had no personal knowledge of them. Rule 33 of State Regulation No. 20; Stein v. Passaic, Bulletin 451, Item 5; Essex Holding Corp. v. Hock, 136 N.J.L. 28.

Defendant has a prior adjudicated record. Effective October 26, 1942, defendant's license was suspended by the local issuing authority for twenty days for permitting a brawl and serving an intoxicated person on his licensed premises. Again, effective October 18, 1954, defendant's license was suspended by the local issuing authority for ten days for an "hours" violation. In view of the fact that defendant's first dissimilar violation happened more than five years ago, it will not be considered in fixing the penalty herein.

In view of the two violations committed herein, with especial reference to the indecent conduct which resulted in the institution of Charge 1, and taking into consideration defendant's past dissimilar record occurring within the past five years, I shall suspend defendant's license for forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 6th day of November, 1957,

ORDERED that Plenary Retail Consumption License C-787, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Eugene W. Fuer; for premises 76 South Street,

Newark, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. November 12, 1957, and terminating at 2:00 a.m. December 17, 1957.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - SALE AT OTHER THAN LICENSED PREMISES - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

ANNA K. ROSELLA  
T/a PAL'S INN  
Eng.-Rue's Corner Rd.  
Manalapan Township  
PO Englishtown RD 2, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-2, issued by the  
Township Committee of the Township  
of Manalapan.

-----  
Anna K. Rosella, Defendant-licensee, Pro se.  
David S. Piltzer, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charges:

"1. On Sunday, June 9, 1957 at about 11:50 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, viz., 6 cans of Krueger Beer, at retail in their original containers for consumption off your licensed premises, and you allowed, permitted and suffered the removal of such alcoholic beverages from your retail licensed premises; in violation of Rule 1 of State Regulation No. 38.

"2. On Sunday, June 9, 1957 at about 11:50 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages; in violation of Section 5 of an ordinance adopted by the Township Committee of the Township of Manalapan on March 26, 1943, as amended by ordinance of June 27, 1957.

"3. On Sunday, June 9, 1957 at about 11:50 a.m., you sold alcoholic beverages not pursuant to and within the terms of your plenary retail consumption license as defined by R. S. 33:1-12(1), contrary to R. S. 33:1-26 and R. S. 33:1-1(w), in that you accepted orders for and sold alcoholic beverages at a place other than your licensed premises, viz., the rear kitchen of the non-licensed portion of your licensed building; in violation of R. S. 33:1-2."

The file herein discloses that on Sunday, June 9, 1957, at about 11:30 a.m., two ABC agents observed that defendant's licensed premises appeared to be closed with the bar stools stacked on the bar and no one in the barroom. At about 11:45 a.m. one of the agents drove on to a parking lot adjoining the tavern and parked next to a car which he had observed entering such lot. The agent then entered the premises through an open back door. The driver of the other car, carrying a package, left as the agent entered. The agent went to a kitchen where the licensee was present and requested six cans of beer. The licensee told him to wait at the door, entered the barroom which adjoins the kitchen, returned with six cans of Krueger beer in a paper bag, handed the bag to the agent and collected \$1.35 from him for the beer. The agent then signalled his fellow-agent and both identified themselves to the licensee and told her that she had violated the law. The kitchen is not part of the licensed premises.

The licensee gave the agents a signed, sworn statement wherein she acknowledged that she made the aforesaid sale to the agent; had in the same manner sold beer to four or five other persons who came that day in their cars; has followed such a practice for about six months; and was aware it was a violation of the local ordinance to sell alcoholic beverages on Sunday before 1:00 p.m. and a violation of the regulation to sell any alcoholic beverages for off-premises consumption on Sunday.

Defendant has a prior adjudicated record for sale to minors which will not be considered in fixing penalty herein because such dissimilar violation occurred more than five years ago (Re Scangarello, Bulletin 1188, Item 6). The licensee's practice of selling alcoholic beverages during prohibited hours is described as that of an "old-fashioned speakeasy" (Re Julewicz, Bulletin 1034, Item 8) for which the minimum suspension of thirty days will be imposed. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 24th day of October, 1957,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Manalapan to Anna K. Rosella, t/a Pal's Inn, for premises on Eng.-Rue's Corner Rd., Manalapan Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a. m. November 1, 1957, and terminating at 2:00 a.m. November 26, 1957.

WILLIAM HOWE DAVIS  
Director.



6.

ACTIVITY REPORT FOR OCTOBER 1957

ARRESTS:

Total number of persons arrested - - - - -	29
Licensees and employees - - - - - 11	
Bootleggers - - - - - 18	

SEIZURES:

Motor vehicles - cars - - - - -	2
Still - over 50 gallons - - - - -	1
Distilled alcoholic beverages - gallons - - - - -	22.81
Wine - gallons - - - - -	5.40
Brewed malt alcoholic beverages - gallons - - - - -	29.71

RETAIL LICENSEES:

Premises inspected - - - - -	602
Premises where alcoholic beverages were gauged - - - - -	725
Bottles gauged - - - - -	10,119
Premises where violations were found - - - - -	64
Violations found - - - - -	72
Type of violations found:	
Reg. #38 sign not posted - - - - - 19	Other mercantile business - - - - - 3
Application copy not available - - - - - 14	Improper beer taps - - - - - 2
Prohibited signs - - - - - 12	Disposal permit necessary - - - - - 1
Unqualified employees - - - - - 11	Other violations - - - - - 10

STATE LICENSEES:

Premises inspected - - - - -	24
License applications investigated - - - - -	9

COMPLAINTS:

Complaints assigned for investigation - - - - -	437
Investigations completed - - - - -	361
Investigations pending - - - - -	178

LABORATORY:

Analyses made - - - - -	241
Refills from licensed premises - bottles - - - - -	8
Bottles from unlicensed premises - - - - -	80

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made - - - - -	14
Persons fingerprinted for non-criminal purposes - - - - -	187
Identification contacts made with other enforcement agencies - - - - -	137
Motor vehicle identifications via N. J. State Police teletype - - - - -	12

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -	24
Violations involved - - - - -	31
Sale during prohibited hours - - - - - 13	Employing female bartender (local reg.) 1
Sale to minors - - - - - 6	Sale to non-members by club - - - - - 1
Failure to close premises during prohibited hours - - - - - 3	Failure to afford view into premises during prohibited hours - - - - - 1
Sale to intoxicated persons - - - - - 2	Conducting business as a nuisance - - - - - 1
Sale outside scope of license - - - - - 1	Service to women at a bar (local reg.) 1
Possessing chilled beer (DL licensee) - - - - - 1	
Cases instituted at Division - - - - -	39
Violations involved - - - - -	53
Sale during prohibited hours - - - - - 12	Failure to close premises during prohibited hours - - - - - 1
Sale to minors - - - - - 8	Hindering investigation - - - - - 1
Sale below minimum resale price - - - - - 5	Unlicensed sale by solicitor - - - - - 1
Permitting lottery activity (numbers) - - - - - 3	Storage off licensed premises - - - - - 1
Unauthorized transportation - - - - - 3	Aiding and abetting unauthorized sale - - - - - 1
Permitting immoral activity on premises - - - - - 2	Delivery without bona fide invoice - - - - - 1
Fraud and front - - - - - 3	Aiding and abetting unauthorized transportation - - - - - 1
Possessing indecent matter - - - - - 2	Sale to intoxicated person - - - - - 1
Possessing illicit liquor - - - - - 2	Failure to file notice of change in application - - - - - 1
Retailer to retailer sales - - - - - 2	
Sale outside scope of license - - - - - 1	
Unqualified employee - - - - - 1	
Cases brought by municipalities on own initiative and reported to division - - - - -	24
Violations involved - - - - -	31
Sale to minors - - - - - 12	Failure to afford view into premises during prohibited hours - - - - - 2
Sale during prohibited hours - - - - - 7	Hindering investigation - - - - - 2
Permitting brawls on premises - - - - - 4	Permitting gambling (cards) on prem. - - - - - 1
Failure to close premises during prohibited hours - - - - - 2	Conducting business as a nuisance - - - - - 1

HEARINGS HELD AT DIVISION:

Total number of hearings held - - - - -	56
Appeals - - - - - 4	Seizures - - - - - 7
Disciplinary proceedings - - - - - 37	Tax revocations - - - - - 1
Eligibility - - - - - 4	Applications for license - - - - - 3

STATE LICENSES AND PERMITS ISSUED:

Total number issued - - - - -	1,794
Licensees - - - - - 1	Wine permits - - - - - 594
Employment permits - - - - - 175	Miscellaneous permits - - - - - 110
Solicitors' " - - - - - 38	Transit insignia - - - - - 243
Disposal " - - - - - 84	Transit certificates - - - - - 50
Social affair " - - - - - 499	

Dated: November 7, 1957

WILLIAM HOWE DAVIS  
DIRECTOR



NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1957 TO OCTOBER 31, 1957 AS REPORTED TO THE DIRECTOR  
OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19.

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Number Surren- dered Revoked Expired	Number Licen- ses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	487	\$ 208,100.00	72	\$ 27,383.22	25	\$ 2,350.00						584	\$ 237,833.22
Bergen	810	306,982.50	300	87,327.00	105	9,934.34	53	\$ 2,496.25	4	\$ 1,083.96		1272	407,824.00
Burlington	184	78,390.00	40	11,951.42	42	6,000.00	1	50.00				267	96,391.42
Camden	453	221,550.00	82	33,525.00	73	7,145.00			1	375.00		609	262,595.00
Cape May	135	76,800.00	11	4,000.00	16	1,950.00						162	82,750.00
Cumberland	80	40,875.00	14	3,950.00	30	4,060.00						124	48,885.00
Essex	1351	758,146.99	335	209,150.00	98	13,475.00	29	1,450.00	1	750.00		1814	982,971.99
Hampden	93	33,585.00	14	3,600.00	18	1,750.00						125	38,935.00
Hampshire	1539	698,283.08	308	125,900.00	83	9,723.70	63	2,700.00				1993	836,606.78
Hartford	79	27,400.00	8	3,000.00	9	1,000.00						96	31,400.00
Meriden	425	261,800.00	51	21,400.00	54	7,700.00			1	162.50		531	291,062.50
Middlesex	628	307,605.00	75	24,349.39	92	8,330.00	4	200.00				799	340,484.39
Norfolk	548	286,995.00	120	42,120.00	41	4,546.16	10	435.00	26	11,699.58		745	345,795.74
Providence	355	131,555.82	100	33,765.00	51	4,689.21	19	950.00	5	1,312.50		530	172,272.53
Rhode Island	188	103,754.93	47	19,680.00	26	2,800.00						261	126,234.93
Salisbury	871	357,558.01	167	51,400.00	39	4,745.96	9	425.00				1086	414,128.97
Wareham	51	19,300.00	8	1,550.00	17	1,500.00						76	22,350.00
Westchester	187	84,600.00	41	12,595.00	25	2,850.00						253	100,045.00
Worcester	164	45,355.00	19	3,905.00	38	457.12	1	50.00	1	225.00		193	49,992.12
Yonkers	549	300,300.00	144	67,800.00	74	8,532.33	29	1,425.00				796	378,057.33
Greenwich	148	46,330.00	19	4,860.00	27	3,046.71			2	323.85		196	54,560.56
Total	9325	\$4,395,266.33	1975	\$ 793,211.03	953	\$106,585.53	218	\$ 10,181.25	41	\$15,932.39		12512	\$5,321,176.53

8. AUTOMATIC SUSPENSION - SALE TO MINOR - LICENSE PREVIOUSLY  
SUSPENDED BY DIRECTOR - APPLICATION TO LIFT GRANTED.

Auto. Susp. #143 )  
In the Matter of Disciplinary )  
Proceedings against )

IRVIN MORDELL )  
T/a TRIANGLE LIQUOR STORE )  
1515 Arctic Avenue )  
Atlantic City, N. J., )

ON PETITION  
O R D E R

Holder of Plenary Retail Distri- )  
bution License D-25, issued by the )  
Board of Commissioners of the City )  
of Atlantic City. )  
----- )

Emory J. Kiess, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

It appears from a verified petition filed herein that on October 28, 1957, petitioner received a suspended sentence of thirty days in a county jail and was fined the sum of \$50.00 after he had been found guilty in the Atlantic County Court on a charge of selling alcoholic beverages to a minor in violation of R. S. 33:1-77. Said conviction resulted in the automatic suspension of his license for the balance of its term. R. S. 33:1-31.1. The petition requests the lifting of said suspension.

By order dated February 13, 1957, I suspended petitioner's license for twenty days (less five for the plea) after he had pleaded non vult in disciplinary proceedings to a charge alleging that he sold alcoholic beverages to the same minor. The suspension was effective from 9:00 a.m. February 25, 1957, to 9:00 a.m. March 12, 1957 (Re Mordell, Bulletin 1160, Item 4).

Since the suspension imposed in the disciplinary proceedings is adequate, the relief sought herein will be granted.

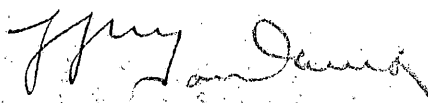
Accordingly, it is, on this 4th day of November, 1957,

ORDERED that the automatic suspension of License D-25, issued by the Board of Commissioners of the City of Atlantic City to Irvin Mordell, t/a Triangle Liquor Store, for premises 1515 Arctic Avenue, Atlantic City, be and the same is hereby lifted and said license is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS  
Director.

9. STATE LICENSES - NEW APPLICATION FILED.

Capital Airlines, Inc.  
National Airport, Washington 1, D. C.  
Application filed November 14, 1957 for Plenary Retail  
Transit License.

  
William Howe Davis  
Director.

New Jersey State Library