

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

BULLETIN 1238

AUGUST 20, 1958.

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THE  
OFFICE OF THE  
ATTORNEY GENERAL  
STATE OF NEW YORK  
ALBANY

1911

1911

IN SENATE  
JANUARY 11, 1911

REPORT  
OF THE  
COMMISSIONER OF THE  
LAND OFFICE  
IN RESPONSE TO  
RESOLUTION PASSED  
JANUARY 11, 1911

ALBANY:  
J. B. LIPPINCOTT  
PRINTERS  
1911

THE  
OFFICE OF THE  
ATTORNEY GENERAL  
STATE OF NEW YORK  
ALBANY

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STATE OF NEW JERSEY  
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DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1238

AUGUST 20, 1958.

1. APPELLATE DECISIONS - JAYEM LIQUORS, INC. v. NEWARK (CASE #1).

JAYEM LIQUORS, INC., )  
t/a J. R. LIQUOR SHOP, )  
Appellant, )

-vs-

ON APPEAL  
CONCLUSIONS AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY )  
OF NEWARK, )  
Respondent. )

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Mayer and Mayer, Esqs., by Abraham I. Mayer, Esq.,  
Attorneys for Appellant.  
Vincent P. Torppey, Esq., by James E. Abrams, Esq.,  
Attorney for Respondent.  
Carl J. Yagoda, Esq., Attorney for Objectors.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of the respondent Board whose members voted 2 to 0 (one member being absent) to deny to Phyllis Mayer, Joseph V. Mayer, Leo K. Handel, Morton Zimetbaum and Kate Zimetbaum, respectively, the right to acquire all of the issued and outstanding capital stock of the appellant corporate-licensee.

"At the hearing herein a transcript of the testimony taken before respondent was submitted in evidence as provided by Rule 8 of State Regulation No. 15. Additional testimony was presented on behalf of the appellant.

"It appears that a notice dated April 14, 1958 relative to a change in appellant's corporate structure was forwarded to the respondent herein. Upon receipt thereof the respondent requested that the former stockholders and also the new or present stockholders of appellant corporation appear before it at a designated time.

"The transcript of the testimony taken before respondent discloses that on April 29, 1958 five plenary retail consumption licensees who are proprietors of liquor establishments in the general area of the premises in question, objected to the change in the stockholders of appellant corporation. The objections advanced by the said persons were, in essence, to the effect that the objectors were fearful that under the new corporate structure the method of operation would be changed by reduction of prices for drinks of alcoholic beverages which would enure to the objectors' financial detriment.

"At the close of the hearing on April 29th, the respondent reserved decision in the matter. On May 6, 1958 the chairman of the respondent Board stated: 'In this case, number four on the agenda, an application for a change in corporate structure, the Board, having considered and evaluated all the testimony in evidence, produced by the applicant and the objectors, is of the opinion that the request for change in corporate structure, in this application, be denied.'

"Hence this appeal.

"At the hearing herein two of the new stockholders (Leo K. Handel and Joseph V. Mayer) testified as to their qualifications to engage in the liquor business. Although the attorney for respondent waived cross-examination, the witnesses were subjected to lengthy cross-examination by the attorney for the objectors. However, there was nothing brought out which might in any manner be construed to indicate any statutory disqualification on the part of the witnesses to hold capital stock of a corporation associated with the liquor industry in this State.

"R. S. 33:1-34 provides as follows:

'Whenever any change shall occur in the facts as set forth in any application for license, the licensee shall file with the commissioner or other issuing authority, as the case may be, a notice in writing of such change within ten days after the occurrence thereof; said change, when so notified, shall thereupon become part of said application for license to the end that subsequent changes must likewise be so notified; but no notice need be given by corporate licensees of changes in stockholdings therein unless and until the aggregate of such changes, if made before the time of said application, would have prevented the issuance of the license.'

"Pursuant to R. S. 33:1-34, notice to the issuing authority as to change in stockholdings is required if the change converts a person into the holder of more than ten per centum (10%) of the corporation's stock. The qualifications contained in R. S. 33:1-25 which a stockholder owning more than ten per centum (10%) of the stock must meet are: (a) that he has not been convicted of a crime involving the element of moral turpitude (or, if so convicted, has had his disqualification removed by the State Director -- R. S. 33:1-31.2); (b) that he has not been twice convicted in a court of criminal jurisdiction of violation of the State Alcoholic Beverage Law; (c), that with the exception of a corporation which operates the premises as a bona fide hotel or conducts, or is to conduct, the business as a tenant at an airport owned or operated by the federal, state, county or municipal government, he must qualify as to age, state residence and United States citizenship. In lieu of United States citizenship, it has been ruled that an alien national of one of the foreign countries having a reciprocal trade treaty with the United States has equal privileges as a citizen. It might also be pointed out that a person is ineligible to qualify as a 'more than 10%' stockholder if, within two years of the acquisition of the stock, his license or a corporate license (of which he was an officer, director and owner in excess of ten per centum (10%) of the stock) was revoked. R. S. 33:1-31.

"The action of respondent, in effect, although perhaps by indirection, appears to restrain or restrict a stockholder's right of alienation of personal property. The purpose of the Uniform Stock Transfer Law was to make stock certificates more readily negotiable than was the case prior to its adoption. (See Edgerly v. First National Bank of Boston et als., 292 Mass. 181, 197 N.E. 518).

"The question of law involved herein has been already discussed and resolved in Four Corners Bar (A Corporation) v. Newark, Bulletin 1152, Item 1. In said case the State Director examined memoranda filed by the attorney for the respective

parties and also heard oral argument wherein it was strenuously urged by the attorneys representing objectors (respondent Board was not represented) that the statute in question 'conferred jurisdiction upon a local issuing authority to determine the fitness of a transferee of capital stock of a corporate-licensee and to either permit or prohibit the same'. The Director stated, 'I do not agree with this contention. The statute is clear and cannot be so construed. If it is deficient (and I do not so state), then the remedy lies with the legislature which created it and enacted it into law.'

"The Director, in the case cited above, further stated that 'It might be well to point out that there are now pertinent protections in the Alcoholic Beverage Law whereby the local issuing authority may bring disciplinary proceedings against a corporate-licensee if there is a disqualified stockholder (R. S. 33:1-31(1)), or if the bad character of new stockholders is reflected in the corporate-licensee's violation of the State Alcoholic Beverage Law and Regulations or of the municipal ordinance (R. S. 33:1-31(g), (h)). Furthermore, the local issuing authority may refuse to renew a corporate license where it can be shown that the new stockholders of ten percentum of the stock are demonstrably undesirable.'

"In the instant case the respondent Board lacked legal jurisdiction to deny the persons in question the right to purchase stock of the appellant corporation.

"I recommend that the action of the respondent Board be declared null and void and of no effect whatsoever."

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

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

Accordingly, it is, on this 14th day of July, 1958,

ORDERED that the ruling made by respondent herein be and the same is hereby set aside for the reasons hereinabove stated.

WILLIAM HOWE DAVIS  
Director.

## 2. APPELLATE DECISIONS - JAYEM LIQUORS, INC. v. NEWARK (CASE #2).

JAYEM LIQUORS, INC., )  
Appellant, )  
-vs- )  
MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY )  
OF NEWARK, )  
Respondent. )

ORDER  
OF  
DISCONTINUANCE

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Mayer and Mayer, Esqs., by Abraham I. Mayer, Esq., Attorneys  
for Appellant.  
Vincent P. Torppey, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The attorneys for the respective parties hereto having filed a written stipulation to discontinue the within appeal taken by appellant from the action of respondent in refusing to

renew appellant's 1958-59 plenary retail consumption license, and no reason appearing to the contrary,

It is, on this 14th day of July, 1958,

ORDERED that the within appeal be and the same is hereby discontinued.

WILLIAM HOWE DAVIS  
Director.

3. DISCIPLINARY PROCEEDINGS - SALE DURING PERIOD LICENSE WAS UNDER SUSPENSION - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR 120 DAYS.

In the Matter of Disciplinary  
Proceedings against

ASTOR J. TSIBIKAS  
t/a ROYAL DELICATESSEN  
730 Bergen Avenue  
Jersey City 6, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distri-  
bution License D-4 (for the 1957-58  
and 1958-59 licensing years), issued  
by the Municipal Board of Alcoholic  
Beverage Control of the City of  
Jersey City.

Meehan Brothers, Esqs., by John J. Meehan, Esq., Attorneys  
for Defendant-licensee.

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On May 3, 1958, during the suspension of your license by the Director of the Division of Alcoholic Beverage Control from 9:00 a.m. April 8, 1958 to 9:00 a.m. May 8, 1958, you allowed, permitted and suffered the sale, service and delivery of alcoholic beverages in and upon your licensed premises; in violation of Rule 32 of State Regulation No. 20.

"2. On May 3, 1958, while Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey were conducting an investigation, inspection and examination at your licensed premises, you failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R. S. 33:1-35."

The file herein discloses that by order dated March 31, 1958 the Director suspended defendant's license, because of an aggravated "hours" violation, for a period of thirty days, commencing at 9:00 a.m. April 8, 1958 and terminating at 9:00 a.m. May 8, 1958.

On Saturday, May 3, 1958, at about 9:40 p.m., two ABC agents, hereinafter referred to as Agent J and Agent S, arrived in the vicinity of the licensed premises to make a spot check of the same.

Agent S remained outside at a post of observation. Agent J entered the licensed premises which is divided in two sections, one for the sale of food on its left and the other for dispensing alcoholic beverages on its right. Henry Huenecki, a clerk, and the licensee were behind the food counter. Agent J approached Huenecki and asked him for a 4/5 quart bottle of Fleischmann's Whiskey, two bottles of club soda and a pack of cigarettes. The clerk placed a paper bag containing the requested bottle of whiskey at the far end of the counter in the rear of the premises, returned to the agent and filled the balance of his order in another paper bag. At this moment the licensee approached the clerk, spoke to him, looked at Agent J and then left to wait on a customer. The clerk returned to the agent, accepted \$5.20 from him in payment of aforesaid purchases and indicated a sale in said amount on the cash register. Mr. Huenecki then came from behind the counter with aforesaid two paper bags, handed the same to Agent J and followed him to the doorway where he stood as Agent J left the premises with the two paper bags, one of which Agent J again observed contained the aforesaid 4/5 quart bottle of Fleischmann's Whiskey.

Immediately thereafter, Agent J, in the company of Agent S, returned to the licensed premises and identified themselves to the clerk and the licensee. Agent S asked the licensee to produce the tape in the cash register. The licensee, however, refused to comply. After repeated requests, the licensee finally removed a piece of the tape, tore the same in two, gave the agent one-half of the same, crumbled the other half and placed it on the counter near the cash register. When Agent S discovered that his section of the tape did not show the record of the aforesaid sale, he reached over the counter and took possession of the crumbled part. Agent S examined this section of the tape and ascertained it was the piece on which the sale was recorded. The licensee, however, snatched both pieces of the tape from the hands of Agent S and refused to surrender them. Thereafter, Mr. Huenecki, in the presence of the licensee, admitted making aforesaid sale to Agent J and accepting \$5.20 in payment thereof.

Defendant has a prior adjudicated record. His license was suspended on six previous occasions, three of which occurred prior to 1940 (more than ten years ago) and, thus, will not be considered in fixing the penalty herein. Cf. Re Tsibikas, Bulletin 1223, Item 3. More recently, effective July 17, 1950, August 13, 1957 and April 8, 1958, defendant's license was suspended for various periods for "hours" violations. Since the first of these "hours" violations happened more than five years ago, it likewise will not be considered in arriving at the penalty herein. Cf. Re Aroniss, Bulletin 1200, Item 8. I am satisfied that both charges herein are based on deliberate and wilful violations which strike at the very roots of the Division's enforcement of its rules and regulations. Considering these violations and the prior record, outright revocation might be well warranted, but I have decided, instead, to suspend the license for a substantial period. Under all the circumstances, including the plea entered herein, I shall suspend the defendant's license for one hundred twenty days. Cf. Re Caplan, Bulletin 1051, Item 2.

Accordingly, it is, on this 14th day of July, 1958,

ORDERED that Plenary Retail Distribution License D-4 for the 1958-59 licensing year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to

Astor J. Tsibikas, t/a Royal Delicatessen, for premises 730 Bergen Avenue, Jersey City, be and the same is hereby suspended for one hundred twenty (120) days, commencing at 9:00 a.m. July 21, 1958, and terminating at 9:00 a.m. November 18, 1958.

WILLIAM HOWE DAVIS  
Director.

4. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (OBSCENE LANGUAGE AND CONDUCT) - SALE TO INTOXICATED PERSONS - NUISANCE - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS.

In the Matter of Disciplinary Proceedings against

EDWARD PRZYBYLOWSKI & ALFRED JOHNSON  
124 - 48th Street  
Union City, N. J.,

CONCLUSIONS  
AND ORDER

Holders of Plenary Retail Consumption License C-163 for the 1957-58 and 1958-59 licensing periods, issued by the Board of Commissioners of the City of Union City.

George B. Astley, Esq., Attorney for Defendant-licensees.  
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendants pleaded not guilty to the following charges:

'1. On March 14, 15, 22 and 23, 1958, you allowed, permitted and suffered lewdness, immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20.

'2. On the occasions aforesaid you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons actually or apparently intoxicated and allowed, permitted and suffered the consumption of such beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

'3. On the occasions aforesaid you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance; in violation of Rule 5 of State Regulation No. 20.'

"The basis of these charges, in substance, is a course of conduct allegedly unseemly and grossly vulgar, bordering on the immoral, observed on two visits by ABC agents to defendants' licensed premises, which is described as a small neighborhood tavern.

"According to the testimony of the ABC agents the following transpired on their first visit: Two agents entered such premises late in the evening of Friday, March 14, and remained



until the early morning hours of Saturday, March 15, 1958. Approximately twenty other persons were present including Alfred Johnson, one of the licensees. There were two bartenders on duty. All of the persons present appeared to be regular customers who were acquainted with each other. Alcoholic beverages were served to seven of such persons who appeared to be intoxicated in the opinion of the agents. A woman apparently intoxicated was observed with one arm around the neck of a male apparently intoxicated, while she fondled other portions of his person with her other hand. Throughout their stay the agents overheard loud and filthy gutter language used by many of the patrons. The agents left the premises without revealing their identity and, of course, without seeking to ascertain the identity of the alleged intoxicated persons or calling upon Johnson or the bartenders to confirm the opinion of the agents that such persons were intoxicated.

"The agents gave the following account of what occurred on their second visit: Three ABC agents entered the premises late in the evening of Saturday, March 22, extending to the early morning hours of March 23, 1958. The two bartenders observed on the previous visit were on duty and Alfred Johnson was present. A party was in progress, designated by a sign displayed in the window as 'Hollywood Night'. About fifty persons were present, many of whom the agents recognized as present on their previous visit. Two of the patrons were dressed in festive garb; one, a man, in balloon trousers, satin shirt, cape, feathered headdress and facial make-up; and another, a woman, in a flapper-type dress, beads around her neck and facial make-up. In the agents' opinion there was nothing indecent or immoral in either costume. However, the woman at one time directed a vulgar remark to the agents when requesting that they give her room to pass them and then commenced to parade around the barroom with her dress lifted to her waist disclosing her underpants. The agents considered her to be under the influence of liquor. Many of the patrons used the same objectionable language as previously described.

"On this visit the agents ascertained the identity of five patrons with reference to specific conduct on the part of each. One of these persons, Ernestine ---, was observed when she entered with a male companion. Both staggered to the bar and began pushing each other, exchanging vile epithets. Both appeared to be intoxicated. The bartender served each with beer. Afterward, Ernestine pushed her companion, who nearly fell from his stool and, when he recovered his balance, he started for the men's room. He fell to the floor and, in doing so, pulled another woman off her stool. Finally, he made his way to the men's room. Upon his return, Ernestine started for the ladies' room and, en route, another woman, apparently intoxicated, called her an obscene name; whereupon Ernestine punched the woman in the face. This caused a commotion among the other patrons who directed the attention of Johnson and the bartenders to what had occurred, whereupon Johnson is alleged to have said 'What am I supposed to be, a father confessor here?'. Ernestine returned from the ladies' room and joined her male companion at the bar and they continued to argue. At this point, Ernestine then attempted to break a beer glass exclaiming that she would cut her companion. One of the bartenders stopped her and told her that if she started breaking glasses she would have to leave. Nevertheless, the bartender served her and her companion each with another glass of beer. Both patrons departed after they finished their beer. Ernestine returned in about half an hour, apparently still intoxicated, and went to the bar and was there served alcoholic beverages by one of the bartenders.

"Charles --- and Edward --- are two of the other persons whose names were obtained by the agents. These two men were in the tavern throughout the visit of the agents and both, by their staggering walk, general appearance and manner of speech, appeared to be intoxicated. They were served with beer from time to time.

"Mary ---, about 65 years of age, is the name of the fourth person identified by the agents. She had been seated at the bar drinking beer. She wandered about, her speech incoherent, and displayed all outward evidence of intoxication. At one time she wandered into the men's room and was again served with beer when she returned to the bar.

"Wally --- is the name of the fifth person identified. The agents were attracted to his actions when he accompanied Johnson to a rear room and returned dressed in the flapper-type dress previously worn by the woman. Johnson introduced him as the newly arrived girl and Wally performed what perhaps may be described as a bumps and grinds dance on the floor and on a table, lifting his skirt up from time to time, exposing his shorts. Wally continued to cavort around pretending an effeminate manner, displaying crude gestures of affection toward some male patrons. During these activities, Johnson accompanied Edward to the rear room and Edward returned dressed in balloon-type trousers, black wig and facial make-up. Edward appeared to be very intoxicated. He ran and jumped around the barroom, climbed on tables, fell to the floor many times, and then commenced to dance with Wally. From time to time both fell to the floor, arose and resumed their dancing. On one of such occasions, while both were on the floor with Edward on top of Wally, they indulged in what is described as imitative of sexual intercourse. Johnson, who had been taking photographs during the evening, snatched his camera from the bar and, as Edward rolled off Wally, who separated his legs and lifted his skirt, Johnson took his picture in that pose.

"At about this juncture the agents revealed their identity to Johnson, to the bartender and to the other persons present. Directing the attention of Johnson and the bartender to the persons apparently intoxicated, Johnson and the bartender admitted that such was the fact but said that they continued to serve them with alcoholic beverages because they were not causing any trouble -- that drunks could be found in any tavern in the area. When Johnson's attention was called to the dance act of Wally and Edward, he said it would not happen again.

"In defense, one of the bartenders who was present on both visits asserts, in short, that he did not see or observe any intoxicated or apparently intoxicated person in the tavern on either occasion, except for Ernestine, who was intoxicated when she returned on March 23, 1958 at which time, although she remained at the bar between one-half hour and forty-five minutes, he did not serve her with any alcoholic beverages; that he did not hear any offensive or indecent language or see any misconduct, except for an isolated incident of offensive language now and then, which he stopped immediately; that he did not hear Ernestine have an argument with or see her slap another woman on March 22, 1958; that he did see Wally and Edward dancing and kidding around and his version is that Edward fell down and Wally tried to pull him up and Edward pulled him down on the floor and kidded around and that Johnson took his picture sitting on the floor. The other bartender testified generally to the same effect.

"A patron who was present on March 22, 1958 with his wife and young daughter from about 8:00 p.m. to 11:00 or 11:30 p.m., testified that he did not hear any offensive language during that period nor see any drunken persons, 'people that can't walk'. He was not there when Wally and Edward cavorted around.

"Edward testified that although he started drinking beer at 9:00 p.m. and drank about fifteen or twenty glasses of beer until 2:00 a.m., he was not intoxicated on the night of March 22, 1958 and did not see anyone else there in that condition or hear anyone indulge in offensive language; that he and Wally clowned around, he was dancing, went off balance and fell and pulled Wally down but that they did not indulge in the repulsive actions attributed to them.

"The mother of Alfred Johnson testified that she was present on both visits of the agents and that she does not drink any alcoholic beverages; that every Saturday the licensees have these affairs, because business was not good; that her son makes the party hats and they have a little good time; that she did not see any intoxicated persons on either date and did not pay any attention to what Wally and Edward were doing on March 22, 1958.

"Wally testified that he was at the tavern on March 22, 1958 from 8:00 p.m. until closing time the next morning, during which time he drank ten or fifteen glasses of beer but was not intoxicated and did not hear any objectionable language; that he engaged in a little horse play with Edward on the floor; that he usually does a little act at the parties and everybody there has a little fun and music and dancing and joking; that this Saturday night (March 22, 1958) there was a little more fooling around in that he and Edward engaged in a little horse play, wrestling around.

"Alfred Johnson entered a general denial that any obscene language was used on either occasion except for a few words which he stopped immediately, and that no intoxicated persons were served with alcoholic beverages on either occasion. His version of his conversation with the agents after they revealed their identity is that he does not recall telling them concerning the presence of any intoxicated persons 'what is the harm so long as they behave themselves'; and, when confronted with the persons whom the agents considered intoxicated, asserts that he said 'as far as I am concerned, my bartenders didn't think they were drunk'; that he does not remember whether he told the agents what his personal impression was of the condition of such persons and that he did not consider Wally and Edward to be intoxicated.

"It seems to be plain from the points of agreement and disagreement in the testimony of the witnesses for the Division and those of the defendants, without need for specific comparison thereof, that the agents' account is logical and represents what actually occurred on both of their visits to the licensed premises.

"Whatever may be said about such conduct in other surroundings, drunkenness, filthy language and vulgar conduct of the nature here involved, while perhaps, in the language of Judge Jayne in the case of McFadden's Lounge v. Division of Alcoholic Beverage Control, 33 N. J. Super. 68, 'not extremely saturated with revolting filth, dirtiness, and obscenity', nevertheless, has no place on licensed premises. In Davis v.

New Town Tavern, 37 N. J. Super. at page 378 (quoted with approval in Re Olympic, Inc., 49 N. J. Super. 299, referred to by counsel for defendants in his brief), the Court said, 'What constitutes interdicted practices on licensed premises may be determinable on a narrower basis than for other places of public resort'.

"I recommend a finding that the defendant licensees are guilty of all charges.

"Edward Przybylowski, while holding the license in his individual name, has a prior adjudicated record. Effective July 27, 1952, his license was suspended for five days by the local issuing authority for an 'hours' violation. This dissimilar violation should not be considered in imposing penalty because it occurred more than five years ago. Effective March 6, 1955, his license was suspended for fifteen days by the local issuing authority for an 'hours' violation. Effective March 20, 1955 his license was again suspended for fifteen days by the local issuing authority for permitting a brawl and employing a person without local identification card. I recommend that defendants' license be suspended for the period of thirty days on all charges, cf. Re Sussman, Bulletin 1177, Item 1, and for an additional ten days because of the two dissimilar violations within the past five years, Re Rigano, Bulletin 1174, Item 3, making a total suspension of forty days."

No exceptions were taken to the Hearer's Report within the time limited by Rule 6 of State Regulation No. 16.

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 2nd day of July, 1958,

ORDERED that Plenary Retail Consumption License C-163 for the 1958-59 licensing period, issued by the Board of Commissioners of the City of Union City to Edward Przybylowski & Alfred Johnson, for premises 124 - 48th Street, Union City, be and the same is hereby suspended for forty (40) days, commencing at 3:00 a.m. July 10, 1958 and terminating at 3:00 a.m. August 19, 1958.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - PERMITTING PREMISES TO REMAIN OPEN DURING PROHIBITED HOURS - SALE TO FEMALES AT BAR IN VIOLATION OF LOCAL REGULATION - EMPLOYING PERSON WITHOUT IDENTIFICATION CARD REQUIRED BY LOCAL REGULATION - OBSCENE PRINTED MATTER - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

WALTER KRYNICKI and  
EDWARD KRYNICKI  
t/a TENPIN BOWL  
1080 West Side Avenue  
Jersey City, N.J.,

CONCLUSIONS  
AND ORDER.

Holders of Plenary Retail Consump-  
tion License C-510, issued by the  
Municipal Board of Alcoholic  
Beverage Control of the City of  
Jersey City.

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Defendant-licensees, by Edward Krynicky, Partner.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The defendants pleaded non vult to the following charges:

"1. On Saturday, March 29, 1958, between 2:00 a.m. and 2:25 a.m. and on Saturday, April 12, 1958, between 2:00 a.m. and 2:30 a.m., you kept your licensed premises open, not only for the operation thereon of a business other than the sale of alcoholic beverages, but also for the consumption of alcoholic beverages thereon; in violation of Section 4 of Ordinance K1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950.

"2. On Saturday, March 29, 1958, you permitted the service of alcoholic beverages to females at a public bar on your licensed premises and the sale of alcoholic beverages over said bar to females for consumption by them on your licensed premises; in violation of Section 6 of Ordinance K1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950.

"3. On April 12, 1958 and prior thereto, you engaged and employed on your licensed premises in connection with your licensed business a person as a bartender who had not been issued an identification card by the Department of Public Safety of the City of Jersey City in conformity with Sections 13 and 14 of Ordinance K1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950; in violation of Section 15 of such Ordinance.

"4. On April 12, 1958 and prior thereto, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter, viz., approximately fourteen (14) sheets of paper, 8 1/2" x 11" in size, bearing imprints of cartoons and drawings of persons, objects and representations and of a 'credit card', having obscene, indecent, filthy, lewd, lascivious and disgusting import and meaning; in violation of Rule 17 of State Regulation No. 20."

On Saturday, March 29, 1958, at about 1:40 a.m., an AEC agent entered defendants' licensed premises consisting of a bar and a bowling alley. The agent went directly to the bar where he saw one of two bartenders then on duty serve alcoholic beverages to two females while seated at the bar. At about 1:57 a.m. one of the bartenders announced "last call for drinks." At this time and shortly prior thereto a number of the bowlers came to the bar and supplied themselves with drinks which they consumed after 2:00 a.m. (closing hour) in the bowling alley. The agent, without identifying himself, left the premises at about 2:25 a.m., at which time he observed the bowlers still playing and consuming the alcoholic beverages purchased as aforesaid.

On Saturday, April 12, 1958, at about 12:45 a.m., aforesaid agent and his partner entered the licensed premises and took seats at the bar which was being tended by aforementioned two bartenders, one of whom was later identified as Stephen Lucas. There were twelve patrons at the bar and about one hundred men in the bowling alley. Between 1:45 a.m. and 2:00 a.m. the agents noticed several of the bowlers approach the bar and order various amounts of bottled beer, which they brought back to the bowling alley. During this period (at about 1:50 a.m.) one of the players was seen carrying twelve bottles of beer from the bar to the bowling area. Between 2:05 and 2:25 a.m. the agents observed about twenty-five men consuming aforesaid beer in the bowling alley. At about 1:55 a.m. a patron, sitting at the bar, ordered two bottles of beer and spent the next one-half hour consuming the same at the bar which had been closed at 2:00 a.m. At about 2:30 a.m. the agents identified themselves to Edward Krynicki (one of the licensees) and informed him of the violations. The agents then made an inspection of the premises and underneath the bar found fourteen obscene and indecent drawings (8 1/2" x 11").

The local regulations prohibit (1) the service of alcoholic beverages directly over the bar to females, (2) the conduct of business on weekdays between 2:00 a.m. and 6:00 a.m. and between 2:00 a.m. and 1:00 p.m. on Sundays provided, however, that hotels, restaurants, and other operating businesses on the same licensed premises, other than for the sale of alcoholic beverages, may keep said premises open during aforesaid hours for the conduct of such other business only, and (3) persons other than the licensee, his actual employees and agents to be in and upon the licensed premises between aforesaid hours.

The investigation of the case also discloses that the licensees permitted aforesaid bartender (Stephen Lucas), who had not been issued an identification card by the Department of Public Safety of Jersey City, to act as bartender.

By way of mitigation the licensees submitted a statement setting forth therein that they did not know it was a violation to serve females at the bar; that they did not know patrons were not permitted to consume their alcoholic beverages after the closing hour in the bowling alleys; that they were not aware that one of their bartenders had not been issued an identification card by the Department of Public Safety of Jersey City, and that they did not know that the bartender had placed the aforesaid obscene drawings underneath the bar. The licensees, however, cannot escape the consequences of aforementioned acts of their agents (Rule 33 of State Regulation



No. 20). Cf. Re Czaplicki, Bulletin 1170, Item 6. Nor does ignorance of the law or the regulation afford any excuse. Licensees and their employees must know the rules and scrupulously adhere to them. Cf. Re Ceasar, Bulletin 1211, Item 4.

The defendants have no prior adjudicated record. I shall suspend their license for fifteen days (the minimum penalty for an "hours" violation) on Charge 1 (cf. Re Baumann, Bulletin 1197, Item 10); for five days on Charge 2 (Re Caridi's Bar, Inc., Bulletin 1185, Item 3); for five days on Charge 3 (Re Ciampa, Bulletin 1169, Item 11) and for an additional ten days on Charge 4 (Re Mayo, Bulletin 1104, Item 9), making a total suspension of thirty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 30th day of June, 1958,

ORDERED that any renewal of Plenary Retail Consumption License C-510, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Walter Krynicki and Edward Krynicki, t/a Tenpin Bowl, for premises 1080 West Side Avenue, Jersey City, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. July 14, 1958, and terminating at 2:00 a.m. August 13, 1958.

WILLIAM HOWE DAVIS  
Director.

6. DISCIPLINARY PROCEEDINGS - VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PERMITTING PUNCH BOARD ON PREMISES - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

ROSLYN E. MANDEL & CHARLES R. MANDEL  
t/a IMPERIAL BAR & GRILL  
459 Ocean Avenue  
Jersey City 5, N. J.,

CONCLUSIONS  
AND ORDER

Holders of Plenary Retail Consumption  
License C-357 (for the 1957-58 licensing  
year), issued by the Municipal Board of  
Alcoholic Beverage Control of the City  
of Jersey City.

Edward A. Costigan, Esq., Attorney for Defendant-licensees.  
Edward F. Ambrose, Esq., appearing for the Division of  
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

"1. On Wednesday, May 7, 1958, at about 10:25 p.m. and again at about 10:30 p.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages, at retail, in their original containers for consumption off your licensed premises, and allowed, permitted and suffered the removal of such beverages in their original containers from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

"2. On Wednesday, May 7, 1958, you allowed, permitted and suffered a device designed for the purpose of gambling, viz., a punch board, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20."

The file herein discloses that two ABC agents were in defendants' licensed premises on the evening of May 7, 1958. At about 10:25 p.m. they observed a patron purchase from Charles R. Mandel (who was tending bar) six cans of beer which the patron carried from the premises. One agent followed the patron and stopped him outside the premises. In the meantime the other agent had purchased from the bartender six cans of beer which this agent carried from the premises. Both agents and the patron then entered the premises where the agents identified themselves to the bartender who admitted the sales. During their subsequent investigation the agents found four punch-boards in a cigar box near the cash register. Charles R. Mandel told the agents that about four years ago, when he conducted a grocery store, he had raffled off three of the boards, the prize for each of which was a box of candy, and that the fourth board, the prize for which was an electric razor, had been received in the mail and that he had sold no chances on said board.

In alleged mitigation the attorney for defendants has advised me in writing that the punch-boards were the property of a social club and that the proceeds were used to promote the bowling team of the club. In any event, the licensees permitted the punch-boards on the licensed premises in violation of Rule 7 of State Regulation No. 20.

When the license for the same premises was in the name of Ely S. Mandel and Charles R. Mandel, the local issuing authority suspended said license for five days, effective October 1, 1951, for sales to minors. Since this dissimilar violation occurred more than five years ago, it will not be considered in fixing penalty herein (Re Trenz, Bulletin 1221, Item 3). I shall suspend defendants' license for fifteen days on Charge 1 (Re Tooley's Bar, Inc., Bulletin 1224, Item 3). Under the circumstances of this case I shall suspend defendants' license for an additional five days on Charge 2 (Re 32 Club, Inc., Bulletin 1237, Item 4). Five days will be remitted for the plea herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 3rd day of July, 1958,

ORDERED that any renewal of Plenary Retail Consumption License C-357 (for the 1957-58 licensing year), issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Roslyn E. Mandel & Charles R. Mandel, t/a Imperial Bar & Grill, for premises 459 Ocean Avenue, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. July 14, 1958, and terminating at 2:00 a.m. July 29, 1958.

WILLIAM HOWE DAVIS  
Director.



7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF  
STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED  
FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

STEPHANIE BLACK )  
t/a Blackie's Tavern )  
372 Bramhall Avenue )  
Jersey City, N. J., )

CONCLUSIONS  
AND ORDER

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

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Stephanie Black, Defendant-licensee, Pro se.  
Dora P. Rothschild, appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that during prohibited hours she sold, for off-premises consumption, an alcoholic beverage in its original container, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that at about 8:00 a.m. June 5, 1958, two ABC agents at defendant's licensed premises observed the licensee appear to make a sale of a pint bottle of wine for off-premises consumption. Thereupon, at about 8:10 a.m., one of the agents purchased from said licensee a pint bottle of Seagram's Seven Crown Blended Whiskey which, at the licensee's suggestion, he placed in his pocket. The agent left the premises but returned forthwith and he and the other agent, who had witnessed the sale, identified themselves to the licensee. The licensee verbally admitted the "hours" violation.

Defendant has a prior adjudicated record. Effective January 7, 1952, her license was suspended by the local issuing authority for seven days for an "hours" violation. Effective March 29, 1954, her license was suspended by the local issuing authority for fifteen days for sale to minors. I shall suspend her license for fifteen days for the instant violation (Re Tooley's Bar, Inc., Bulletin 1224, Item 3), to which will be added five days by reason of the dissimilar violation within the past five years (Re Club Windsor, Inc., Bulletin 1223, Item 7) and five days by reason of the similar violation which occurred more than five years ago but within the past ten years (Re Ollie's Bar, Inc., Bulletin 1218, Item 7), making a total suspension of twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 18th day of June, 1958,

ORDERED that Plenary Retail Consumption License C-38, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Stephanie Black, t/a Blackie's Tavern, for premises 372 Bramhall Avenue, Jersey City, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. June 25, 1958; and it is further

ORDERED that any renewal for the 1958-59 licensing year or transfer of said license shall be and remain under suspension until 2:00 a.m. July 15, 1958.

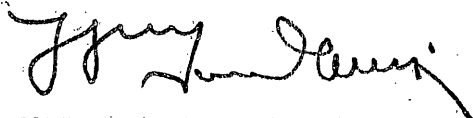
WILLIAM HOWE DAVIS  
Director.

8. STATE LICENSES - NEW APPLICATIONS FILED.

Jack Stempler  
t/a Allstate Liquor Distributors  
49 East Bigelow Street  
Newark, N. J.

Application filed August 18, 1958 for Plenary Wholesale License.

Monsieur Henri Wines Ltd.  
t/a Fine Wines Importing Company, Distinctive Wines Company,  
Private Brand Importers Company, Premier Quality Wines Company,  
Wine Merchants Importing Company, Old World Wine Importers,  
Chateau Bottled Wines Company, Superior Wines & Vines Company,  
Atlantic Wine Importing Company, Elite Wine Company, Vineyard  
Importing Company, Henri Wines Ltd., Henri & Co., Ltd., &  
Henri Ltd.  
49-57 Bogart Street  
Brooklyn, N. Y.  
Application filed August 19, 1958 for Wine Wholesale License.



William Howe Davis  
Director.