

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

BULLETIN 1265

FEBRUARY 24, 1959

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - DERRICKS v. NEWARK.
2. APPELLATE DECISIONS - MARTINEZ AND VENTURA v. PATERSON.
3. APPELLATE DECISIONS - MICHAEL'S PLEASANT INN, INC. v. POINT PLEASANT.
4. DISCIPLINARY PROCEEDINGS (Paterson) - LEWDNESS AND IMMORAL ACTIVITIES (RENTING ROOMS FOR ILLICIT SEXUAL INTERCOURSE) - SALE BEYOND SCOPE OF LICENSE - LICENSE SUSPENDED FOR 180 DAYS.
5. DISCIPLINARY PROCEEDINGS (Westville) - GAMBLING - LOTTERY - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (New Brunswick) - GAMBLING - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
7. STATUTORY AUTOMATIC SUSPENSION (Sea Bright) - SUSPENSION PREVIOUSLY IMPOSED BY DIRECTOR - APPLICATION TO LIFT GRANTED. (FOR CORRECT CAPTION SEE BULLETIN 1263-8)
8. DISCIPLINARY PROCEEDINGS (Irvington) - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Monroe Township) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

New Jersey State Library

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY
530 SOUTH EAST ASIAN AVENUE
CHICAGO, ILLINOIS 60607

Dear Mr. [Name]

I am very pleased to hear

from you and to learn

that you are

interested in the

work of the

Department of

Chemistry

and that you

would like to

visit the

Department of

Chemistry

at the

University of

Chicago

in the

near future.

I am sure that

you will

find the

Department of

Chemistry

very interesting

and that you

will

enjoy the

work of the

Department

of Chemistry

at the

University

of Chicago

and that you

will

find the

work of the

Department

of Chemistry

at the

University

of Chicago

very

interesting

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

BULLETIN 1265

FEBRUARY 24, 1959

1. APPELLATE DECISIONS - DERRICKS v. NEWARK.

WILLIAM M. DERRICKS, trading as)
GRAND HOTEL,)

Appellant,)

-vs-

ON APPEAL
O R D E R

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

Respondent.)

Saul C. Schutzman, Esq., Attorney for Appellant.
Vincent P. Torppey, Esq., by James E. Abrams, Esq.,
Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby on November 25, 1958, by resolution and order, it suspended appellant's license for a period of one hundred days, effective December 8, 1958, after finding him guilty on two charges alleging the making of arrangements on his licensed premises for illicit sexual intercourse and permitting his licensed place of business to be conducted in such manner as to become a nuisance; both in violation of Rule 5 of State Regulation No. 20.

On December 1, 1958, I entered an order staying respondent's order of suspension pending determination of the appeal herein.

The appeal came on for hearing on January 14, 1959, at which time appellant's attorney advised that his client, who was present, desired to withdraw the appeal and respondent's attorney stated that he had no objection thereto.

No reason appearing to the contrary, it is, on this 28th day of January, 1959,

ORDERED that the within appeal be and the same is hereby dismissed; and it is further

ORDERED that my order dated December 1, 1958 shall be vacated at 2:00 a.m. Monday, February 9, 1959, and that Plenary Retail Consumption License C-929, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to William M. Derricks, t/a Grand Hotel, for premises 78 West Market Street, Newark, be and the same is hereby suspended for a period of one hundred (100) days, commencing at 2:00 a.m. Monday, February 9, 1959, and terminating at 2:00 a.m. Wednesday, May 20, 1959.

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - MARTINEZ AND VENTURA v. PATERSON.

VINCENT W. MARTINEZ and
SALVATORE E. VENTURA,

Appellants,

-vs-

BOARD OF ALCOHOLIC BEVERAGE
CONTROL FOR THE CITY OF
PATERSON,

Respondent.

ON APPEAL
CONCLUSIONS AND ORDER

Joseph L. Ferraro, Esq., Attorney for Appellants.
Adolph A. Romei, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby it suspended appellants' license for a period of 180 days effective October 13, 1958 after finding the appellants guilty of the charge of purchase of liquor from an unlicensed source in violation of Rule 15 of State Regulation No. 20.

"Upon the filing of the appeal an order was entered on October 10, 1958 staying respondent's order of suspension until further order of the Director. R. S. 33:1-31.

"Appellants, in their petition of appeal, allege in substance that respondent's action was erroneous because there was no evidence of the actual purchase by the licensees of stolen liquor or that any such sale was entered into or consummated on the licensed premises or that any of such liquor was found on such licensed premises or intended for use therein.

"The minutes of the respondent disclose that at the hearing held on the aforesaid charge witnesses for the Board and defendants were examined in detail and a full and extended hearing was held. A signed statement from each licensee was presented in evidence. It appears therefrom that about midnight of March 25, 1958 Salvatore Ventura, one of the licensees, called his fellow licensee's attention to the fact that two persons with whom they were acquainted -- 'Carl' and Sonny Luciano -- were offering to sell to them bottles of liquor at the price of \$3.00 a bottle; that the licensees agreed to make such purchase and at 2:30 a.m. Martinez went to Luciano's car, parked near their place of business and transferred 47 bottles of alcoholic beverages, consisting of Haig and Haig scotch and various brands of domestic whiskies, to Ventura's car without asking the source of the liquor.

"Obviously, even on the evidence so presented before respondent, it is apparent that a legitimate retail liquor licensee does not purchase alcoholic beverages at midnight from persons who have alcoholic beverages in a car and without making any inquiry as to the source of such liquor.

"At the hearing on appeal Salvatore Ventura gave further testimony in which he states that 'Carl' (Karl Lenaeus) and Sonny Luciano called him into the back room or kitchen of the tavern and asked him if he wanted to buy any

alcoholic beverages from them; that he knew they were not engaged in the liquor business, but after consulting with Martinez they agreed to buy the liquor because it was much cheaper than what they would have to pay therefor to a licensed wholesaler; that after the alcoholic beverages were transferred to Ventura's car part was delivered to the home of Martinez and part to his home and that such alcoholic beverages were intended for their personal use; that they surrendered the alcoholic beverages at the request of the police when informed that they had been stolen from another tavern. Asked 'Did you expect that this liquor might have been stolen' he answered, 'I expected it, yes; but I didn't know it.' It was stipulated by counsel for the respective parties that if Martinez were called upon to testify his testimony would be substantially the same as that of his partner.

"It is abundantly clear, in my opinion, that the defendant licensees knew that they were purchasing stolen alcoholic beverages. I am further of the opinion, despite their denial, that the alcoholic beverages were intended for sale in the licensed premises. Even if such beverages were intended for personal use of such licensees, it is not a defense to the charge. Cf. Re Buttler, Bulletin 840, Item 7. Indeed, it would leave liquor control in a sad state if a liquor licensee were to be permitted to buy stolen or bootleg liquor for his own use without subjecting his licensed business to disciplinary action by reason thereof.

"I recommend that the respondent's finding that the defendant licensees are guilty of the charge be affirmed.

"The penalty imposed by the respondent does not appear to be manifestly unreasonable or clearly excessive (Re Scuderi v. Paulsboro, Bulletin 1196, Item 2) inasmuch as the purchase of stolen liquor by a licensee is a major offense. Re Club Rhumba, Inc., Bulletin 726, Item 1.

"I therefore recommend that an order be entered affirming the action of respondent, fixing the dates during which the 180 day suspension shall be effective, and dismissing the appeal."

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

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

Accordingly, it is, on this 28th day of January, 1959,

ORDERED that the action of respondent be and the same is hereby affirmed; and it is further

ORDERED that the 180-day-suspension imposed by respondent, which was stayed during the pendency of these proceedings, be restored against the license held by appellants for premises 254 Waite Street, Paterson, to commence at 3:00 a.m. February 9, 1959, for the balance of its term; and it is further

ORDERED that, if any renewal of this license is granted to appellants or to a transferee thereof, such license shall be under suspension until 3:00 a.m. August 8, 1959.

WILLIAM HOWE DAVIS
Director.

NOTE: On December 29, 1958, respondent Board transferred appellants' license, subject to above suspension, to Club Sharina Inc. (corporate name changed to Danny & Russ' Tavern Inc.)

3. APPELLATE DECISIONS - MICHAEL'S PLEASANT INN, INC. v.
POINT PLEASANT.

MICHAEL'S PLEASANT INN, INC.,)

Appellant,)

-vs-)

MAYOR AND COUNCIL OF THE)
BOROUGH OF POINT PLEASANT,)

Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

Vincent J. Commisa, Esq., Attorney for Appellant.
Camp & Simmons, Esqs., by Roy G. Simmons, Esq., Attorneys
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby its members unanimously denied an application for the place-to-place transfer of appellant's plenary retail consumption license from premises designated as 632-634 Ocean Road to premises designated as 632-634-636-638 Ocean Road, Point Pleasant.

"The controversy centers around the refusal, by such action, to extend the license presently held by appellant to include a bowling alley recently constructed by such appellant as an addition to its presently licensed premises.

"In its petition of appeal appellant alleges that such action was erroneous in that it was arbitrary, capricious, against the weight of evidence and amounted to abuse of discretion in view of the particular physical layout of the appellant's premises, which consists of a restaurant and bar with a bowling alley annexed thereto.

"The answer of respondent refers to the statement in its resolution denying the transfer which reads 'It is not in the best interests of the people of the Borough of Point Pleasant to grant the application for said transfer and furthermore the extent of the present licensed premises are completely adequate to serve the needs of the people of Point Pleasant.' and further sets forth that the bowling alley area is not such as to be easy to control or police.

"The corporate licensee's president testified that it has conducted an orderly restaurant and bar and desires to provide for the sale and service of alcoholic beverages in its new bowling alley, which has 12 bowling alleys, and which is patronized by many minors; that he is endeavoring to obtain the attendance therein of father and son and mother and daughter teams to bowl. The licensee's manager testified that he is experienced in conducting bowling establishments and that the service of alcoholic beverages therein is important to the success thereof, in that it is a hindrance to its successful operation if a player must leave the alleys to obtain such refreshments; further, that young persons now frequent the restaurant and dining area of the licensed premises and he feels competent, by close supervision, to prevent the sale and consumption of alcoholic beverages by minors while they

are in the premises presently licensed or in the bowling alley; that he believes there are presently 12 bowling alleys located in Ocean County and that to his knowledge none of such establishments has a liquor license.

"The secretary of the Ocean County Bowling Association testified that the ability to sell and serve alcoholic beverages in the bowling alley would add greatly to appellant's income; that although a recently built bowling establishment in the vicinity as well as other bowling establishments located in Ocean County have no liquor license, nevertheless, in his opinion, there would be no increase in any juvenile delinquent problems if appellant were permitted to serve alcoholic beverages in his bowling establishment.

"The president of the United Tavern Owners Association of New Jersey testified that, in his opinion, it is desirable to be able to sell and serve alcoholic beverages in bowling alleys and that he has not heard of any serious, deleterious effect on minors in such establishments which sell alcoholic beverages. The vice-president of the same organization testified that the appellants operate a well-conducted establishment; that, in his opinion, the presence of minors in its bowling alleys would not create any objectionable problem if alcoholic beverages were sold or served there; that the service area of the licensed premises for food and drinks extends to the entrance of the bowling alley so that it would be possible for patrons of the bowling section to walk eight or ten feet and obtain alcoholic beverages in the licensed portion of the premises; that appellant will face a control problem unless the bowling area is licensed, because bowlers may carry alcoholic beverages over the line into the bowling area.

"A male patron of appellant's establishment testified that it has been well-conducted and he favors the extension of the license to cover the bowling alleys as a convenience to the patrons. A female patron testified to the same effect, stating that she frequents the place with her children and does not see any difference between them observing alcoholic beverages being served in the restaurant and the bowling alleys; that she sees no harm to them in either event in that her children do not go by themselves. Another female patron testified that, in her opinion, the licensee's employees exercise close supervision over minors in the restaurant and dining area and that they would exercise like supervision in the bowling area and hence she favored the extension of the license. Another male patron testified that it would be convenient if he could purchase alcoholic beverages while bowling and that, in his opinion, it would not have any adverse effect on youngsters in the bowling establishment. However, he bowls once a week in a nearby bowling establishment where he cannot obtain alcoholic beverages.

"On respondent's behalf, one of the councilmen testified that the council considered the over-all picture and what was best for the municipality and the moral standard to be applied having in mind, although not solely influenced thereby, a recent fatal accident to three young persons who were under the influence of alcoholic beverages; that he came to the conclusion that by allowing the liquor license to be extended into the bowling alley, a recreational area, they would be promoting the possibility of 'youth being extended

to the access of liquor drinkers', to a greater degree than they would be exposed in the restaurant; that the recreational area is more attractive to youngsters to enter without their parents; that they also considered the views expressed by various objectors at the meeting; that in his term of office this was the first occasion that he was called upon to act upon an application to extend a license to a bowling alley.

"Another of the councilmen testified that he considered the arguments of the persons opposed to and in favor of the application and considered that the arguments of those opposed far outweighed that of those in favor especially the possible adverse effect on young persons in permitting alcoholic beverages in the bowling alleys which, in his opinion, would be more attractive to the attendance of young persons than the restaurant.

"The borough clerk testified that he was present at the public meeting at which the application was considered; that the Mayor and Council heard all persons who were either in favor or opposed to the extension of the license; that petitions for and against the grant of the application were presented; that most of the arguments were concerned with the effect that such extension would have on the youth of the community and that at the conclusion of the meeting the respondent Board voted to deny the application.

"A minister who represents the Greater Point Pleasant Protestant Ministers Association testified (at the council meeting another minister representing the Association spoke in opposition to the grant of the application) that he was authorized to express the view of the organization that the license should not be extended because the Association anticipates the formation of group of team bowling for the youth of the community and considers it detrimental to their best interest to expose them to the sale and service of alcoholic beverages to adults in such bowling establishments; that he has considerable experience in dealing with groups of young persons and thereby has discovered that youngsters as a group usually stop at a snack counter or milk bar where no liquor is served and that alcoholic beverages in a bowling alley would constitute a greater hazard to such groups than an eating place.

"It is obvious from the evidence presented that reasonable men differ in their opinion as to whether it is desirable to extend the license to appellant's bowling alley. The respondent Board was required to judge what would serve the best interest of the community. It had the choice between the possible hazard to minors of permitting the sale and service of alcoholic beverages in the bowling alley and the possible hazard to such persons of having the non-licensed bowling alley in close proximity to the licensed premises where such sale and service is permitted. In the exercise of its discretion it chose the latter course.

"In Livingston Land Corp. v. Livingston, Bulletin 1136, Item 3, the action of the respondent in denying a license to a bowling alley was affirmed. In such case reference was made to the following language of Commissioner Burnett in a previous case, 'Bowling alleys may well attract youths under twenty-one and, if issuing authorities honestly believe that the sale of liquor should not be permitted on premises operated as bowling alleys and uniformly apply such

policy, their action will be upheld irrespective of my personal belief that there is nothing intrinsically wrong in granting a license in respect to bowling alleys subject to revocation if sales are made to minors.'

"Thus, in Green Star, Inc. v. Roselle, Bulletin 1173, Item 3, an appeal from a denial of an application to transfer a license based in part because the proposed premises included a bowling alley or recreation center, the Director recognized this principle by directing that if the appellant eliminated the bowling alley or recreation center from its application he would direct a transfer to be granted.

"A transfer of a liquor license to other persons or premises, or both, is not an inherent or automatic right. The issuing authority may grant or deny the transfer, in the exercise of a reasonable discretion. If denied on reasonable grounds, such action will be affirmed. Van Schoick v. Howell, Bulletin 120, Item 6; Craig v. Orange, Bulletin 251, Item 4; Semento v. West Milford, Bulletin 253, Item 2; Thompson v. Mount Olive, Bulletin 986, Item 1. On appeal the burden is on appellant to show that respondent abused its discretion. Rule 6 of State Regulation No. 15. Bock Tavern, Inc. v. Newark, Bulletin 952, Item 1; Christian v. Passaic, Bulletin 928, Item 2.

"Under the evidence presented, I am of the opinion that appellant has not sustained the burden of proof in showing that the action of respondent Mayor and Common Council was erroneous. I therefore recommend that the action of respondent be affirmed and the appeal dismissed."

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 28th day of January, 1959,

ORDERED that the action of respondent Mayor and Council of the Borough of Point Pleasant be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(RENTING ROOMS FOR ILLICIT SEXUAL INTERCOURSE) - SALE
BEYOND SCOPE OF LICENSE - LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary)
Proceedings against)

ELSIE MAE MOLENARO)
t/a RIVERSIDE HOTEL)
81 First Avenue)
Paterson 4, N.J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-101, issued by the)
Board of Alcoholic Beverage Control)
for the City of Paterson.)

William A. DeMayo, 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 August 23, 29 and 30, 1958, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of arrangements for and the renting of rooms for the purpose of illicit sexual intercourse; in violation of Rule 5 of State Regulation No. 20.

'2. On August 30, 1958, 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 sold, served and delivered drinks of alcoholic beverages at a place other than your licensed premises, viz., on the second floor of the building in which your licensed premises are located; in violation of R. S. 33:1-2.'

"The evidence herein discloses that defendant operates a tavern and hotel at 81 First Avenue, Paterson. Although she uses the trade name 'Riverside Hotel' in the operation of her licensed business, her licensed premises are confined to the cellar and first floor of the building. The seven rooms on the second floor are not part of the licensed premises.

"Three ABC agents (hereinafter designated as R, O and F) visited defendant's licensed premises on the evening of August 23, 1958, and on the evening of August 30, 1958.

"As to their first visit, Agent R testified that they entered the barroom about 9:45 p.m.; that Dominick Monto was acting as bartender and that, in reply to a question as to whether any rooms were available, Monto told the agents that he had seven rooms and that the price for each room was four dollars a couple. Agent R further testified that he told Monto that they wanted to bring a couple of girl friends to the premises and that 'we have to be careful because the girls we are bringing are married. They're not our wives;' that the agents left the barroom about 11:00 p.m. without disclosing their identity.

"As to their second visit, Agent R testified that they entered the barroom about 10:00 p.m. with a five-dollar bill and three one-dollar bills, the serial numbers of which had been previously recorded; that Monto was tending bar; that Agent O asked the bartender if there was anything around and that Monto replied, 'You bring the girls. We got the rooms;' that, shortly after midnight, Agent O called the bartender and said, 'We are going to call up our own broads and, if their husbands are gone to work, F--- is going to pick them up and bring them down here.' Agent R further testified that, later, he went to a 'phone booth in the premises and returned to the bar; that he then told Monto that they didn't want to be seen with the girls and asked him if there was another entrance; that Monto said that the agents could go through the rear and he would let them in the rear screen door and go right upstairs and that he would let the girls in when they arrived; that Agent F left the premises about 12:35 a.m.

"There is no dispute in the testimony as to the events which followed. Agents R and O left the barroom through the front entrance and walked to a rear entrance to the building. Monto unlocked a screen door and admitted them to a foyer where each agent signed a register card using the words 'Mr. and Mrs. ---' thereon. The agents had no baggage. The identified eight dollars was accepted by Monto as rental for two rooms, and the bills were later found in a cigar box on a table in the foyer.

"Monto accompanied the agents upstairs where Room 5 was assigned to Agent R and Room 3 to Agent O. Monto later took to each room two drinks of alcoholic beverages which the agents had ordered before they went upstairs. The agents were found in the assigned rooms when Agent F returned to the premises with members of the Paterson Police Department.

"The testimony given at the hearing by Agent F substantially corroborated the testimony given by Agent R.

"On behalf of defendant, Dominick Monto admitted that he had told the agents about the rooms on their first visit but denied that there had been any conversation at this time about bringing girls to the premises. As to the second visit he testified that the agents then said something about their wives working across the river in some factory; that the two agents told him that Agent F was going to pick up their wives and that he followed the usual procedure in assigning them to rooms after they had signed registry cards for each room as 'Mr. & Mrs.' He denied all the testimony of the agents concerning any conversation about 'girls', 'girl friends' or 'broads.' Defendant testified that she is owner and manager of the Riverside Hotel; that persons using the hotel must enter through the rear entrance and may not go through the barroom, and that she has no personal knowledge of the alleged violations set forth in the charges herein. Two witnesses testified as to defendant's good character.

"After reviewing all the evidence and the brief submitted by defendant's attorney, I believe that the agents' testimony as to their conversations with the bartender is true and, therefore, I recommend that defendant be found guilty as to Charge 1. In Re Schneider, 12 N. J. Super. 449 (App. Div. 1951). Admittedly, the bartender served the drinks in the rooms on the second floor, which is not part of the

licensed premises, and therefore I recommend that defendant be found guilty as to Charge 2. It is further recommended that an order be entered suspending defendant's license for one hundred eighty days. Re Sabatini, Bulletin 1197, Item 1, and cases therein cited."

Written exceptions to the Hearer's Report and written argument in substantiation thereof were filed with me by the attorney for defendant, pursuant to Rule 6 of State Regulation No. 16.

After carefully considering the entire record in this case, including the transcript of testimony, the Hearer's Report and the exceptions and written argument of counsel, I concur in and adopt the conclusions as recommended by the Hearer as my conclusions herein.

Accordingly, it is, on this 26th day of January, 1959,

ORDERED that Plenary Retail Consumption License C-101, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Elsie Mae Moleno, t/a Riverside Hotel, for premises 81 First Avenue, Paterson, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. Monday, February 2, 1959; and it is further

ORDERED that any renewal for the 1959-60 licensing year or transfer of said license shall be and remain under suspension until 3:00 a.m. Saturday, August 1, 1959.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE
SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JAMES B. ATKINS)
t/a LOU'S CAFE)
32 River Drive)
Westville, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-6, issued by the)
Borough Council of the Borough of)
Westville.)

Alfred T. Sanderson, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On June 4, 9, 12, 24 and 27, 1958, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery commonly known as the 'numbers game' on all such dates and the making and accepting of horse race bets on June 9, 24 and 27, 1958; in violation of Rule 7 of State Regulation No. 20.

"2. On June 4, 9, 12, 24 and 27, 1958, you allowed, permitted and suffered tickets and participation rights in a lottery commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

It appears from the evidence transmitted to this Division by New Jersey State Police that a state trooper, investigating gambling activities, visited defendant's licensed premises on each of the dates alleged in the above charges; that on June 4th, June 9th and June 12th the trooper placed "numbers" bets with the bartender, Charles Leonardo, who turned them over to a person on the premises, later identified as Danny Higgins; that on June 9th the trooper placed a horse race bet with Higgins through Leonardo, and that on June 12, 24 and 27 he placed "numbers" bets and horse race bets directly with Higgins. It appears further that on the last occasion the trooper paid for his bets with marked currency; that when Higgins left the premises he was apprehended by other troopers who found upon his person the marked money and various horse race and "numbers" betting slips; that the troopers then entered the licensed premises, identified themselves, apprehended Leonardo and seized from the back bar a number of tickets representing participation rights in a lottery.

Defendant has no prior adjudicated record. I shall suspend his license for a period of twenty-five days (the minimum penalty for gambling as herein when an employee of the licensee is involved). Re Sulesky, Bulletin 1253, Item 9. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 20th day of January, 1959,

ORDERED that Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of Westville to James B. Atkins, t/a Lou's Cafe, for premises 32 River Drive, Westville, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, January 27, 1959, and terminating at 2:00 a.m. Monday, February 16, 1959.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED
FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

FRANK KARBA)
t/a ROXY GRILL)
95 French Street)
New Brunswick, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-25, issued by the)
Board of Commissioners of the)
City of New Brunswick.)

John A. McKenna, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charge:

"On December 4 and 6, 1958, you allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20."

It appears that on December 4 and 6, 1958, two ABC agents visited defendant's licensed premises; that on December 4th one of them gave a horse race bet slip and \$2.00 to Frank Apach, a waiter, who turned it over to Peter Scheffer, another waiter; that on December 6th the same agent placed several horse race bets with Scheffer and paid him with identifiable currency; that, shortly thereafter, as pre-arranged, prosecutor's detectives entered the premises, identified themselves and the agents, requested Scheffer to empty his pockets and seized the contents which included the agent's betting slips and the marked money. It appears further that Alex Orban, the "pick-up man", was apprehended on the premises and that he had in his possession a sum of money and a sheet of paper upon which were listed numerous horse race bets. Apach, Scheffer and Orban volunteered signed, sworn statements in which they admitted their participation in the violation charged herein and Charles Somenek, the manager of defendant's establishment, orally stated that he knew of the aforesaid gambling activities and that Scheffer had been booking horse race bets on the licensed premises for at least two years.

Defendant's attorney, by way of mitigation, has submitted a letter in which he states that the licensee had no knowledge of the gambling activities engaged in by his waiters and that he has conducted his business honorably since Repeal.

Although defendant has no prior adjudicated record, I do not find any extenuating circumstances in this case which would impel me to impose less than the established penalties in cases of this kind. I shall suspend defendant's license for twenty-five days and remit five days for the plea entered herein, leaving a net suspension of twenty days. Re Jassogne & Houckes, Bulletin 1226, Item 5.

Accordingly, it is, on this 15th day of January, 1959,

ORDERED that Plenary Retail Consumption License C-25, issued by the Board of Commissioners of the City of New Brunswick to Frank Karba, t/a Roxy Grill, for premises 95 French Street, New Brunswick, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, January 27, 1959 and terminating at 2:00 a.m. Monday, February 16, 1959.

WILLIAM HOWE DAVIS
Director.

7. STATUTORY AUTOMATIC SUSPENSION - SUSPENSION PREVIOUSLY IMPOSED BY DIRECTOR - APPLICATION TO LIFT GRANTED.

In the Matter of Disciplinary
Proceedings against

MILDRED MIKULAS and MARTIN MIKULAS
t/a SWEDISH HOP
10 East Ocean Avenue
Sea Bright, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consump-
tion License C-3, issued by the
Mayor and Council of the Borough of
Sea Bright.

Henneberry & Giordano, Esqs., by John C. Giordano, Jr., Esq.,
Attorneys for Defendant-licensees.
David S. Piltzer, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

It appears from the reports herein that ABC agents, acting upon information transmitted to this Division by the Rumson Police Department, obtained a signed, sworn statement from William ---, age 18, wherein he states that on Friday, December 26, 1958, he and four minor companions drove to the vicinity of defendants' licensed premises which he alone entered, and that he purchased 18 cans of beer from the barmaid, who required no written proof of his age; that he left with the merchandise and put the beer in the car; that all five drove off and were later apprehended by the police, who seized the beer before they had imbibed any of its. The other minors gave the agents signed, sworn statements corroborating William's statement with respect to him entering the tavern and later entering the car with the 18 cans of beer and respecting their apprehension by the police. Later, William's companions directed the agents to defendants' licensed premises and pointed it out as the place which William had entered. On the following day William identified for the agents the licensed premises and identified Mildred Mikulas, one of the licensees, as the person who made the sale. Mildred orally admitted the aforesaid violation but refused to give a signed, sworn statement.

Defendants have a prior adjudicated record. Effective January 27, 1958 their license was suspended for twenty-five days by the Director for selling alcoholic beverages to minors. Re Mikulas, Bulletin 1210, Item 9. In addition, on September 4, 1958, one of the licensees, Martin Mikulas, was convicted in

the Sea Bright Municipal Court for permitting the licensed premises to remain open on September 1, 1958 during hours prohibited by local ordinance and was fined \$25.00. The investigation resulting in this conviction was conducted by the local police but as of this date there is no record of disciplinary proceedings being instituted against the licensees by the local license issuing authority directed toward suspension or revocation of their license for violation of the ordinance. However, this conviction will be considered an aggravating circumstance in determining the penalty to be imposed in the instant proceeding, since it involves prohibited conduct of the licensed business.

The minimum penalty for sale of alcoholic beverages to an 18-year-old minor is fifteen days. In view of the prior similar violation which occurred within a five-year period, and the above mentioned municipal court conviction, I shall suspend defendants' license for thirty days. Cf. Re Guariglia, Bulletin 1234, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 22nd day of January, 1959,

ORDERED that Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Sea Bright to Mildred Mikulas and Martin Mikulas, t/a Swedish Hop, for premises 10 East Ocean Avenue, Sea Bright, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Thursday, January 29, 1959, and terminating at 2:00 a.m. Monday, February 23, 1959.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD -
LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JEDNOSC T. KOSCIUSZKO ASSOCIATION,)
A Corporation)
405-429 - 16th Avenue and)
150-152 Eastern Parkway)
Irvington, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-40, issued by the)
Board of Commissioners of the)
Town of Irvington.)
-----)

Michael J. Kosloski, Esq., Attorney 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 charge:

"On October 17, 1958, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Jean ---, age 18, Mary ---, age 18, and Norman ---, age 20 and allowed,

permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

On Friday, October 17, 1958, at about 10:30 p.m., four ABC agents were present in the ballroom of the defendant's licensed premises and observed aforementioned three minors seated at a table on which there was a pitcher of beer. At about 11:15 p.m. Norman, followed by the agents, went to a bar in a room adjoining the dance floor and, in the presence of the agents, ordered and was served a glass of beer by John N. Wojtanowicz, a bartender, who accepted fifteen cents in payment thereof. The four agents identified themselves to Norman and the bartender, following which two of the agents returned to the ballroom and questioned Jean and Mary. Thereafter, each of the three minors gave a sworn, written statement setting forth therein that they did not sign and that at no time did anyone on the premises request them to sign any written representation as to their ages. In addition, Jean stated that she consumed two glasses of beer and a highball served to her at the bar and also drank a glass of beer served to her at a table in the ballroom. Mary stated she consumed two glasses of beer and Norman stated he consumed four glasses of beer served to him by John N. Wojtanowicz aforementioned.

By way of mitigation, the attorney for the defendant has submitted a statement, the contents of which I have carefully read, together with the file in the case and the statements of the minors involved. I do not find, however, any extenuating circumstances in this case which would impel me to impose less than the established penalty in cases of this kind.

Defendant has a prior adjudicated record. Effective March 30, 1953 defendant's license was suspended by the then Director for five days for sale of alcoholic beverages to minors. See Bulletin 964, Item 8. The minimum penalty for a sale of alcoholic beverages to an 18-year-old minor where three minors are involved is twenty days. Re Belann Tavern, Inc., Bulletin 1211, Item 8. I shall suspend defendant's license for twenty days, to which will be added five days because of the similar violation which occurred more than five but less than ten years ago, Re Black, Bulletin 1238, 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 27th day of January, 1959,

ORDERED that Plenary Retail Consumption License C-40, issued by the Board of Commissioners of the Town of Irvington to Jednosc T. Kosciuszko Association, A Corporation, for premises 405-429 - 16th Avenue and 150-152 Eastern Parkway, Irvington, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, February 17, 1959 and terminating at 2:00 a.m. Monday, March 9, 1959.

WILLIAM HOWE DAVIS
Director.

9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELLED
 LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
 Proceedings against)

GALLAGHER & PFUND, INC.
 t/a BILL & AL'S SAIL INN)
 Black Horse Pike north of Lake Avenue)
 Monroe Township)
 PO Williamstown, N. J.)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption
 License C-3, issued by the Township
 Committee of Monroe Township.)

 David Novack, Esq., Attorney for Defendant-licensee.
 William F. Wood, Esq., Appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

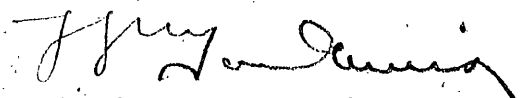
Defendant pleaded non vult to a charge alleging that it possessed on its licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On November 21, 1958, an ABC agent seized a number of bottles of alcoholic beverages on the defendant's licensed premises because their contents appeared to be low in proof. Subsequent analysis by the Division's chemist disclosed that the contents of three of said bottles when compared with samples of the genuine product of the labeled brands varied substantially in solids and acids.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of twenty days. Re Pawlus, Bulletin 1104, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 27th day of January, 1959,

ORDERED that plenary retail consumption license C-3, issued by the Township Committee of Monroe Township to Gallagher & Pfund, Inc., t/a Bill & Al's Sail Inn, for premises on Black Horse Pike north of Lake Avenue, Monroe Township, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Wednesday, February 4, 1959, and terminating at 2 a.m. Thursday, February 19, 1959.



William Howe Davis
 Director