

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

BULLETIN 1165

MAY 10, 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 1165

MAY 10, 1957.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(INDECENT PRINTINGS AND PICTURES) - HOSTESSES - SALE TO
INTOXICATED PERSONS - LICENSE SUSPENDED FOR 35 DAYS, LESS 5
FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

PHYLLIS M. MINCHIN)
T/a 31 CLUB)
31 Belmont Avenue)
Garfield, N.J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-11, issued by the)
Mayor and Council of the City of)
Garfield.)

Phyllis M. Minchin, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On January 17 and 20, 1957 and on divers other days, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing obscene, indecent, filthy, lewd, lascivious and disgusting printings, writings, pictures and representations; in violation of Rule 17 of State Regulation No. 20.

"2. On Saturday night, January 19 and early Sunday morning, January 20, 1957, you allowed, permitted and suffered Laura Adams, a female employed on your licensed premises to accept beverages at the expense of or as a gift from customers and patrons; in violation of Rule 22 of State Regulation No. 20.

"3. On Sunday morning, January 20, 1957, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person actually or apparently intoxicated and allowed, permitted and suffered the consumption of such beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

The file herein discloses that on January 17, 1957, three ABC agents observed the licensee, at a patron's request, display an object manifestly obscene and indecent in character, a specific description of which would serve no purpose. Their investigation of the licensed business not being concluded, the agents left without disclosing their identity.

The three agents returned on January 19, 1957, at about 10:45 p.m. Among the persons present was one Laura Adams who was seated at the bar. The licensee entered and was observed introducing Laura Adams to three male patrons who, during the course of their conversation with the licensee and Laura Adams, purchased two drinks of alcoholic beverages for each of them.

The agents conversed with Laura Adams who told them that she had been employed there as a waitress for the last few weeks, and the agents ordered sandwiches from her which she prepared in the kitchen and served to them. The agents also observed that she prepared sandwiches in the kitchen for other patrons.

At about 3:45 p.m. the agents observed a man (later identified as Peter ---) enter the licensed premises. His gait was very unsteady and his eyes appeared bloodshot. He went directly to the rear dining-room. Laura Adams entered the dining-room and returned to the bar and ordered a bottle of beer from the bartender. She took the beer to the dining-room and then came back to the bar. The agents identified themselves to the licensee, asked her for the obscene object that they had seen there on January 17, and ultimately obtained it from the back-bar. At this time they searched the back-bar and found two calendars depicting nude females and various plaques and signs of plywood on which were painted cartoons accompanied by writings with a double entendre.

The agents then entered the dining-room where Peter --- was seated at a table. His head was back over a chair and fell forward when the agents tried to rouse him. His speech was thick and incoherent and he had difficulty standing. Laura Adams was summoned to the dining-room and told the agents that she served Peter --- with only one bottle of beer.

Defendant has no prior adjudicated record. Defendant urges in mitigation her claim that the calendar and other items found on the back-bar were on the premises when she purchased the tavern, and that the obscene object was left there by a customer to be picked up by a friend and did not belong to her. This cannot be accepted as an excuse. She knew that the items were there and it was incumbent upon her to have them removed. She also urges that she did not see Peter --- enter the tavern or the back room. She is responsible for any service to intoxicated persons irrespective of personal knowledge. Lastly, she urges that Laura Adams was not on duty that night and she did not see her have any drinks with male patrons. This is inconsistent with what the agents personally observed.

I shall suspend defendant's license for ten days on Charge 1 (Re Folger, Bulletin 1145, Item 10); for ten days on Charge 2 because the evidence on that score indicates that the incident was isolated and I am satisfied that the waitress was not engaged in the practice of "hustling" the male patrons (Re J.P.J. Corp., Bulletin 1047, Item 6), and for fifteen days on Charge 3, 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 22nd day of March, 1957,

ORDERED that Plenary Retail Consumption License C-11, issued by the Mayor and Council of the City of Garfield to Phyllis M. Minchin, t/a 31 Club, for premises 31 Belmont Avenue, Garfield, be and the same is hereby suspended for thirty (30) days, commencing at 4:00 a.m. April 1, 1957, and terminating at 4:00 a.m. May 1, 1957.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

AUTOMATIC SUSPENSION - APPLICATION TO LIFT GRANTED UPON EXPIRATION OF SUSPENSION IN DISCIPLINARY PROCEEDINGS.

In the Matter of Disciplinary Proceedings against

PATRICK JAMES LANDOLFI
401 - 69th Street
Guttenberg, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-19, issued by the Mayor and Board of Council of the Town of Guttenberg.

Auto. Susp. #134

In the Matter of a Petition by

PATRICK JAMES LANDOLFI

ON PETITION
O R D E R

To Lift the Automatic Suspension of aforesaid License.

Patrick James Landolfi, Defendant-Petitioner, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On March 1, 1957, 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., Edward ---, age 17, Robert ---, age 17, Anthony ---, age 18, Angelo ---, age 18, Peter ---, age 19 and Paul ---, age 19, 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."

ABC agents entered defendant's premises on March 1, 1957, at about 10:25 p.m., and observed defendant serving about eighteen male patrons at the bar. Six of the patrons were youthful in appearance and all of them were drinking what appeared to be alcoholic beverages. Shortly thereafter five of these youthful patrons who were seated together ordered a second round of drinks which were served by defendant. As they were consuming these drinks, the agents identified themselves and seized the drinks for evidential purposes. The agents then obtained a written statement from Robert --- (age 17) in which he said that he had entered the licensed premises with an adult and had been served one bottle of beer. In statements obtained from the other five minors who had been seated together, they said that their respective ages were those mentioned in the charge herein, and four of them said that, during their visit to the licensed premises, they had each ordered two bottles of beer while the fifth said that he had ordered two mixed drinks. One of the minors stated that he had told the licensee that he was twenty-one years of age, but the other four minors stated that defendant had not questioned them as to their respective

ages. None of the minors made any written representation that he was twenty-one years of age or over.

On March 11, 1957, Patrick James Landolfi pleaded guilty in the Municipal Court of the Town of Guttenberg to a charge of selling alcoholic beverages to minors, in violation of R. S. 33:1-77 and was fined \$50.00. Said conviction resulted in the automatic suspension of his license for the balance of its term. R. S. 33:1-31.1. On March 15, 1957, an ABC agent picked up defendant's license and he has not operated under said license since that time. He requests the lifting of said suspension in accordance with the provisions of R. S. 33:1-31.1.

Defendant has no prior record. In view of the fact that two of the minors were only seventeen years of age, and considering the number of minors involved, I shall suspend defendant's license for thirty days. Cf. Re K and L Circle Inn, Inc., Bulletin 1162, Item 1. Five days will be remitted for the plea, leaving a net suspension of twenty-five days, effective from March 15, 1957 (when the license was automatically suspended).

As to the statutory automatic suspension, I shall grant the requested relief upon the expiration of the aforesaid suspension.

Accordingly, it is, on this 25th day of March, 1957,

ORDERED that Plenary Retail Consumption License C-19, issued by the Mayor and Board of Council of the Town of Guttenberg to Patrick James Landolfi, for premises 401 - 69th Street, Guttenberg, be and the same is hereby suspended for twenty-five (25) days, effective March 15, 1957, and terminating at 3:00 a.m. April 9, 1957; and it is further

ORDERED that the statutory automatic suspension mentioned herein will be lifted effective 3:00 a.m. April 9, 1957, at which time the license will be restored to full force and operation.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT PERFORMANCE) - MITIGATING CIRCUMSTANCES - EMPLOYING UNQUALIFIED PERSONS (NON-RESIDENTS) - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against

WONDER BAR, INC.
T/a WONDER BAR
40 Westfield Avenue
Elizabeth 3, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-240 for the 1955-56 and 1956-57 licensing years, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth.

Green and Yanoff, Esqs., by H. Kermit Green, Esq., Attorneys 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 charge:

'1. On March 18, 24 and 25, 1956, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene conduct in and upon your licensed premises in that you allowed, permitted and suffered persons employed on your licensed premises as entertainers to perform in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulation No. 20.'

and pleaded non vult to the following charge:

'2. On March 24 and 25, 1956, you knowingly employed on your licensed premises George Nicholas, Fred Jefferson, Maurice Oliver and Austin Powell, non-residents of New Jersey who had not obtained any requisite employment permits from the Director of the Division of Alcoholic Beverage Control; in violation of Rule 4 of State Regulation No. 13.'

"The major controversy as to Charge 1 is the nature of the entertainment which ABC agents observed at defendant's licensed premises on March 17-18 and 24-25, 1956. The central figure, a female entertainer named Claudia, is the same person who was alleged to have performed an indecent dance at the same place in March 1951. Re Schnur, Bulletin 923, Item 12. On that occasion she appeared on the bandstand in a strapless evening gown with a bustle in back, sang songs and during her performance engaged in body movements described as bumps, grinds and shimmies and there was some question as to whether she invested some of the songs with a double and indecent meaning, but the Director concluded that the evidence did not warrant a finding that it was an indecent performance. Nevertheless, it was pointed out to the licensee that he should not tolerate entertainment which borders on the indecent double entendre and was told that a wise licensee will not permit any entertainer to give even a doubtful performance on his premises.

"The evidence presented tends to indicate that the licensee, through lack of good judgment rather than wilful design, was of the erroneous opinion that the entertainment furnished by it in March 1956 was not any more offensive than that in the past. This is logical if the licensee's assertion is accepted that on March 24 its president was aware that an ABC agent was present but nevertheless permitted the entertainment to continue.

"The specific nature of the objectionable performances is described in the testimony of ABC agents who witnessed the performances.

"An ABC agent who was in defendant's licensed premises on March 17-18 with a fellow agent observed a member of the band introduce Claudia. She wore a tight-fitting, form-revealing black dress. She sang a number of songs, interrupted by intervals of dancing during which she rotated her buttocks and at other times did bumps and grinds with jerky motions of the lower part of her body. Near the conclusion of her performance, she sang a number called 'Honeysuckle Rose' during which she obtained a cherry from the bartender and placed it in front of her in close proximity to the lower portion of her body and facing the saxophone player, said, 'Honey, suck my rose'. He shuffled toward her until he was within a few inches of where the cherry was, stooped over until his head was in close

proximity to the cherry and then moved back. Claudia then placed the cherry on or near her breast, turned to the saxophone player and repeated, 'Honey, suck my rose'. The musician shuffled up to her, leaned over and took the cherry in his mouth.

"The entertainment was again presented at a second performance. Claudia was again introduced and she performed in the same manner except that the 'Honeysuckle Rose' number was omitted. Sammy Cotton, a male entertainer, joined Claudia. They sang a duet, with solo parts, during which Cotton sang a double entendre phrase. Claudia and Cotton performed a dance, facing each other, their bodies a few inches apart, moving their bodies suggestively and doing bumps. Claudia turned from Cotton, tilted the microphone and leaned over so that her head and buttocks were practically parallel. She then rotated her buttocks. Cotton took a position behind her with both hands on her buttocks, placed his body within an inch or two therefrom and rotated the lower part of his body, doing bumps, finishing with a roll of drums, with Cotton pretending to kick Claudia. The audience applauded, whooped and yelled at the performance.

"Another ABC agent who was present on March 24-25 with a fellow agent observed Claudia sing songs and dance bumps and grinds and jerk the lower part of her body. She was followed by Sammy Cotton who sang and danced bumps and grinds and at one time straddled the microphone while performing gyrations of similar nature. Claudia then joined Cotton, face to face, each placed their hands on the other's hips, and revolved the lower part of their bodies and performed bumps and grinds. Claudia turned her back to Cotton, stooped and he placed his hands on her hips and while dancing, both revolved their buttocks and Cotton placed the lower portion of his body near Claudia. Cotton then left. Claudia remained on the dance platform and was joined by the saxophone player. Facing each other they performed a dance of bumps and grinds similar to that which Claudia performed with Cotton. One of the waitresses on the customer's side of the bar danced in imitation of Claudia's bumps and grinds dance.

"At the conclusion of the performance, the agents identified themselves to the president and vice-president of the corporate-licensee and informed them of what they had observed. According to the agents, both of these men agreed that the show was raw; that they had repeatedly warned Claudia and the other entertainers to clean up the show but that Claudia told them she could not help herself. The agents say that Claudia and Cotton told them that they knew it was a raw performance and that they would try to clean it up.

"Assuming the accuracy of the agents' account of the performances given by Claudia and Cotton, it is clear that the cherry and 'Honeysuckle Rose' incidents were not only vulgar but indecent; that a male and female entertainer doing bumps and grinds in close proximity to each other creates a much more impassioned impression on an audience than a solo performance by a female; and that a female performer facing an audience with a male performer behind her with his hands on her person, pressing close to her with his person, with suggestive dance movements, is a far cry from a mild bumps and grinds solo dance by a female. These radical indecent features added in 1956 sharply distinguish such performances from those in 1951.

"Even a mild bumps and grinds performance on licensed premises is dangerously close to the border line of entertainment

not permitted there. When dismissing the 1951 charge the licensee was warned to that effect. Similar dismissals are comparatively rare. For example, mere body contortions and gyrations of a dancer while executing a primitive dance were held to be not necessarily immoral (Re Houston, Bulletin 905, Item 3), and a primitive dance portraying pagan worship of fire by an adequately covered female dancer accompanied by bumps and gyrations were held to be in poor taste but not necessarily indecent, although the licensee was warned to make certain in the future as to the propriety of entertainment on his licensed premises. Re Vittorio Castle, Inc., Bulletin 1053, Item 8 in which it was said that the line where mere vulgarity ends and indecency begins is often a thin one.

"The test as stated in Re DiAngelo, Bulletin 753, Item 4, and oft repeated, is:

'Entertainment, if presented upon licensed premises, must be of such character as not to be inimical to the public welfare and morals or to the best interests of the industry.'

and enlarging upon this principle, performances executed in such a manner as to appeal to, arouse and inflame the passions of both male and female spectators, are lewd and immoral within the meaning and intendment of Rule 5 of State Regulation No. 20. See Re Ferdinand, Bulletin 850, Item 2.

"The agents' description of the emotions displayed by the audience who saw Claudia and Cotton perform and the effect of such performance on the waitress, evidences that their performances were of the prohibited character.

"The test of immorality or indecency is not that given by courts of general jurisdiction to theatrical performances since licensees of public taverns may lawfully be tightly restricted to limit to the utmost the evils of the trade. McFadden's Lounge v. Div. of Alcoholic Bev. Control, 33 N. J. Super. 61.

"Accordingly, mere bumps and grinds with rotation of the torso (Re Club Hi-De-Ho, Inc., Bulletin 1013, Item 2); toned down bumps and grinds (Re New Frisco Club & Restaurant, Inc., Bulletin 1040, Item 2); a flame dance with simulated sexual intercourse (Re Victoria Lodi Bar, Inc., Bulletin 1041, Item 4); a performance described as jitterbug, modern interpretative, Mambo, and Afro-Cuban (Re Riley & DiGiralamo, Bulletin 1045, Item 9); Egyptian-Tibitian and Indian dance with sensuous and suggestive movements commonly referred to as bumps and grinds with hand movements over her body (Re J.P.J. Corp., Bulletin 1047, Item 6); and bumps and grinds by a patron who for a short period of time raised her skirt above her waist (Re Orembowiec, Bulletin 813, Item 3); were each held to be indecent and not to be tolerated on licensed premises.

"The defense presented by the licensee does not seriously dispute the substance of the agents' version of what they observed but rather rests upon the assertion that it acted in good faith and was reasonable in its assumption that the performances were not objectionable.

"Claudia's version of her performance is that it was a typical present-day rock and roll dance, less pronounced as to

gyrations, bumps and grinds than in 1951 because she was repeatedly warned by her employer to be careful about her dance, and she described at length the technical aspects of the choreography of her dance with relation to her bumps and grinds, face to face dance with Cotton and her back to Cotton dance, when he held her hands 'back from the back' including a 'Charleston' kick on Cotton's part at the finish of the dance.

"The mechanics used by professional dancers to render the illusion they seek to create is not the controlling factor; it is not the actual steps they take but the appearance it has to the spectators that is controlling. Re Cliquot Club, Inc., Bulletin 943, Item 2.

"Claudia's version of the cherry episode is that she obtains a piece of fruit to eat while dancing whenever she has a dry throat from smoking; that on the observed occasion she obtained a cherry for that purpose from the bartender and the saxophone player shuffled toward her, 'kidding', and she handed the cherry to him and then drew it back and finally he bent over and she gave him the cherry; also she denies that she used the phrase attributed to her when singing 'Honeysuckle Rose'.

"Irving Schnur, president of the corporate-licensee, testified that Claudia has been in its employ for approximately eight years; that in his opinion the 1956 performances were less objectionable than those in 1951; that Sammy Cotton's performance was similar to his performance observed by Schnur at other licensed premises, and that he assumed that his non-resident orchestra players had permits since they were employed at other taverns in New Jersey. Schnur admitted that the agent, in his presence and that of Joseph Girard, the corporation's vice-president, characterized Claudia's and Cotton's performance as raw and claims that Girard did not reply, and that Schnur, because he thought the agent was addressing him in a friendly fashion, did not contradict him at the time -- 'I just went along with him'. He heard the agent tell Claudia that the dancing was a little bit raw and Claudia did not reply, 'just hung her head'. He was not concentrating on observing the performance on March 18 but noticed that Claudia had a cherry in her mouth; that she held it up in front of her and went through the dance, and he saw the saxophone player 'kidding' reach over with his mouth and take it away from her and that this had occurred many times in the past during Claudia's dance.

"Joseph Girard testified that the agents said the show was a little too raw and he replied, 'I don't know. She was warned about their doing anything out of line'.

"In view of these circumstances, it is not necessary to comment on the testimony of a patron who appeared on behalf of the licensee and stated his impression of the performances which he had observed while at the licensed premises on the dates in question, recollected after the lapse of a few weeks.

"The various contentions set forth in the brief filed by defendant's counsel do not present any basis for findings different than those above set forth, including the contention that the agents misdescribed the performances which they witnessed. There may be a difference of opinion as to what terminology should be used -- the vital factor is that there can be no difference of opinion as to what physically occurred, no matter if described in polite or vulgar language.

"I recommend that the defendant-licensee be found guilty of the violation set forth in Charge 1.

"Defendant corporation has a prior adjudicated record. Effective August 24, 1952, its license was suspended by the local issuing authority for five days for sales to minors. Effective January 14, 1952 when the license was held in the name of Irving Schnur, his license was suspended by the Director of this Division for three days for employing a non-resident entertainer. Ordinarily, defendant's license would be suspended for thirty days on Charge 1 and for five days on Charge 2 (Re DeFreitas, Bulletin 1051, Item 5) and for an additional period because of the similar and dissimilar violations within the past five years. (Re Gorgo, Bulletin 1151, Item 6). However, I am of the opinion that in the particular circumstances in the instant case, the licensee's error of judgment, and not wilful misconduct, should be considered as mitigating circumstances and, hence, I recommend that its license be suspended for a total period of thirty days."

Counsel for the licensee has advised that no exceptions will be filed to the Hearer's Report.

After carefully considering the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and I adopt them as my conclusions herein. Hence, I shall suspend defendant's license for a period of thirty days.

Accordingly, it is, on this 26th day of March, 1957,

ORDERED that Plenary Retail Consumption License C-240, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to Wonder Bar, Inc., t/a Wonder Bar, 40 Westfield Avenue, Elizabeth, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2:00 a.m. April 1, 1957, and terminating at 2:00 a.m. May 1, 1957.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary
Proceedings against

KABE, INC.

T/a CHARLIE'S BAR & GRILL

West Park Avenue, Rt. #35

Ocean Township, PO RFD #1

Asbury Park, N. J.,

Holder of Plenary Retail Consump-
tion License C-6, issued by the
Township Committee of Ocean Township)
(Monmouth County).)

CONCLUSIONS
AND ORDER

Mirne, Nowels and Schaefer, Esqs., by William C. Nowels, Esq.,
Attorneys for Defendant-licensee.

David S. Piltzer, Esq., appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to a charge alleging that on July 15, 1956 it sold, served and delivered alcoholic beverages to a minor and permitted the consumption of such beverages by said minor in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20.

"At the hearing herein the Division called as its witnesses Cecelia ---, age 19, William Griffith, her adult companion on the date alleged, and two ABC agents.

"Cecelia testified, in substance, that at about 1:00 a.m., Sunday, July 15, 1956, she and her companion entered defendant's licensed premises and walked past the bar to the dance hall at the north end of the premises where they seated themselves in a booth; that she ordered a glass of 'Seven Crown Whiskey and 7-Up' which was served to her by a waiter who made no inquiry as to her age; that after consuming her drink, she and her companion visited with two males sitting at a table at the south end of the premises whereat she consumed three or four drinks of 'Seven and Seven' but didn't know who served the drinks 'because I was dancing. I was in the ladies' room. Every time I came back there was a drink there'; and that she was feeling 'pretty good'. Griffith corroborated Cecelia's testimony in all respects.

"The ABC agents testified that Cecelia and Griffith directed them and two police officers to defendant's licensed premises and pointed it out as the place where Cecelia had been served the alcoholic beverages; that Cecelia did not identify therein the person who served her; that Mrs. Betz (president of the defendant corporate-licensee herein) told them that she believed that she saw Cecelia in the licensed premises on the date alleged and that at the time she entered she was drunk; that Cecelia and Griffith in their (the agents') presence later identified Lee Conlon as the waiter who served Cecelia an alcoholic beverage; and that Conlon admitted to them that he was on duty in the licensed premises on the night in question.

"The Division rested its case and Counsel for the defendant moved to dismiss the charge on the grounds that the Division failed to prove (a) that an intoxicating liquor was in fact served to the minor (b) that there was no specific identification of the person or persons who served the alcoholic beverages; and (c) that there was no substantial evidence as to the identification of the licensed premises or the licensee. Decision thereon was reserved.

"Defendant produced the following witnesses: Mrs. Betz, Charles Betz (her husband), Lee Conlon (a waiter), Bernard Hoffman and Harry E. Betz (bartenders), Alan Marx and Robert M. White (patrons), Richard Garrity (a Deputy Chief of Police), William D. Walling (a detective), John J. Harvey (a private investigator for defendant's attorneys) and Thomas J. Baldino, Jr. (a magistrate).

"Mrs. Betz testified, in substance, that she was in the licensed premises from 10:00 p.m. on Saturday, July 14, 1956 until 3:00 a.m. the following Sunday; that she saw Cecelia enter the premises and 'I thought she had enough to drink'; that she instructed Hoffman not to serve the girl; that Cecelia went to the table where 'four or five' males were drinking; that she kept her eyes on Cecelia and that at no time was she served or did she consume any alcoholic beverages.

"Lee Conlon testified that he was the waiter on duty on the date alleged; that he placed an order of two drinks of 'Seven and Seven' in front of each of two males seated in a booth; that the males left their drinks untouched and departed; and that he saw Griffith but did not see Cecelia on the premises that morning.

"Hoffman testified that he worked the south end of the bar; that he received from and complied with Mrs. Betz's instructions not to serve Cecelia; that Cecelia sat at a table at which he had served alcoholic beverages to 'five men'; that he kept her under observation at all times during her stay; that she didn't have anything to drink; and that later, when Cecelia pointed him out to the agents as the person who had served her, he didn't deny it, 'I just laughed'.

"Harry Betz, who is vice-president of defendant corporate-licensee and son of Mrs. Betz, testified that he was the other bartender serving the north end of the bar on the morning alleged and that he saw Griffith but did not see Cecelia on the licensed premises.

"The testimony of two of defendant's other witnesses corroborates that of Mrs. Betz, Hoffman and the minor respecting Cecelia's presence on defendant's licensed premises on the morning alleged; while that elicited from its other witnesses tends to contradict the fact that Cecelia and her companion had definitely identified the premises in question.

"As pointed out by the Prosecutor in opposing Counsel's motion for dismissal, the testimony by a minor or any other person that the minor ordered an alcoholic beverage by name creates the permissible inference that the minor was actually served the beverage ordered, and further warrants judicial notice that such beverage has an alcoholic content of more than one-half of one percent by volume and constitutes an 'alcoholic beverage' within the meaning of the statutory definition. R.S. 33:1-1(b); State v. Marks, 65 N.J.L. 84, 87; Lewinsohn v. U.S., 278 F. 421; Holmes v. Cavicchia, 29 N. J. Super. 434; Re La Corte, Bulletin 469, Item 1. With respect to the second point raised, it has long been established that failure to identify the specific person who served the alcoholic beverages is not fatal in disciplinary proceedings against the licensee. Re La Corte, supra; Re Cohen, Bulletin 495, Item 6; Re Dante, Bulletin 771, Item 9. As to the identification of the premises and the licensee, there is testimony that the minor was on the licensed premises and that she was seen there by the president of defendant corporate-licensee.

"It is evident, therefore, that the Division made out a prima facie case and that the burden of introducing evidence sufficient to contravene that produced by the Division rested upon defendant. The proof adduced on its behalf shows that Cecelia was on defendant's licensed premises on the date alleged; that she entered about 1:00 a.m. and went to a table where alcoholic beverages were served; that she left the premises just prior to the closing hour; and that she had 'enough to drink'.

"Where a licensee, as here, freely permits *** minors upon the premises, it is his duty to see that liquor served at empty places at the tables is not intended for these minors. Were it otherwise, minors need but disappear temporarily in order to have licensees serve liquor to them with impunity.' Re Morganstern and Oliner, Bulletin 292, Item 9.

"Having carefully considered the entire record herein, including the memorandum submitted by defendant's Counsel, I find that the licensee allowed and permitted alcoholic beverages to be served at a table where a minor was present and failed to supervise the distribution of such beverages; and that the minor in question consumed some of the beverages so served. I find further that the waiter served an intoxicating drink to said minor which she consumed on the licensed premises; and that at no time during the minor's stay in defendant's licensed premises was she requested to represent in writing that she was twenty-one years of age or over. I conclude that defendant is guilty as charged.

"Since the defendant has no prior adjudicated record, I recommend that its license be suspended for a period of fifteen days. Re Kolodziej, Bulletin 1143, Item 11."

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

After carefully considering the record herein, I find that the Hearer incorrectly reported that Mrs. Betz "saw Cecelia enter the premises", whereas her testimony discloses that she observed Cecelia when "she was coming out of the ladies' room". Since the discrepancy relates to an immaterial fact which would not affect my decision adversely, I concur in the recommended conclusions of the Hearer and adopt them as my conclusions herein. I shall suspend defendant's license for a period of fifteen days.

Accordingly, it is, on this 13th day of March, 1957,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of Ocean Township (Monmouth County) to Kabe, Inc., t/a Charlie's Bar & Grill, West Park Avenue, Rt. #35, Ocean Township, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 7:00 a.m. March 20, 1957, and terminating at 7:00 a.m. April 4, 1957.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against)

KABE, INC.)

T/a CHARLIE'S BAR & GRILL)

West Park Avenue, Rt. #35)

Ocean Township, PO RFD #1)

Asbury Park, N. J.,)

O R D E R

Holder of Plenary Retail Consumption License C-6, issued by the Township Committee of Ocean Township (Monmouth County).)
-----)

BY THE DIRECTOR:

An order having been entered herein on March 13, 1957, suspending defendant's license for fifteen days commencing at 7:00 a.m. March 20, 1957, and terminating at 7:00 a.m. April 4, 1957; and

It appearing that defendant has an organist under contract until April 16 and that it will suffer a substantial loss if the suspension becomes effective prior to the expiration date of the contract;

It is, on this 15th day of March, 1957,

ORDERED that the suspension of fifteen days heretofore imposed, instead of commencing at 7:00 a.m. March 20, 1957, shall, in lieu thereof, commence at 7:00 a.m. April 17, 1957, and terminate at 7:00 a.m. May 2, 1957.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATES FIXED FOR
SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING FOR BUSINESS.

In the Matter of Disciplinary
Proceedings against

JERRY SHEEHAN
T/a JERRY SHEEHAN'S
Beachway & Pineview Avenue
Keansburg, N. J.,

O R D E R

Holder of Plenary Retail Consump-
tion License C-18, issued by the
Borough Council of the Borough of
Keansburg; transferred during the
pendency of these proceedings to

JERRY SHEEHAN, INC.
T/a BEACH PALACE
(same address).

A. Henry Giordano, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

It appearing that by Order dated November 13, 1956, the license held by the above named defendant was suspended for fifty-five days and that the effective dates of said suspension were to be fixed by subsequent order (Bulletin 1145, Item 4), and

It further appearing to my satisfaction that defendant's premises have been sufficiently opened for penalty to become effective,

It is, on this 18th day of March, 1957,

ORDERED that the fifty-five-day suspension heretofore imposed against defendant Jerry Sheehan shall apply to the license held by Jerry Sheehan, Inc. and shall commence at 2:00 a.m. March 29, 1957, and terminate at 2:00 a.m. May 23, 1957.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ONE TWENTY-EIGHT, INC.)

T/a CLOVER CLUB)

128 North New Road)

Pleasantville, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-4, issued by the)
Common Council of the City of)
Pleasantville.)
-----)

Defendant-licensee, by Paul A. Bocell, President.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold and allowed, permitted and suffered the sale of alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

Acting upon information received from the Chief of Police of Pleasantville and the Chief of Police of Northfield, ABC agents obtained signed sworn statements from Richard --- (age 18) and five other minors. In his statement Richard --- says that on the evening of January 28, 1957, he and the other five minors were in a car which parked near defendant's licensed premises; that he entered the premises and purchased three six-packs of beer from "Tony" Bocell who did not question him as to his age, and that he carried the beer to the parked automobile. Richard --- further says that during the previous summer he had shown to "Sammy" Bocell in the licensed premises (apparently then conducted by Anthony Bocell, Sr.) an identification card which indicated that the holder thereof was twenty-two years of age. From the statements obtained from the other minors it appears that some of them consumed some of the beer purchased by Richard ---.

Defendant has no prior adjudicated record although it appears that, as recently as December 5, 1956, a warning letter was sent to defendant concerning the alleged sale of alcoholic beverages to another minor. The minimum penalty for sale to an eighteen-year-old minor is now fifteen days (Re Endre & Rinaldi, Bulletin 1133, Item 6). Five days will be remitted for the plea herein, leaving a net suspension of ten (10) days.

Accordingly, it is, on this 18th day of March, 1957,

ORDERED that Plenary Retail Consumption License C-4, issued by the Common Council of the City of Pleasantville to One Twenty-Eight, Inc., t/a Clover Club, for premises 128 North New Road, Pleasantville, be and the same is hereby suspended for ten (10) days, commencing at 1:00 a.m. March 25, 1957, and terminating at 1:00 a.m. April 4, 1957.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS,
FAILURE TO CLOSE PREMISES DURING PROHIBITED HOURS AND FAILURE
TO KEEP PREMISES OPEN TO PUBLIC VIEW DURING PROHIBITED HOURS -
LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

SARACCO'S, INC.)
T/a SARACCO'S)
58 Church Street)
Paterson 1, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-287, issued by the)
Board of Alcoholic Beverage Control)
for the City of Paterson.)

-----)
William J. Tamburri, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging
(1) it sold, served and delivered and permitted the consump-
tion of alcoholic beverages on its licensed premises during
prohibited hours; (2) it failed to have its entire licensed
premises closed during prohibited hours, both in violation of
a local ordinance; and (3) it failed to keep the interior of
its licensed premises open to public view during prohibited
hours, in violation of a local regulation.

The file herein discloses that ABC agents visited
defendant's licensed premises at about 2:25 a.m. Sunday,
December 9, 1956 and remained until 4:35 a.m. At 2:53 a.m.
they observed one of its two bartenders extinguish the exterior
and most of the interior lights, close the venetian blinds and
lock the front door. Thereafter, at intervals, customers were
permitted to enter the premises and they, as well as the agents,
were served alcoholic beverages until 4:00 a.m. At one point the
agents heard the other bartender say, jokingly, "You know what
time it is? It's twenty to four. You know what time we close?
Three o'clock. I could get locked up for this". However, no
one was requested to leave. At 4:00 a.m. the agents identi-
fied themselves to the bartenders who would give no signed
statement but verbally admitted the violations.

Defendant has no prior adjudicated record. I shall
suspend its license for twenty days (Re S.M.S. Corporation, Bul-
letin 1107, Item 5) and remit five days for the plea entered
herein, leaving a net suspension of fifteen days.

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

ORDERED that Plenary Retail Consumption License C-287,
issued by the Board of Alcoholic Beverage Control for the City
of Paterson to Saracco's, Inc., t/a Saracco's, 58 Church Street,
Paterson, be and the same is hereby suspended for a period of
fifteen (15) days, commencing at 3:00 a.m. March 28, 1957, and
terminating at 3:00 a.m. April 12, 1957.

WILLIAM HOWE DAVIS
Director.

9. AUTOMATIC SUSPENSION - SALES TO MINORS - LICENSE PREVIOUSLY
SUSPENDED BY DIRECTOR - APPLICATION TO LIFT GRANTED.

In the Matter of Disciplinary)
Proceedings against)

MARGARET G. BILANSKY)
T/a SPRING BROOK PLACE)
Route #46, below Delaware)
Knowlton Township)
PO RD 1, Columbia, N. J.,)

ON PETITION
O R D E R

Holder of Plenary Retail Consump-)
tion License C-6, issued by the)
Township Committee of the Township)
of Knowlton.)
-----)

It appears from a petition filed herein that on March 26, 1957, Margaret G. Bilansky was fined the sum of \$250.00 in the Warren County Court after she had pleaded non vult to a charge alleging that she sold alcoholic beverages to a minor, in violation of R. S. 33:1-77. Said conviction has resulted in the automatic suspension of her license for the balance of its term. R. S. 33:1-31.1.

By order dated February 28, 1957, the Director suspended defendant's license for a period of twenty days after finding defendant guilty of a charge alleging that she sold alcoholic beverages to minors. Said suspension became effective at 7:00 a.m. March 11, 1957, and will terminate at 7:00 a.m. March 31, 1957. The petition requests the lifting of the statutory automatic suspension.

It appearing that the suspension imposed in the disciplinary proceedings is adequate, the relief sought will be granted, effective at 7:00 a.m. March 31, 1957.

Accordingly, it is, on this 29th day of March, 1957,

ORDERED that the statutory automatic suspension will be lifted effective at 7:00 a.m. March 31, 1957, at which time the license will be restored to full force and operation.

WILLIAM HOWE DAVIS
Director.

By: Edward J. Dorton
Deputy Director.

10. STATE LICENSES - NEW APPLICATIONS FILED.

Lincoln Mazzoli, t/a Richland Beverage Company
Harding Hwy. & Flower St., Buena Borough, N.J.
Application filed May 7, 1957 for person-to-person transfer
of State Beverage Distributor's License SBD-43 from Frank
Dandrea, t/a Landisville Beverage Co.

United Beer Distributors Co.
249-51-53 Kearny Ave., Jersey City, N.J.
Application filed May 7, 1957 for person-to-person transfer
of State Beverage Distributor's License SBD-89 from Harry and
Augusta Barr, t/a United Beer Distributors.

New Jersey State Library

William Howe Davis
William Howe Davis
Director