

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark, 2, N. J.

BULLETIN 720

JULY 18, 1946.

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STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark, 2, N. J.

BULLETIN 720

JULY 18, 1946.

1. DISCIPLINARY PROCEEDINGS - EMPLOYING AND PERMITTING A NON-RESIDENT MINOR TO SELL ALCOHOLIC BEVERAGES - PERMITTING THE SERVICE OF ALCOHOLIC BEVERAGES TO A WOMAN DIRECTLY OVER THE BAR, IN VIOLATION OF MUNICIPAL ORDINANCE - LICENSE SUSPENDED FOR A PERIOD OF 12 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

EFFIE SEITZ
T/a SEITZ'S CAFE
318 Federal Street
Camden, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-31 for the fiscal
year 1945-46, and C-18 for the
fiscal year 1946-47, issued by the
Municipal Board of Alcoholic
Beverage Control of the City of
Camden.

Effie Seitz, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic
Beverage Control.

Defendant has pleaded non vult to charges that (1) on June 6, 1946 she knowingly employed a minor and permitted her to sell and serve alcoholic beverages in violation of R. S. 33:1-26 and Rules 2 and 3 of State Regulations No. 13; (2) she knowingly employed a non-resident and permitted her to sell and serve alcoholic beverages in violation of R. S. 33:1-26 and Rule 4 of State Regulations No. 13; and (3) she did, on June 6, 1946, permit the service of alcoholic beverages to a woman directly over the bar on her licensed premises, in violation of Section 10 of an ordinance adopted by the local governing body.

On June 4, 1946, one Jean Weaver, eighteen years old and not a resident of the State of New Jersey, was employed to work on the defendant's licensed premises. She was observed to serve at least one drink of an alcoholic beverage. Jean Weaver, a minor and non-resident, did not have a permit as required by Regulations No. 13. I find defendant guilty of charges (1) and (2).

On the same day, defendant's bartender, then in charge of the licensed premises, served alcoholic beverages to a woman directly over the bar. It appears that the woman did not consume the beverage at the bar, but the mere service is a violation of the city ordinance. I find defendant guilty of charge (3).

Under the circumstances of the present case, particularly the sale or service by a minor, which cannot be permitted, I shall suspend the license for seven days as to charges (1) and (2). Cf. Re Nicaretta, Bulletin 583, Item 8. An additional five days will be imposed for the violation set forth in charge (3). Re Polato, Bulletin 582, Item 11. This is defendant's first adjudicated violation of the Alcoholic Beverage Law. I shall, therefore, remit five days of the total suspension because of the plea, making the net suspension seven days.

Although this proceeding was instituted during the licensing year 1945-46, it does not abate but remains fully effective against the renewal license for the 1946-47 fiscal year. State Regulations No. 16.

Accordingly, it is, on this 12th day of July, 1946,

ORDERED, that Plenary Retail Consumption License C-18, issued for the 1946-47 fiscal year by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Effie Seitz, t/a Seitz's Cafe, for premises 318 Federal Street, Camden, be and the same is hereby suspended for a period of seven (7) days, commencing at 2:00 a.m. July 18, 1946, and terminating at 2:00 a.m. July 25, 1946.

ERWIN B. HOCK
Deputy Commissioner.

2. FAIR TRADE - NOTICE OF SUPPLEMENTAL PUBLICATION.

July 15, 1946.

The next official supplemental publication of minimum resale prices, pursuant to Fair Trade Rules (Regulations No. 30) will become effective on Monday, August 19, 1946. New items and changes in old items must be filed at the offices of this Department not later than Tuesday, July 23, 1946.

It is of the greatest economic importance to retailers and to all branches of the industry alike that retailers shall be afforded full and fair markups. The Department desires the maintenance of the schedule of former OPA markups for retailers, that is, 33-1/3% on spirits, 45% on cordials and liqueurs and 50% on wines.

Notification of the proportionate share of the aggregate expense involved will be made to participating companies as soon as the pamphlet price list is published and mailed to all retail licensees.

DEPARTMENT OF ALCOHOLIC
BEVERAGE CONTROL

By: John H. Michelson
Ass't Deputy Commissioner.

3. DISCIPLINARY PROCEEDINGS - CHARGE OF SERVICE OF ALCOHOLIC BEVERAGES TO WOMEN DIRECTLY OVER THE BAR, IN VIOLATION OF MUNICIPAL ORDINANCE, DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.

In the Matter of Disciplinary)
 Proceedings against)

NICHOLAS & SOPHIE DOMENICES)
 T/a NICK'S CAFE)
 699 Central Avenue)
 Camden, N. J.,)

CONCLUSIONS
 AND ORDER

Holders of Plenary Retail Consump-)
 tion License C-24, issued by the)
 Municipal Board of Alcoholic)
 Beverage Control of the City of)
 Camden.)
 -----)

Anthony F. Marino, Esq., Attorney for Defendant-licensees.
 Harry Castelbaum, Esq., appearing for Department of Alcoholic
 Beverage Control.

The defendants plead not guilty to a charge that on Wednesday, February 27, 1946, and on divers occasions theretofore, they served alcoholic beverages to women directly over the bar upon their licensed premises, in violation of Section 10 of an ordinance adopted by the Board of Commissioners of the City of Camden on December 27, 1934, as amended September 12, 1935.

The testimony in the within case discloses that one William Carter, accompanied by Sylvia Mozie and Jennie Gardner, visited defendants' premises on the evening of February 27, 1946. It appears from the testimony that both Sylvia and Jennie entered the side door of the tavern and Carter entered the front door of the liquor establishment.

At the hearing herein, Sylvia testified that she immediately went to the barroom, joined Carter, and consumed at the bar two drinks of whiskey which Carter had ordered for her. She stated that she did not remember who served the first drink but that defendant, Nicholas Domenices, served the second drink. Carter corroborated her testimony in so far as the two drinks were concerned, but he testified that he did not know who served either of the drinks which he had ordered. Jennie testified that she stood near the back room, heard her sister Sylvia order a drink, and that she saw defendant, Nicholas Domenices, make the service directly over the bar. She further testified that after the first drink was served she went into the back room and before she could sit down she heard a great deal of commotion in the barroom.

Defendants produced several witnesses who were there on the evening in question and all agreed that Sylvia had not been served a drink in the barroom. Booker T. Evans testified that when Carter came into the premises he asked the others present to have a drink at his expense and walked directly to defendant, Sophie Domenices, seated at the end of the bar, and engaged in conversation with her. Evans testified that immediately thereafter Sylvia, who had entered the barroom, called Sophie a vulgar name, the latter then ordering Sylvia from the licensed premises. Two other witnesses produced by defendants testified that they were present in the police court when a charge of assault and battery made by Jennie against defendant, Sophie Domenices, was heard. Neither Sylvia nor Jennie, according to the witnesses who allegedly were present at the hearing in police court, made mention of the fact that Sylvia had been served with any drinks that evening.

The testimony of Sylvia, Jennie and Carter is not consistent. Carter and Sylvia testified that Carter ordered the drinks which Sylvia was alleged to have consumed, and Jennie was emphatic in her testimony that Sylvia ordered her own drink. Defendant, Nicholas Domenices, testified that he did not serve any drinks that evening, as he was sitting in front of the bar. This testimony was corroborated by his wife, defendant Sophie Domenices.

After consideration of the entire record in the instant case, I am satisfied that the testimony of the defendants' witnesses appears more trustworthy. The burden was on the Department to prove by a preponderance of the evidence that the defendants were guilty of the violation charged. This it failed to do. Hence, the within charge will be dismissed.

Accordingly, it is, on this 15th day of July, 1946,

ORDERED, that the charge herein be and the same is hereby dismissed.

ERWIN B. HOCK
Deputy Commissioner.

4. APPELLATE DECISIONS - GUARENTE v. HOHOKUS.

JOHN GUARENTE, JR.,)	
Appellant,)	
-vs-)	ON APPEAL
)	CONCLUSIONS AND ORDER
BOROUGH COUNCIL OF THE)	
BOROUGH OF HOHOKUS,)	
Respondent)	
-----)	

Herbert F. Myers, Jr., Esq., Attorney for Appellant.
Doughty & Dwyer, Esqs., by Thomas S. Doughty, Esq., Attorneys for Respondent.

This is an appeal from the denial of appellant's application for a plenary retail consumption license for premises 618 North Maple Avenue, Hohokus, N. J.

The appellant's father was denied a license for these premises in the year 1939. On appeal, the denial was affirmed. See Bulletin 305, Item 4.

The only issue presented at the present appeal hearing is whether the appellant's application was barred by the provisions of P. L. 1946, c. 147. This statute, amending the Alcoholic Beverage Law, provides that no new consumption license shall be issued in any municipality unless the total number of such licenses is fewer than one for each one thousand of population as shown by the last Federal census, except that the amendment shall not apply to any application "duly and properly filed" on or before April 1, 1946.

According to the last Federal census the Borough, with one consumption license presently outstanding, had a population of 1624. Under the recent law, therefore, a second consumption license may not be issued until the Borough's population, according to Federal census, reaches two thousand.

The only question for decision is whether the appellant's application was "duly and properly filed" on or before April 1, 1946, so as to bring it within the aforesaid exception to the statute.

The issue is purely factual. The appellant testified that he received an application form from the local Clerk, caused his wife to fill it out on his behalf and filed it with the Clerk some time during the middle of March, 1946. Although, at the time of filing, the appellant had affixed his signature, the application was undated and the signature was not notarized. The appellant's explanation is that the Clerk advised him that he (the Clerk) would later insert the date and notarization.

The Clerk, on the other hand, asserts that the application was received by him on April 18, 1946. This is the date upon which the appellant's signature is notarized in the application. The Clerk also fixes this date from the fact that an informal session of the Council was held at his home on April 18, 1946, at which the appellant was present. It was after the conclusion of that meeting, the Clerk testified, that the appellant submitted his application to him for filing.

The application also includes, in the wife's handwriting, the dates of April 23 and April 30, 1946, as those upon which the notice of publication was published in the newspaper. The appellant contends that the Clerk released the application to him for that purpose. The Clerk, however, denies that the application left his possession after he received it on April 18, 1946, and that the dates of April 23 and 30, 1946 appeared in the application when he received it.

It strains credulity to believe that the appellant would take the application from the Clerk and bring it home to his wife only for the purpose of having her fill in the dates of publication. Why, if the appellant's version is to be believed, did he not personally fill in the dates of publication? Why was it necessary for his wife to do so?

The testimony of the appellant, who carries the burden of sustaining the issue, does not satisfy me that the application was filed prior to April 1, 1946.

It follows, therefore, that the appellant's application was mandatorily barred by the recent statute (P. L. 1946, c. 147), and that the denial of the application must be affirmed and the appeal dismissed.

Accordingly, it is, on this 15th day of July, 1946,

ORDERED, that the petition of appeal be and the same is hereby dismissed.

ERWIN B. HOCK
Deputy Commissioner.

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against

LOUIS SOGARO
210 South Main Street
Phillipsburg, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-208 for the 1945-46 licensing year and C-225 for the 1946-47 licensing year, issued by the Board of Commissioners of the Town of Phillipsburg.

Louis Sogaro, Defendant-licensee, Pro se.
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

The defendant pleaded non vult to a charge alleging that he possessed a 4/5 quart bottle of "Kessler's Private Blend Blended Whiskey" and a 4/5 quart bottle of "Schenley Reserve Blended Whiskey", both of which contained alcoholic beverages not genuine as labeled, in violation of R. S. 33:1-50.

The two bottles in question were part of the defendant's open stock of nineteen liquor bottles tested by an ABC agent on June 18, 1946.

The contents of both bottles were chemically analyzed and found to vary substantially from genuine samples of the same products.

Because the defendant's record is otherwise clear of any adjudicated violations, I shall suspend his license on the instant charge for the usual fifteen-day period. Re Nurse, Bulletin 680, Item 7.

Although this proceeding was instituted during the 1945-46 licensing year, it does not abate but remains fully effective against the renewal license for the 1946-47 licensing year. State Regulations No. 16.

Accordingly, it is, on this 16th day of July, 1946,

ORDERED, that Plenary Retail Consumption License C-225, issued for the 1946-47 licensing year by the Board of Commissioners of the Town of Phillipsburg to Louis Sogaro, for premises 210 South Main Street, Phillipsburg, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 1:00 a.m. July 22, 1946, and terminating at 1:00 a.m. August 6, 1946.

ERWIN B. HOCK
Deputy Commissioner.

6. DISCIPLINARY PROCEEDINGS -- ILLICIT LIQUOR -- PREVIOUS RECORD --
LICENSE SUSPENDED FOR A PERIOD OF 30 DAYS.

In the Matter of Disciplinary)
Proceedings against)

FRED MEASE)
T/a FREDDIE'S GRILL)
212 North Black Horse Pike)
Runnemede, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-1 for the 1945-46)
and 1946-47 licensing years, issued)
by the Borough Council of the)
Borough of Runnemede.)

Fred Mease, Defendant-licensee, Pro se.
William F. Wood, Esq., appearing for Department of Alcoholic
Beverage Control.

The defendant pleaded non vult to a charge alleging that he pos-
sessed two 4/5 quart bottles of "Calvert Special Blended Whiskey",
two 4/5 quart bottles of "Seagram's Five Crown Blended Whiskey" and
two 4/5 quart bottles of "Gallagher & Burton's Black Label Blended
Whiskey", all of which contained alcoholic beverages not genuine as
labeled, in violation of R. S. 33:1-50.

On April 5, 1946, a Federal ATU agent seized the six bottles
aforesaid after testing the defendant's open stock of twenty-six
liquor bottles. Chemical analysis disclosed that the contents of
each varied substantially from genuine samples of the same products.

In November 1943, the defendant's license was suspended for
thirty days upon his non vult plea to a charge alleging that he had
caused his license to be nominally issued to his wife. See Bulletin
595, Item 6.

Because of this prior record and the number of bottles involved
herein, I shall impose a thirty-day penalty on the instant charge.
Cf. Re Downie, Bulletin 702, Item 2.

Although this proceeding was instituted during the 1945-46
licensing year, it does not abate but remains fully effective against
the renewal license for the 1946-47 licensing year. State Regulations
No. 16.

Accordingly, it is, on this 16th day of July, 1946,

ORDERED, that Plenary Retail Consumption License C-1, issued by
the Borough Council of the Borough of Runnemede to Fred Mease,
t/a Freddie's Grill, for premises 212 North Black Horse Pike,
Runnemede, be and the same is hereby suspended for a period of thirty
(30) days, commencing at 2:00 a.m. July 22, 1946, and terminating at
2:00 a.m. August 21, 1946.

ERWIN B. HOCK
Deputy Commissioner.

7. DISCIPLINARY PROCEEDINGS - CHARGES OF FALSE ANSWER IN LICENSE APPLICATION, AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE, AND CEASING TO BE A NEW JERSEY RESIDENT, DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.

In the Matter of Disciplinary)
 Proceedings against)

HAROLD E. VICKERS)
 T/a VICK'S)
 White Horse Pike & Walnut Ave.)
 Lindenwold)
 P.O. Laurel Springs, RFD, N.J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-6 for the fiscal)
 years 1945-46 and 1946-47, issued)
 by the Borough Council of the)
 Borough of Lindenwold.)

John Henry Reiners, Jr., Esq., Attorney for Defendant-licensee.
 Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic
 Beverage Control.

Defendant pleads not guilty to charges that in his application for license he falsely stated (1) that no person other than himself had any interest in the license sought or the business to be conducted thereunder, whereas one William G. Faul had such an interest, and (2) that there was no existing agreement to pay anyone any percentage of the profits of the licensed business, whereas such an agreement existed with Faul; (3) that he aided and abetted Faul to exercise the rights and privileges of his 1944-45 and 1945-46 licenses; and (4) that he ceased to be a resident of New Jersey during the term of the 1945-46 license.

Charges (1) and (2) are based on alleged false statements in the application for 1945-46 license, which application was dated May 31, 1945. Testimony of the prosecution's only witness established that an alleged agreement to share the profits of the licensed business was entered into between the licensee and Faul in September 1945, namely, more than three months after the application was filed. While this testimony was at variance with the original statement given by the witness, in reliance upon which statement the charges were prepared, in the absence of any other testimony offered by the prosecution it must be accepted as the truth. A reading of the record indicates that the witness was in honest error in originally stating that the alleged agreement was made in May 1945, and that, in fact, it was made in September 1945. Since the alleged partnership was created, if at all, in September 1945, some three months after the application for license was filed, the alleged false statements in that application were not, in fact, false at the time they were made. Charges (1) and (2) must, therefore, be dismissed.

As to Charge (3): The testimony establishes, at most, that the licensee agreed to share with Faul any profits of the licensed business on an equal basis. However, the testimony discloses that during the existence of the alleged partnership there were, in fact, no profits, the operating expenses of the business, including Faul's salary as manager and the licensee's withdrawal of \$50.00 weekly from the profits, substantially consuming any potential surplus which might have been divided between the alleged partners. Furthermore, the alleged partnership is sought to be established only by the testimony of Faul (clearly self-serving), while the licensee, who is alleged to have conferred partnership status and benefits upon Faul, vigorously denied the existence of any such agreement. Corroborative

of the licensee's position is the fact that Faul, at all times, received a salary subject to withholding tax and social security and unemployment compensation deductions, and that, when reprimanded by the wife of the licensee with respect to the cleanliness of the premises, he "handed in the key and.....was done", — unusual conduct, indeed, for an equal partner in a going business. The evidence in support of Charge (3) is not convincing and the charge will be dismissed.

As to Charge (4): It appears that it was preferred because the licensee had vacated his living quarters above the licensed premises, because certain checks were mailed to the licensee at an address in Maryland, and because prior to the hearing contact could not be made with the licensee to ascertain whether or not he had terminated his New Jersey residence which, to all appearances, he had. However, at the hearing the licensee testified that his presence in Maryland was necessitated by the launching of a welding business in that state, that his wife had gone to Maryland to attend her ailing mother, and that he at no time intended to relinquish his New Jersey residence and acquire a residence in Maryland. In the face of the lack of affirmative testimony on behalf of the prosecution indicating relinquishment of New Jersey residence, the licensee's testimony must be accepted. Consequently, Charge (4) must likewise be dismissed.

Accordingly, it is, on this 15th day of July, 1946,

ORDERED, that the charges herein be and the same are hereby dismissed.

ERWIN B. HOCK
Deputy Commissioner.

8. COURT DECISIONS - NEW JERSEY COURT OF CHANCERY - A CONTRACT BY A LICENSEE TO JOIN IN AN APPLICATION FOR A TRANSFER OF THE LICENSE IS NOT ENFORCEABLE IN A SUIT FOR SPECIFIC PERFORMANCE.

Between:

IN CHANCERY OF NEW JERSEY
June 14, 1946

JOSEPH NOVACK and JOHN NOVACK,)

Complainants,)

-and-)

ROSE KRAUZ,)

Defendant)

-----)

(Syllabus)

O P I N I O N

Public policy, as embodied in the statutes relating to liquor licenses, requires that licensees hold them free from any control by others.

Accordingly, a contract by a licensee to join in an application for a transfer of the licenses, is not enforceable in a suit for specific performance.

Louis Marton, Jr., Esq.,
Solicitor for Complainants.

Thomas J. Kennedy, Esq.,
Of Counsel.

Messrs. Feder & Rinzler,
Solicitors for and of Counsel with Defendant.

LEWIS, V. C.:

Defendant entered into a contract with complainants to sell them a tavern property. The contract contains the following clause: "The purchaser is to make all necessary applications for transfer of liquor license, advertising therefor, and license of transfer of \$400.00 liquor stock; the seller agreeing to sign the necessary forms." The contract was not carried out, and complainants bring this suit for specific performance, praying that defendant be ordered to sign such forms.

The legislature has placed special restrictions on the sale of alcoholic beverages and the issuance of licenses for the sale thereof, and has made such licenses purely personal. Revised Statutes 33:1-26 provides: "Under no circumstances, however, shall a license, or rights thereunder, be deemed property, subject to inheritance, sale, pledge, lien, levy, attachment, execution, seizure for debts, or any other transfer or disposition whatsoever, except to the extent expressly provided by this chapter." The statute further provides that on application for a transfer of license, which shall bear the consent in writing of the licensee to such transfer, the commissioner may transfer the license.

Complainants contend that since the statute permits a licensee to consent to an assignment, the licensee can be compelled to carry out a contract to do so. This does not necessarily follow. The proper interpretation of the statute, taken as a whole, is that the licensee is protected against any interference with the license, which is not to be considered property at all. It is not subject to sale, and therefore, by necessary implication, cannot form a matter of a valid contract of sale.

The policy of the legislature clearly appears to be that no contract is valid or enforceable which would give any other person than the licensee any power or control over a liquor license. The courts have uniformly sustained this view. A license is a mere privilege, not a contract. Meehan v. Board of Excise Commissioners, 73 N.J.L. 382. It is not a property right, and cannot be the subject of a chattel mortgage. Feigenspan v. Milligan, 63 N.J.E. 179. In Lachow v. Alper, 130 N.J.E. 588, the court says: "R. S. 33:1-26 discloses a clear legislative intent that licensees should hold their licenses free from any device which would subject the licenses to the control of other persons." To the same effect is Walsh v. Bradley, 121 N.J.E. 359.

To compel defendant to join in a transfer of the license, by reason of a contract agreeing to do so, would clearly enforce a control over defendant's license. Certainly the extraordinary remedy of specific performance which is never exercised in doubtful cases is not available to complainants here. The motion to strike the bill will be granted.

9. RECAPITULATION OF ACTIVITY FOR PERIOD FROM JANUARY 1, 1946 THROUGH JUNE 30, 1946

ARRESTS:	JAN.	FEB.	MAR.	APR.	MAY	JUNE	TOTAL
Licensees and employees	7	3	3	4	0	2	19
Bootleggers	10	4	7	8	16	18	63
Procuring illicit alcoholic beverages in speakeasy	0	8	0	0	0	0	8
Total number of persons arrested	17	15	10	12	16	20	90
SEIZURES:							
Total number of stills seized	0	0	1	2	3	2	8
Total number of motor vehicles seized	0	0	3	1	1	2	7
Alcohol - gallons	0	0	.25	111.5	4.66	1.06	117.47
Brewed malt alcoholic beverages (beer, ale, etc.) - gallons	19	11	48.8	0	54	112.14	194.94
Wine - gallons	801	4	0	28	27.8	238.06	1098.86
Distilled alcoholic beverages (whiskey, brandy, etc.)-gallons	7.2	33.2	104.7	67.68	49.1	6.98	268.86
Mash - gallons	0	0	0	1.6	460	0	461.6
RETAIL LICENSEES:							
Total number of premises inspected	1260	1104	1096	1166	1007	816	6449
Total number of premises where alcoholic beverages were gauged	814	675	643	860	675	747	4414
Total number of bottles gauged	10929	10328	10308	13435	9227	10404	64631
Total number of premises where violations were found	112	153	104	87	68	69	593
Total number of violations found	146	215	167	104	91	90	813
Type of violations found:							
Illicit liquor	15	50	77	16	27	20	205
Prohibited signs	24	78	26	8	4	6	146
Unqualified employees	27	19	19	18	28	21	132
No sign denoting legal sale							
hours - off-premises consumption	24	22	20	24	18	16	124
Price pamphlet not displayed	0	13	4	24	7	13	61
Stock disposal permits necessary	10	11	3	5	1	6	36
Other mercantile business	0	6	2	2	5	3	18
"Fronts" (concealed ownership)	4	4	4	0	0	1	13
Gambling devices	1	2	0	0	0	0	3
Improper beer tap markers	1	0	0	0	0	1	2
Other types of violations	40	10	12	7	1	3	73
STATE LICENSEES:							
Premises inspected	15	9	3	3	3	5	38
License applications investigated	21	28	23	37	130	645	884
COMPLAINTS:							
Investigated, reviewed and closed	354	320	443	322	281	330	2030
Investigations assigned, not yet completed	211	218	222	205	170	128*	
LABORATORY:							
Analyses made	128	155	174	162	141	140	900
"Shake-up" cases (alcohol, water and artificial coloring)	8	14	8	12	10	12	64
Liquor found to be not genuine as labeled - bottles	14	33	63	53	16	32	211
IDENTIFICATION BUREAU:							
Criminal fingerprint identifications made	21	8	10	12	12	14	77
Persons fingerprinted for non-criminal purposes	234	201	152	119	122	216	1044
Identification contacts with other enforcement agencies	225	185	170	150	140	261	1131
Motor vehicle identifications via N.J.State Police Teletype	16	15	7	13	5	6	62

*pending at end of fiscal year

	JAN.	FEB.	MAR.	APR.	MAY	JUNE	TOTAL
<u>DISCIPLINARY PROCEEDINGS INSTITUTED:</u>							
Cases transmitted to municipalities	22	24	18	17	14	6	101
<u>Violations involved:</u>							
Sale to minors	13	9	6	8	6	3	45
Sale during prohibited hours	5	6	7	4	5	2	29
Bookmaking on premises	2	4	2	0	1	0	9
Sale to intoxicated persons	3	3	0	1	0	0	7
Brawls	0	2	0	1	2	0	5
Sale to non-members by clubs	1	1	0	1	1	0	4
Hostesses	0	1	1	2	0	0	4
Gambling	0	1	1	1	0	0	3
Unqualified employees	0	0	1	1	1	0	3
Fraud in application	0	0	1	1	0	0	2
Hindering investigation	0	0	2	0	0	0	2
Lewdness	0	0	1	1	0	0	2
Prostitutes	0	0	1	1	0	0	2
Failure to post "hours" signs	1	0	0	0	0	0	1
Club sale for off premises consumption	0	1	0	0	0	0	1
Licensee working while drunk	0	0	0	1	0	0	1
Mislabeled beer tap	0	0	0	0	0	1	1
Cases instituted by Department	29	22	23	26	13	19	132
Supplemental charges	0	0	2	0	0	0	2
<u>Violations involved:</u>							
Illicit liquor	10	11	17	16	5	10	69
Fraud and front	12	1	3	4	5	3	28
Sale during prohibited hours	1	2	3	2	3	1	12
Sale to minors	0	4	1	3	0	0	8
Tie-in sales	4	2	0	0	0	0	6
Sale on Election Day	0	0	0	0	0	4	4
Sale under Fair Trade price	3	0	1	0	0	0	4
Unqualified employee	1	1	0	0	0	2	4
Act occurring after issuance of license which, if occurring before, would have prevented such issuance	2	0	0	0	0	0	2
Gambling	0	1	0	1	0	0	2
Lewdness	0	1	1	0	0	0	2
Women served at bar	0	0	0	1	0	1	2
Act or happening	0	0	0	0	0	1	1
Off-premises sale	0	0	0	1	0	0	1
Purchase from improper source	0	0	0	1	0	0	1
Sale by minor permittee	0	1	0	0	0	0	1
Club lacking requisite quarters for three years	1	0	0	0	0	0	1
Obscene pictures	0	1	0	0	0	0	1
Cases brought by municipalities on own initiative and reported to Department	4	4	10	5	3	4	30
<u>Violations involved:</u>							
Brawls	0	4	6	1	1	1	13
Sale to minors	2	0	3	4	2	1	12
Sale during prohibited hours	1	0	1	0	0	1	3
Sale to intoxicated persons	0	1	2	0	0	0	3
Hindering investigation	0	0	0	1	0	1	2
Bookmaking on premises	1	0	0	0	0	0	1
Fraud in application	0	0	1	0	0	0	1
Immoral activity	0	0	0	0	0	1	1
Inadequate view into premises during closing hours	0	0	0	0	0	1	1
Sale to non-members by club	0	0	0	1	0	0	1
<u>CANCELLATION PROCEEDINGS INSTITUTED:</u>							
Violations involved:	5	2	0	1	0	0	8
Tie-in sales	4	2	0	0	0	0	6
Fraud and front	1	0	0	1	0	0	2
<u>HEARINGS HELD AT DEPARTMENT:</u>							
Total number of hearings held	62	48	41	65	57	54	327
Appeals	15	8	5	19	10	17	74
Applications for license	5	4	1	6	4	6	26
Disciplinary proceedings	27	23	29	28	25	15	147
Eligibility	10	9	5	11	9	7	51
Seizures	4	3	1	1	8	9	26
Tax revocations	1	1	0	0	1	0	3
<u>PERMITS ISSUED:</u>							
Total number of permits issued	933	763	760	668	765	613	4502
Disposal of alcoholic beverages	200	143	207	172	204	177	1103
Home manufacture of wine	110	7	3	0	1	0	121
Social affairs	209	271	210	212	287	213	1402
Solicitors	148	111	130	62	63	34	548
Unqualified employees	147	129	111	91	89	78	645
Miscellaneous permits	119	102	99	131	121	111	683

Erwin B. Hock
Deputy Commissioner

10. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PREVIOUS RECORD -
 LICENSE SUSPENDED FOR A PERIOD OF 25 DAYS.

In the Matter of Disciplinary
 Proceedings against

JOHN GENTZLE
 T/a THE PALMS
 Cor. New Brunswick & Hawk Ave.
 Pohatcong Township
 P. O. Phillipsburg, N. J.,

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consump-
 tion License C-3 for the 1945-46
 and 1946-47 licensing years, issued
 by the Township Committee of the
 Township of Pohatcong.

Lewis S. Beers, Esq., Attorney for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for Department of Alcoholic
 Beverage Control.

The defendant pleaded non vult to a charge alleging that he pos-
 sessed two 4/5 quart bottles of "Four Roses A Blend of Straight
 Whiskies" and one 4/5 quart bottle of "Old Taylor Kentucky Straight
 Bourbon Whiskey", all of which contained alcoholic beverages not gen-
 uine as labeled, in violation of R. S. 33:1-50.

On June 6, 1946 an ABC agent, while testing the defendant's
 stock of forty-five open liquor bottles, seized the three bottles in
 question. Chemical analysis confirmed the agent's suspicion that all
 three bottles had been refilled with liquor other than that called for
 by the label.

The fact, even if true, that the licensee did not personally par-
 ticipate in the violation, and had no knowledge thereof, constitutes
 no defense. Cf. Re Kurian, Bulletin 517, Item 2.

In May 1944 the defendant's license was suspended by the local
 authority for three days as a result of his selling alcoholic bever-
 ages during prohibited hours. Under all of the circumstances, I shall
 impose a penalty of twenty-five days for the instant offense.
 Cf. Re The Sylvan, Inc., Bulletin 709, Item 7.

Although this proceeding was instituted during the 1945-46
 licensing year, it does not abate but remains fully effective against
 the renewal license for the 1946-47 licensing year. State Regulations
 No. 16.

Accordingly, it is, on this 17th day of July, 1946,

ORDERED, that Plenary Retail Consumption License C-3, issued by
 the Township Committee of the Township of Pohatcong to John Gentzle,
 t/a The Palms, for premises Cor. New Brunswick & Hawk Avenue,
 Pohatcong Township, be and the same is hereby suspended for a period
 of twenty-five (25) days, commencing at 2:00 a.m. July 22, 1946, and
 terminating at 2:00 a.m. August 16, 1946.

ERWIN B. HOCK
 Deputy Commissioner.

11. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS (PRIMARY ELECTION DAY) - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR A PERIOD OF 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JOHN BANCO)
T/a RIVERSIDE CAFE)
207-209 West Main Street)
Penns Grove, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-6 for the fiscal)
years 1945-46 and 1946-47, issued)
by the Borough Council of the)
Borough of Penns Grove.)

John Banco, Defendant-licensee, Pro se.
Harry Castelbaum, Esq., appearing for Department of Alcoholic
Beverage Control.

Defendant has pleaded non vult to a charge alleging that on Primary Day (June 4, 1946), while the polls were open for voting, he sold alcoholic beverages on his licensed premises in violation of Rule 2 of State Regulations No. 20.

On June 4, 1946, at 8:15 p.m., Police Chief Mahoney of the Borough of Penns Grove observed fifteen patrons in defendant's premises, some of whom were consuming alcoholic beverages.

In alleged mitigation of the violation committed, defendant states that, while he was outside of his licensed premises at about 8:00 p.m. on the evening in question, an acquaintance asked him when he was going to open. The licensee told the acquaintance that he was going to open after the polls closed, and the acquaintance then stated that he had seen a notice in front of another licensed place which stated that it would be open at 8:00 p.m. Accordingly, and without making any further inquiry, the defendant immediately opened his place for business.

This case differs from Re Roehrich, Bulletin 717, Item 9, because defendant herein did not act in reliance upon any official notice but accepted merely the statement of an acquaintance without making any further inquiry. The Chief of Police of the Borough has certified that no other tavern in the Borough was open before 9:00 p.m.

Licensee has no prior record, and stated that he had no intention of violating the State Regulation in opening his premises at 8:00 p.m. As indicated in the Roehrich ruling, there was some confusion throughout the State as to whether the polls would be open between 7:00 a.m. and 8:00 p.m. or between 8:00 a.m. and 9:00 p.m. on Primary Election Day. This confusion persisted until, shortly prior to Primary Day, the Attorney General of the State of New Jersey rendered an official opinion determining that the polls would close at 9:00 p.m. The licensee in the instant case acted too readily on the unofficial information given by an acquaintance. If he was confused, he should have checked with an official source, such as the Municipal Clerk or Chief of Police. In view of this admitted confusion, however, I deem it unnecessarily harsh to impose the established minimum penalty of fifteen days for a violation of this

kind. Accordingly, the defendant's license will be suspended for a period of only ten days. Five days will be remitted for the plea, making a net suspension of five days.

Although this proceeding was instituted during the 1945-46 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1946-47. State Regulations No. 16.

Accordingly, it is, on this 17th day of July, 1946,

ORDERED, that Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of Penns Grove to John Banco, t/a Riverside Cafe, for premises 207-209 West Main Street, Penns Grove, be and the same is hereby suspended for five (5) days, commencing at 7:00 a.m. July 22, 1946, and terminating at 7:00 a.m. July 27, 1946.

ERWIN B. HOCK
Deputy Commissioner.

12. APPELLATE DECISIONS - DZIEDZIC v. SOUTH RIVER AND ZADORSKY - DISCONTINUED.

JOSEPH DZIEDZIC,)

Appellant,)

-vs-

BOROUGH COUNCIL OF THE BOROUGH)
OF SOUTH RIVER, and CATHERINE)
ZADORSKY,)

Respondents)

ON APPEAL
ORDER OF DISCONTINUANCE

George L. Burton, Esq., Attorney for Appellant.
Stanley S. Dickerson, Esq., Attorney for Respondent Borough Council.
Catherine Zadorsky, Respondent-licensee, Pro se.

These appeals relate to the transfer to the respondent, Catherine Zadorsky, of a plenary retail consumption license for premises 25 Whitehead Avenue, South River, for the last licensing year, and the renewal thereof for the present licensing year.

The parties hereto have agreed that these appeals may be discontinued. Since no reason appears to the contrary,

It is, on this 17th day of July, 1946,

ORDERED, that these appeals be and the same are hereby discontinued.

ERWIN B. HOCK
Deputy Commissioner.

13. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS -
 LICENSE SUSPENDED FOR A PERIOD OF 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
 Proceedings against)

MILLICENT BENNETT)
 T/a HAUNTED INN)
 Route 35, Eatontown)
 P.O. R.F.D. 1, Long Branch, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption
 License C-5 for the 1945-46 and)
 1946-47 licensing years, issued by)
 the Mayor and Borough Council of the)
 Borough of Eatontown.)
 -----)

Quinn, Doremus, McCue & Russell, Esqs., by Vincent J. McCue, Esq.,

Attorneys for Defendant.

William F. Wood, Esq., appearing for Department of Alcoholic Beverage
 Control.

Defendant pleaded non vult to a charge alleging that, on June 23,
 1946, she sold, served and delivered alcoholic beverages to minors,
 in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

The two minors involved were nineteen and twenty years of age
 and were each served two glasses of beer at the defendant's premises.

Since no aggravating circumstances appear to have attended the
 violation, and since this is the first time that the defendant has
 been cited in disciplinary proceedings, I shall suspend the license
 for a period of ten days, with five days remitted for the plea,
 leaving a net penalty of five days.

Although this proceeding was instituted during the 1945-46
 licensing year, it does not abate but remains fully effective against
 the renewal license for the 1946-47 licensing year. State Regulations
 No. 16.

Accordingly, it is, on this 17th day of July, 1946,

ORDERED, that Plenary Retail Consumption License C-5, issued by
 the Mayor and Borough Council of the Borough of Eatontown to
 Millicent Bennett, t/a Haunted Inn, for premises on Route 35, Eaton-
 town, be and the same is hereby suspended for five days, commencing
 at 2:00 a.m. July 22, 1946, and terminating at 2:00 a.m. July 27,
 1946.

ERWIN B. HOCK
 Deputy Commissioner.

14. STATE LICENSES - NEW APPLICATIONS FILED.

Penn Beverage Co., Inc.
 611-13-15 Atlantic Ave.
 Atlantic City, N. J.

Application for transfer of Plenary Wholesale License W-45
 and additional warehouse at 1473 and rear 1473-75-79-81-89-
 91-97-99 South 8th St., Camden, N. J. from Benjamin Stone,
 t/a Penn Beverage Company, to above corporation, filed
 July 15, 1946.

William J. Kane and Granville M. Price, Jr., d/b/a Mathis
 Distributing Co.
 Tuckerton, N. J.

Application for Transportation License filed July 15, 1946.

New Jersey State Library *Erwin B. Hock*
 Deputy Commissioner.