

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

BULLETIN 640

NOVEMBER 21, 1944

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Dear Sir,

I have received your letter of the 15th inst. regarding the matter of the...

The information provided in your letter has been reviewed and it is noted that...

It is the policy of the Department to ensure that all such matters are handled...

Yours faithfully,

[Signature]

[Address]

[Address]

[Address]

[Address]

[Address]

[Address]

[Address]

[Address]



2. COURT DECISIONS - NEW JERSEY SUPREME COURT - CITY OF ORANGE v. RICHARD CECERE AND ALFONSO PICONE - WRIT OF CERTIORARI DISMISSED.

MUNICIPAL ORDINANCE PROHIBITING SALE OF ALCOHOLIC BEVERAGE TO MINORS HELD VALID NOTWITHSTANDING R. S. 33:1-77, WHICH MAKES SALE TO A MINOR A MISDEMEANOR AND PROVIDES CERTAIN DEFENSES NOT PROVIDED IN THE ORDINANCE.

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NEW JERSEY SUPREME COURT  
Nos. 218/19 OCTOBER TERM, 1944.  
(Filed October 24, 1944)

CITY OF ORANGE, )  
Respondent, )  
-vs- )  
RICHARD CECERE, )  
Prosecutor, )  
-vs- )  
ALFONSO PICONE, )  
Prosecutor. )  
----- )

Argued October 1944. Decided October 1944.

On Certiorari

For prosecutors, Michael N. Steinberg, Ralph N. Solodar.  
For respondent, Edmond J. Dwyer.

Before Justices Case, Bodine and Porter.

BODINE, J. Prosecutor, Richard Cecere, was on April 20, 1944, found guilty by a police justice of the city of Orange on four complaints charging him with violations of Section 8A of an ordinance entitled, "An Ordinance to Regulate the Sale and Distribution of Alcoholic Beverages and Fixing a Penalty for Violation of the Provisions Thereof", passed July 7, 1936, as Amended and Supplemented.

The prosecutor, Alfonso Picone, was on the same date found guilty on four complaints charging him with violations of the same ordinance.

The prosecutors were sentenced to serve terms of imprisonment. The writs of certiorari allowed bring up for review both the convictions and the ordinance upon which they were based.

It is contended that the ordinance, under which the convictions were had, was void. The ordinance, including Section 8A thereof, it is claimed was not approved by the Commissioner of Alcoholic Beverage Control prior to enactment.

The ordinance, as indicated, was adopted pursuant to R. S. 33:1-40, the pertinent provisions of which are as follows:

\*\*\*The governing board or body of each municipality may, as regards said municipality, by ordinance or resolution\*\*\*, and, subject to the approval of the Commissioner first obtained, regulate the conduct of any business licensed to sell alcoholic beverages at retail and the nature and condition of the premises upon which any such business is to be conducted."

Before the ordinance was adopted, it was sent to the Commissioner of Alcoholic Beverage Control. He suggested certain changes which were made before introduction and adoption of the ordinance. In the Commissioner's letter of transmittal, he said, subject to the suggested changes, "the ordinance, upon final adoption will be approved as submitted." To argue that the statute was not complied with is to defeat its clear meaning. There was a full approval if the suggested changes were made. They were made. The ordinance was then introduced and adopted. Certainly, there was a compliance with the command of the legislature.

The statute does not say how the approval shall be manifested and it seems too fine a distinction to overlook the promise to approve the ordinance in the form adopted and to void the ordinance, in operation for nearly eight years, because the approval was in a way which seems informal to counsel but which was, in fact, perfectly definite and clear. The case is obviously different from Eveler v. Atlantic City, 91 N. J. L. 135, where there was no approval whatever of the ordinance in question by the Commissioner of Motor Vehicles.

The section of the ordinance in question, Section 8A, prohibits the sale of alcoholic beverages to persons under the age of twenty-one years. It is said that this provision is repugnant to R. S. 33:1-77, which denounces as a misdemeanor the sale of alcoholic beverages to a minor and provides certain defenses to the charge. But it seems that the City of Orange has power to regulate the sale of alcoholic beverages notwithstanding. Howe v. Plainfield, 37 N. J. L. 145; Hunter v. Teanock Township, 128 Id. 164.

The record abundantly supports the convictions. Nothing more need be said.

The writs will be dismissed with costs.

3. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES IN ORIGINAL CONTAINERS FOR OFF-PREMISES CONSUMPTION DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PERMITTING GAMBLING ON LICENSED PREMISES IN VIOLATION OF RULE 7 OF STATE REGULATIONS NO. 20 - HINDERING AND FAILING TO FACILITATE AN INVESTIGATION BY ABC AGENTS IN VIOLATION OF R. S. 33:1-35 - PERMITTING UNNECESSARY NOISES ON LICENSED PREMISES IN VIOLATION OF RULE 5 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR PERIOD OF 30 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary )  
 Proceedings against )

MICHAEL J. CARNEY )  
 T/a CARNEY'S POINT CAFE )  
 340 No. Massachusetts Avenue )  
 Atlantic City, N. J., )

CONCLUSIONS  
 AND ORDER

Holder of Plenary Retail Consump- )  
 tion License C-211, issued by the )  
 Board of Commissioners of the City )  
 of Atlantic City. )

----- )

Frank S. Farley, Esq., Attorney for Defendant-Licensee.  
 Milton H. Cooper, Esq., appearing for Department of Alcoholic  
 Beverage Control.

BY THE COMMISSIONER:

Licensee pleads guilty to charges that may be summarized as follows: (1) sale of alcoholic beverages in original containers for off-premises consumption on August 2, 1944 during prohibited hours, in violation of Rule 1 of State Regulations No. 38; (2) permitting gambling on the premises (playing shuffleboard for drinks), in violation of Rule 7 of State Regulations No. 20; (3) sale of an alcoholic beverage in original container for off-premises consumption on August 4, 1944 during prohibited hours, in violation of Rule 1 of State Regulations No. 38; (4) hindering and failing to facilitate investigation by agents of the Department of Alcoholic Beverage Control, in violation of R. S. 33:1-35; and (5) permitting unnecessary noises on August 3 and 4, 1944, in violation of Rule 5 of State Regulations No. 20.

On the evening of August 2, 1944, agents of the Department of Alcoholic Beverage Control entered the premises about 10:00 p.m. and observed the bartender selling quart bottles of beer to patrons to take out. When the supply of quart bottles gave out, the bartender continued to sell twelve-ounce bottles to take off the premises. About 1:00 a.m. on the morning of August 3rd, two patrons entered the premises and challenged any person to a game of shuffleboard. When no one else accepted, they induced the licensee and one of the agents of the Department to play, which was done, the stakes being a round of drinks. Two games were played, the licensee and the agent losing each game, after which the bets of a round of drinks for each game were paid by the licensee and the agent. Later, about 2:55 a.m., one of the agents purchased a twelve-ounce bottle of beer from the bartender to take out, the licensee himself approving the sale.

Again, on the evening of August 3rd, about 11:00 p.m., the agents returned and observed activities from the outside, and about 1:30 a.m. on August 4th one of the agents entered the tavern and

purchased a quart bottle of beer which he took outside. Thereupon both agents entered the premises and identified themselves to the bartender and the licensee. The licensee became enraged and attempted to take the bottle of beer away from the agents, and upon failing to do so refused to give any information whatsoever to the agents. One of the agents telephoned the local police, and even after the arrival of state detectives the licensee remained uncooperative. Both agents of the Department reported that on both evenings the noises emanating from the licensed premises were unduly loud and unnecessary and that the juke box could be heard for over a block from the place.

The licensee has offered nothing in extenuation or excuse. He was present when all the violations occurred, and in some instances participated therein. However, he has no previous adjudicated record and I will, therefore, suspend his license for a period of thirty days, less a reduction of five days for the plea, making a net suspension of twenty-five days.

Accordingly, it is, on this 6th day of November, 1944,

ORDERED, that Plenary Retail Consumption License C-211, issued by the Board of Commissioners of the City of Atlantic City to Michael J. Carney, t/a Carney's Point Cafe, for premises 340 No. Massachusetts Avenue, Atlantic City, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 12:01 A. M. November 13, 1944 and terminating at 12:01 A. M. December 8, 1944.

ALFRED E. DRISCOLL  
Commissioner.

4. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR PERIOD OF 60 DAYS.

In the Matter of Disciplinary Proceedings against  
ELMER APGAR  
T/a NEWTON TAVERN  
Route 31  
Hampton Township  
P. O. RFD 3, Newton, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-5 for the fiscal years 1943-44 and 1944-45, issued by the Township Committee of the Township of Hampton.

Dolan & Dolan, Esqs., by William A. Dolan, Esq., Attorneys for Defendant-Licensee.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded not guilty to charges alleging that he sold, served and delivered alcoholic beverages to minors, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

Three days were consumed in hearing this case and a voluminous amount of testimony was taken. Twenty-nine witnesses were heard, of which twelve were minors who testified that they had been served alcoholic beverages at the defendant's tavern. These minors ranged from sixteen to twenty years of age.

From the lengthy record there emerges a clear picture of a licensed premises which catered to youngsters on a substantial scale over a long period of time. Most of the incidents related by the minors occurred on Saturday nights when dances were held at the tavern. Throughout the winter months of last year, the same crowd of minors congregated at the defendant's premises on Saturday nights and, to state the situation bluntly, little, if any, attempt to avoid the indiscriminate service of liquor to them was made. On these occasions when business flourished, due in large measure to the collection there of children of high school age, the defendant, his wife, a bartender and a waitress were hard-pressed to satisfy the demands of the patrons.

The defendant, apparently realizing the problem with which he was confronted and the fact that sooner or later the law was bound to catch up with him, made some half-hearted attempts to cope with the situation. He posted several placards in his premises which bore the usual legend that minors would not be sold alcoholic beverages. He also caused announcements to be made from the dance floor cautioning the minors against ordering or consuming any liquor at his tavern. In addition, he claims to have acquainted some local officials with his problem but, after getting little satisfaction from them, he virtually gave up in despair and sat back to await the inevitable ending.

While the measures adopted by the defendant were a step in the right direction, they constituted but a meager beginning to a solution which would have obviated the consumption of intoxicants at his tavern by persons under the age of twenty-one years. Vigorous precautions were called for under the particular circumstances but those taken by the defendant fell far short of that standard. No effort was made to prevent the admittance of minors to the premises and only superficial lip service was given in warning them against purchasing liquor there. The defendant seemingly felt that his full duty was met by the printed signs and his verbal communications and that, thereafter, he could not be expected to shoulder any further responsibility for the imbibing by the minors.

It is not necessary, however, to speculate concerning the defendant's reaction to his problem. From his own lips, it is obvious that he weighed the eventuality of a lesser income against his duty as a licensee and the scale tipped heavily on the side of the former. He gave precedence to his cash register over his responsibility under the liquor laws. He recognized that the youngsters were attracted to his establishment because of the dances which were held there on Saturday nights, but rather than suffer financially he decided against eliminating the dancing and to risk the consequences. When, on cross-examination, he was asked:

"When you discovered you had a problem with the children why didn't you discontinue dances Saturday night?",

he replied:

"A man has to make a living."

In the light of the graphic picture thus unfolded from the record, the categorical denials by the defendant and his employees that they did not knowingly make sales to minors are entitled to scant consideration. Whether the failure to adopt adequate precautions was motivated by deliberate design, or careless disregard of the salutary regulations against serving liquor to minors, is immaterial on the question of the defendant's guilt or innocence of the charges herein involved. Intent is not a necessary ingredient of the statutory prohibition against selling to minors, or of the State Regulations promulgated pursuant thereto. See R. S. 33:1-77; Rule 1 of State Regulations No. 20. I may add, however, that intent may be presumed from a callous indifference to abide by the law as it is from a wilful infraction of the law.

I have given serious consideration to the question of penalty in this case. In the defendant's favor it may be pointed out that this is the first time he has been cited in disciplinary proceedings. He has further assured me that he intends, in the future, "to avoid difficulty with minors by keeping them out." I shall accept this assurance at face value, with the admonition that any recurrence of a similar offense may result in a total deprivation of his privileges as a liquor licensee. For the instant violation, I shall impose a penalty of sixty days.

Through no fault of the defendant, his present license was not renewed by the local issuing authority until July 25, 1944. It was apparently under the misconception that the pendency of the instant proceedings at the close of the last fiscal year prevented the renewal of the license. Under the circumstances, fairness to the defendant would indicate that the twenty-five days during which his premises remained closed should be credited against the penalty herein. The net suspension, therefore, will last for a period of thirty-five days.

Accordingly, it is, on this 10th day of November, 1944,

ORDERED, that Plenary Retail Consumption License C-5, issued by the Township Committee of the Township of Hampton to Elmer Apgar, t/a Newton Tavern, for premises Route 31, Hampton Township, be and the same is hereby suspended for a period of sixty (60) days, against which shall be credited the twenty-five (25) days during which the defendant's premises were closed as aforesaid. The net suspension of thirty-five (35) days, therefore, shall commence at 12:01 A. M. November 14, 1944, and terminate at 12:01 A. M. December 19, 1944.

ALFRED E. DRISCOLL  
Commissioner.

5. ADVERTISING - LIQUOR ADVERTISING ON THE SCREEN IN NEW JERSEY THEATRES DISAPPROVED.

November 10, 1944

I have received a request for a ruling from a New Jersey licensee who desires to project advertisements for alcoholic beverages on the screen in a New Jersey motion picture theatre. The plan contemplates the use of a slide or, in the alternative, incorporating the advertisement in a motion picture film.

I am completely opposed to this type of advertising.

Liquor advertisements, frequently colorful and sometimes tempting, are out of place in the motion picture theatres of this State. The proposed advertisement would command the attention of the entire audience, irrespective of age or personal opinion on the subject of liquor. It is common knowledge that our movies are thronged with young people, many of them in the teen age or even younger. Furthermore, many patrons of the movies, having firm convictions on the subject of liquor, are sure to be offended and incensed by the appearance of liquor advertisements in places designed for the entertainment and relaxation of the general public.

In common with many others, I have deplored the undue prominence occasionally given intoxicating liquors in some of the films that have been widely distributed throughout the country. These extravaganzas have presented a distorted picture of American life. These films, however much they may violate good taste, are not subject to the authority of the Department of Alcoholic Beverage Control. On the other hand, the proposal to use New Jersey theatres for the purpose of promoting the sale of alcoholic beverages by New Jersey licensees does come within the jurisdiction of the State Commissioner of Alcoholic Beverage Control.

Accordingly, I am ruling that New Jersey licensees may not advertise alcoholic beverages on motion picture screens in this State.

ALFRED E. DRISCOLL  
Commissioner.

DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR -LICENSE SUSPENDED FOR PERIOD OF 20 DAYS.

In the Matter of Disciplinary Proceedings against STANLEY MILWID, 363 Boulevard Bayonne, N. J., Holder of Plenary Retail Consumption License C-154, issued by the Board of Commissioners of the City of Bayonne.

CONCLUSIONS AND ORDER

Stanley Milwid, Defendant-Licensee, Pro Se. Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads not guilty to the charge that on September 22, 1944 he possessed, at his licensed premises, a 4/5 quart bottle labeled "Four Roses A Blend of Straight Whiskies 90 Proof", which bottle contained an alcoholic beverage not genuine as labeled, in violation of R. S. 33:1-50.

An investigator of the Department of Alcoholic Beverage Control testified that on September 22, 1944 he tested twenty-two bottles of the open stock of whiskey in the defendant's licensed premises. He stated that a preliminary test of the contents of the bottle of "Four Roses" whiskey aforementioned revealed that it was not genuine as labeled. A subsequent analysis, according to the testimony of the Departmental Chemist, disclosed that the solids were not only too high for the particular brand in question but that there was also artificial coloring present. Genuine samples of this brand do not contain artificial coloring. The chemist testified that, in his opinion, because of these discrepancies the bottle had been partly refilled with a different brand of whiskey,

The defendant disclaimed any personal knowledge of the violation. Furthermore, he testified that he discharged the bartender when he admitted that he became intoxicated occasionally and did not remember anything that happened while he was intoxicated.

Despite personal innocence, the licensee is held strictly accountable for any tampering with his stock of liquor. Re Kurian, Bulletin 517, Item 2.

Inasmuch as no testimony was presented to refute that of the Department Chemist, I must find the defendant guilty as charged.

Defendant-licensee has a previous adjudicated record. The license of defendant was suspended by the local issuing authority for five days, commencing January 9, 1939, for an hours violation. Again, on May 19, 1939, the Commissioner imposed a thirty-day suspension because of an offense similar to that in the instant case. See Re Milwid, Bulletin 318, Item 2.

Under all the circumstances, I shall suspend the license of defendant for a period of twenty days. Any future violations may result in a lengthy suspension or revocation of defendant's license.

Accordingly, it is, on this 13th day of November, 1944,

ORDERED, that Plenary Retail Consumption License C-154, issued by the Board of Commissioners of the City of Bayonne to Stanley Milwid for premises 363 Boulevard, Bayonne, be and the same is hereby suspended for a period of twenty (20) days, commencing November 16, 1944, at 2:00 a.m., and terminating at 2:00 a.m. December 6, 1944.

ALFRED E. DRISCOLL  
Commissioner.

7. APPELLATE DECISIONS - JAMISON v. LIBERTY TOWNSHIP.

Case No. 3	)	
WILLIE JAMISON,	)	
	)	ON APPEAL
Appellant,	)	CONCLUSIONS AND ORDER
-vs-	)	
TOWNSHIP COMMITTEE OF THE	)	
TOWNSHIP OF LIBERTY,	)	
	)	
Respondent	)	

Saul N. Schechter, Esq., Attorney for Appellant.  
Clark C. Bowers, Esq., Attorney for Respondent.  
Anthony M. Hauck, Jr., Esq., Attorney for Objectors.

BY THE COMMISSIONER:

This is an appeal from denial of renewal of a plenary retail consumption license for premises on Route 6, Township of Liberty.

At a meeting of the Township Committee held on June 30, 1944, Committeeman Tichenor moved that appellant's application for renewal be denied because of objections made verbally by other tavern keepers. The motion was seconded by Committeeman Cummins. Committeeman Petty was absent. The resolution to deny the application was adopted by the votes of the two members attending the meeting.

An answer was filed herein by respondent. Therein it is alleged, in effect, that the municipality has a very small population; that there are other licensed places on Route 6, and that it is the duty of respondent to exercise good judgment and restrict the number of licensed places when it is deemed best for its inhabitants and the general public traveling through the municipality.

At the hearing held herein, appellant and his witnesses appeared and testified. At said hearing the three licensees who objected to renewal and the three members of the Township Committee also appeared and testified. The case is, therefore, distinguished from the prior appeal between the same parties wherein neither objectors nor respondent appeared and only ex parte testimony offered by appellant was heard and considered. Jamison v. Liberty, Bulletin 623, Item 3.

The fact that other tavern keepers objected to renewal would not in itself be a sufficient reason for denial. The duty of the members of the Township Committee was to consider the best interests of the community at large. It does not follow, however, that the action of respondent should be reversed merely because an improper reason for denial was stated. Under the circumstances, I am faced

with the alternatives of remanding the case to respondent or deciding it upon its merits. For the reasons hereinafter stated, I have decided not to remand the case. Under the provisions of R.S.33:1-38, I have the power, on appeal, "to make all findings, rulings, decisions and orders as may be right and proper and consonant with the spirit of this chapter."

As to the merits. The population of Liberty Township was 441 according to the 1940 Census. Apart from appellant's license, five plenary retail consumption licenses (one for each 80 inhabitants) have been issued in the municipality.

It appears that Route 6 extends for a distance of approximately two miles through the Township of Liberty. On this highway, three plenary retail consumption licenses, exclusive of appellant's license, are in existence. One license is held by Mrs. Hearty, for premises known as the New York Hotel, which is located from four-tenths to one-half mile west of appellant's premises. Another plenary retail consumption license has been issued for premises operated by Mrs. Britaney for premises approximately one-quarter mile to the east of appellant's premises, and a third plenary retail consumption license has been issued to Mr. Weber for premises approximately three-quarters of a mile east of appellant's premises.

Appellant testified that approximately 90% of his patrons are transients and that approximately half of his patrons request alcoholic beverages. He and his witnesses testified that his license would serve the convenience of these transients, especially fishermen.

Mrs. Hearty testified she caters principally to transients; that the property she owns extends to within one-tenth of a mile of Jamison's premises; that her property is located on both sides of the river, and that she caters to fishermen using the stream. She testified also that, because of gas rationing, she is doing very little business at the present time and that, during the autumn fishing season of this year, no fishermen appeared because the water was too low. The other licensees also testified that they cater principally to transients and that their business has decreased in recent years because of gas rationing.

The testimony of Committeemen Tichenor and Cummins is confusing because both have frequently stated that they would have no objection if the Commissioner of Alcoholic Beverage Control issued the license in question. However, the Alcoholic Beverage Law, following the principle of "home rule", provides that it is primarily the duty of the local issuing authorities to issue retail licenses in their respective communities (R. S. 33:1-24). The Commissioner is authorized to order the other issuing authority to issue a license when and if, after a hearing of the appeal of an applicant therefor, the Commissioner shall decide that a license was improperly refused (R. S. 33:1-38). Reviewing all of their testimony, I find that Tichenor has testified that, in his opinion, the other three places are sufficient; that he thinks the other three places are "more than enough",

and that he thinks there are too many places now on Route 6. I find also that Cummins has testified that, in his opinion, there are "enough in the Township in the locations they are in" and that he thought there were enough on the road. The latter witness also testified that the vacancy in the ordinance was being reserved for the Mountain Lakes portion of the Township. Committeeman Petty testified that he believed it would be a convenience for the traveling public if appellant's place were licensed, and a convenience for fishermen, although, he added, "I don't think he would get rich on the fishermen." Petty testified that he would have no objection to an unlimited number of licenses on Route 6 because he thought they should have a little competition.

After considering all the evidence given by the members of the Township Committee, it is clear that a majority of the members are of the opinion that there are too many licenses on Route 6. Under these circumstances it would be a futile gesture to remand the case because it is apparent that such action would merely result in the denial of the license by a majority of the Township Committee and a further appeal to me from such action by the appellant herein. I am satisfied that the evidence herein establishes that there is no need for a fourth license on Route 6. Hence I shall affirm the action of respondent in denying the license.

It may also be pointed out that the fact that the full number of licenses authorized by respondent's ordinance has not been issued does not entitle the appellant to a license. Despite the existence of a vacancy in the ordinance, a license may be denied where it appears that there are sufficient licenses in the immediate vicinity of the place for which the license is sought. Vicari v. Bloomfield, Bulletin 57, Item 4; Young v. Pennsauken, Bulletin 114, Item 2; Govitt v. Liberty, Bulletin 169, Item 4.

The action of respondent is, therefore, affirmed.

Accordingly, it is, on this 13th day of November, 1944,

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

ORDERED, that the extension of appellant's license for the 1945-44 fiscal year, which license he has held since June 29, 1944 because my order in the prior appeal became self-executed on said date, and which extension was granted by my order dated July 6, 1944, be and the same is hereby terminated, and that the appellant cease forthwith any alcoholic beverage activity under said extension of said license.

ALFRED E. DRISCOLL  
Commissioner.

8. SOLICITOR'S PERMIT - FACTS EXAMINED - APPLICATION GRANTED.

In the Matter of the Application )  
for Solicitor's Permit of )

JOHN J. BETSKOFF )  
1607 Park Boulevard )  
Camden, N. J. )

CONCLUSIONS  
AND ORDER

John J. Betskoff, Pro Se.  
Nathan Davis, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The instant hearing was conducted for the purpose of determining whether the applicant for a solicitor's permit is a proper and fit person to be associated with the alcoholic beverage industry.

The solicitor's permit held by applicant for the year 1943-44 was suspended on April 18, 1944 for the balance of its term, when he entered a plea of non vult to a charge alleging violation of R. S. 33:1-2. See Re Betskoff, Bulletin 615, Item 11.

On December 13, 1943 applicant voluntarily appeared before a representative of the Department of Alcoholic Beverage Control and, under oath, gave certain pertinent information concerning alleged illegal transactions in which he and two retail liquor licensees were reported to have been involved. Thereafter, however, the applicant appears to have changed his story and to have failed to fully cooperate with the Department in its prosecution of the licensees charged with having violated the Alcoholic Beverage Law and the Rules and Regulations.

The applicant has been without a solicitor's permit since April 18, 1944 - a period of approximately seven months. The record discloses that during this period he has been deprived of his normal employment as a solicitor and as a result of a physical disability his earnings have been greatly reduced. Applicant pleads for one more chance. He states, with apparent sincerity, that he has "learned his lesson" and that henceforth he may be counted upon to fully cooperate with the Department and to scrupulously obey the Alcoholic Beverage Law as well as all the Rules and Regulations. In view of the length and severity of his punishment, I have decided to grant the applicant one further opportunity to demonstrate his worthiness to hold a solicitor's permit. In taking this action, I desire pointedly to stress the fact that holders of solicitors' permits will be held strictly accountable in the event they violate the law or the Rules and Regulations.

Accordingly, it is, on this 14th day of November, 1944,

ORDERED, that the application of John J. Betskoff for a solicitor's permit be granted on November 18, 1944.

ALFRED E. DRISCOLL  
Commissioner.

9. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALE OF ALCOHOLIC BEVERAGES IN VIOLATION OF RULE 6 OF STATE REGULATIONS NO. 30 - LICENSE SUSPENDED FOR PERIOD OF 10 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against )

GOLD'S DRUG STORES (a corporation) )  
T/a GOLD'S DRUG STORE )  
342 Jackson Avenue )  
Jersey City 5, N.J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-32, issued by the Board of Commissioners of the City of Jersey City. )  
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Defendant-Licensee, by Maxwell B. Gold, Vice-President.  
Edward F. Hodges, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleads guilty to the following charge:

"On October 31, 1944, without first having obtained a special permit so to do, you sold a 4/5th quart bottle of Ron Merito Puerto Rican Rum (White Label) below the minimum consumer price published in Bulletin 625 of this Department, in violation of Rule 6 of State Regulations No. 30."

On the afternoon in question agents of the Department of Alcoholic Beverage Control entered the licensed premises and asked the clerk if some "good rums" were available. The clerk mentioned the brand named in the charge and quoted a price of \$4.00 per bottle. The agents noted that this price was marked on the shelf although the Fair Trade price is \$4.34 per bottle. The agents purchased one bottle for the sum of \$4.00, and after making the purchase identified themselves to the clerk, who stated that it was his first day on duty at the liquor counter. He readily admitted the violation, and at the direction of the agents he immediately changed the price tag on the shelf.

The acute liquor shortage, at least for the present, has been somewhat eased, and the evils of price cutting and price wars, particularly in rums, once more loom as a factor to be guarded against. Licensees must abide by the provisions of Fair Trade regulations if an orderly market is to be maintained.

The licensee has no prior record. I will, therefore, impose the minimum ten days' suspension, less five days for the plea, making a net suspension of five days.

Accordingly, it is, on this 15th day of November, 1944,

ORDERED, that Plenary Retail Distribution License D-32, issued by the Board of Commissioners of the City of Jersey City to Gold's Drug Stores (a corporation), t/a Gold's Drug Store, for premises 342 Jackson Avenue, Jersey City, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. November 27, 1944, and terminating at 2:00 a.m. December 2, 1944.

ALFRED E. DRISCOLL  
Commissioner.

10. DISCIPLINARY PROCEEDINGS - EMPLOYING MINOR AND PERMITTING SAME TO SELL ALCOHOLIC BEVERAGES IN VIOLATION OF R. S. 33:1-26 AND RULE 1 OF STATE REGULATIONS NO. 11 - LICENSE SUSPENDED FOR PERIOD OF 10 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against UNITED GRILLS SYSTEM, INC. Route #6 Rockaway Township P.O. R.D. #1, Dover, N.J., Holder of Plenary Retail Consumption License C-14, issued by the Township Committee of the Township of Rockaway.

CONCLUSIONS AND ORDER

Harry A. Shuback, Esq., Attorney for Defendant-Licensee. Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleads non vult to a charge alleging that it employed a minor and permitted him to sell and serve alcoholic beverages at its licensed premises, in violation of R. S. 33:1-26 and Rule 1 of State Regulations No. 11.

Agents of the Department of Alcoholic Beverage Control visited the licensed premises on the day in question and observed a young man making sales of bottled beer to patrons. The agents then ordered from the young man two bottles of beer which were served to them. They asked the young man his age and also asked him to point out his employer. The young man said he was seventeen years of age and pointed out as his employer the manager of the licensed premises who was behind the counter at the time. The agents thereupon identified themselves to the manager, who admitted that the boy was seventeen years of age. The manager also admitted that, despite his instructions not to sell any alcoholic beverages, the boy had on occasions sold beer when they were busy.

Licensee has no prior record. However, the age of the boy was seventeen years. I will, therefore, impose a ten days' suspension, less five days for the plea, making a net suspension of five days.

This Department is informed that, since the violation, the licensed premises have been destroyed by fire and consequently are not being operated at the present time. Therefore, the effective dates of the suspension will, of necessity, be postponed until my further order. See Re Solomon, t/a Hof Brau, Bulletin 586, Item 2.

Accordingly, it is, on this 15th day of November, 1944,

ORDERED, that Plenary Retail Consumption License C-14, issued by the Township Committee of the Township of Rockaway to United Grills System, Inc. for premises on Route #6, Rockaway Township, be and the same is hereby suspended for five (5) days, the effective dates of the suspension to be fixed by subsequent order as aforesaid.

ALFRED E. DRISCOLL Commissioner.

11. DISCIPLINARY PROCEEDINGS - EXERCISING RIGHTS AND PRIVILEGES OF LICENSE PRIOR TO OBTAINING SAME IN VIOLATION OF N. S. 33:1-26 - LICENSE SUSPENDED FOR PERIOD OF 10 DAYS.

In the Matter of Disciplinary Proceedings against ADAM B. HAIRO 101 Broadway East Paterson, N. J., Holder of Plenary Retail Distribution License D-3, issued by the Mayor and Council of the Borough of East Paterson.

CONCLUSIONS AND ORDER

John Hamersma, Jr., Esq., Attorney for Defendant-Licensee. Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that, between April 20, 1944 and June 26, 1944, he exercised the rights and privileges of a license issued to another, in violation of R.S.33:1-26

On April 20, 1944 the defendant purchased the business conducted by one Max Meyers under a plenary retail distribution license. The defendant continued to operate under that license until June 26, 1944 without applying for a transfer thereof to himself. On July 1, 1944 a new license was issued to him for the present fiscal year.

The defendant explains that he was not familiar with the liquor business and was unaware that a transfer of the license was required. This explanation is subject to doubt since the contract for the sale of the business specifically provided that the transaction between the parties was conditioned upon the approval of the transfer of the license to the defendant, for which he proposes and intends to make immediate application to the Council of the Borough of East Paterson. Moreover, the defendant admits that he was told by his landlord on May 20, 1944 that the license should be transferred into his name. I would appear more likely that the defendant desired to avoid the expense of the transfer fee.

The license will be suspended for ten days. Re Fromm, Bulletin 500, Item 8; Re Wm. Hoffman & Sons, Inc., Bulletin 533, Item 4; Re Servis, Bulletin 560, Item 6.

Accordingly, it is, on this 15th day of November, 1944,

ORDERED, that Plenary Retail Distribution License D-3, issued by the Mayor and Council of the Borough of East Paterson to Adam B. Hair for premises 101 Broadway, East Paterson, be and the same is hereby suspended for a period of ten (10) days, commencing at 12:01 A. M. November 27, 1944, and terminating at 12:01 A. M. December 7, 1944.

Alfred E. Driscoll Commissioner.