

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

BULLETIN 593

NOVEMBER 9, 1943.

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

BULLETIN 593

NOVEMBER 9, 1943.

1. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS,
IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS
NO. 20 - 20 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary)
Proceedings against)

CLEMENT LISITSKI)
T/a CLEM'S JUNGLE)
13th and South Jersey Avenues)
Weymouth Township)
P. O. Dorothy, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-3, issued by the)
Township Committee of Weymouth)
Township.)
-----)

Clement Lisitski, Pro Se.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to charges alleging, in substance, that on the night of October 2, 1943 and early morning of October 3, 1943, he sold alcoholic beverages to, and permitted the consumption of alcoholic beverages upon his licensed premises by, Frank _____, Robert _____ and Seaman Anthony _____, minors, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

The charges were preferred after A. B. C. agents reported that they had observed the three young men served alcoholic beverages at the bar of the licensed premises at the time in question. Frank _____ was seventeen years of age, Robert _____ was fifteen years of age and Seaman Anthony _____ was eighteen years of age.

The usual penalty for sale of alcoholic beverages to minors, where there are no aggravating circumstances, is ten days. Re Kurtz, Bulletin 585, Item 5. Although the licensee has no previous record, the sale of alcoholic beverages to three minors, one of whom was fifteen years of age and another seventeen, is an aggravating factor. Hence, I must double the usual penalty of ten days and suspend the license for twenty days, less five days for the guilty plea, leaving a net penalty of fifteen days. Re Norman, Bulletin 586, Item 10; Re Brighton Hotel Co., Bulletin 590, Item 15.

Accordingly, it is, on this 27th day of October, 1943,

ORDERED, that Plenary Retail Consumption License C-3, issued by the Township Committee of Weymouth Township for premises 13th and South Jersey Avenues, Weymouth Township, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 A.M. November 1, 1943 and terminating at 3:00 A.M. November 16, 1943.

ALFRED E. DRISCOLL
Commissioner.

2. MORAL TURPITUDE - CRIME OF LARCENY FOUND TO INVOLVE MORAL TURPITUDE.

DISQUALIFICATION - APPLICATION TO LIFT - FIVE YEARS NOT HAVING ELAPSED SINCE APPLICANT WAS RELEASED FROM PRISON - APPLICATION DENIED.

In the Matter of an Application)
to Remove Disqualification be-)
cause of a Conviction, pursuant)
to R. S. 33:1-31.2.)
Case No. 294.)
-----)

CONCLUSIONS
AND ORDER

BY THE COMMISSIONER:

In 1937 petitioner, then twenty-two years of age, was convicted on a charge of larceny and sentenced to serve one to two years in a county prison. An examination of the facts discloses that the crime involved moral turpitude. He was released on parole on December 17, 1938 and discharged from supervision on December 17, 1939. His fingerprint returns disclose no other conviction.

Petitioner represents that he has been law-abiding for at least five years last past, and hence, pursuant to R. S. 33:1-31.2, seeks removal of his disqualification from working for a liquor licensee or holding a liquor license in this State by reason of his conviction of a crime involving moral turpitude.

One of the requisites necessary for the lifting of the disqualification is that petitioner must have been law-abiding for at least five years last past. Re Case No. 250, Bulletin 546, Item 4. It has been held, in determining whether a petitioner has conducted himself in a law-abiding manner for five years last past, that the time while one is confined for a crime is not part of the probationary period. Re Case No. 270, Bulletin 565, Item 10; Re Case No. 276, Bulletin 571, Item 11. Since it does not appear that five years have elapsed since his release from the county prison, I am not satisfied that petitioner has been law-abiding, while unconfined, in a penal institution, for a period of five years.

Under the circumstances, I shall not at this time exercise my discretionary power to lift petitioner's disqualification. I shall, therefore, deny the present petition, with leave to file a new petition after December 17, 1943.

Accordingly, it is, on this 27th day of October, 1943, ORDERED, that the petition herein be and the same is hereby dismissed, with leave to renew as aforesaid.

ALFRED E. DRISCOLL
Commissioner.

3. AUTOMATIC SUSPENSION - R. S. 33:1-31.1 - SALE OF ALCOHOLIC BEVERAGES TO MINORS - LICENSEE PAID FINE OF \$100.00 - LICENSE SUSPENDED FOR 10 DAYS - APPLICATION TO LIFT GRANTED.

In the Matter of Petition by)
FRED KURTZ)
T/a JOHNNY'S BEER GARDEN)
1 Cooper Street)
Rockaway Borough, N. J.,)
To Lift the Automatic Suspension)
of Plenary Retail Consumption)
License C-7 issued by the Borough)
Council of the Borough of)
Rockaway.)
-----)

ON PETITION
CONCLUSIONS AND ORDER

Fred Kurtz, Pro Se.

BY THE COMMISSIONER:

It appears from petition filed herein that, on September 2, 1943, petitioner pleaded guilty in the Court of Special Sessions, Morris County, to an indictment alleging that he had sold alcoholic beverages to minors in violation of R. S. 33:1-77. As a result of said conviction he was fined \$100.00, which fine he immediately paid.

It appears from our records that, on September 3, 1943, the Commissioner suspended petitioner's license for a period of ten days, commencing at 2:00 A.M. September 13, 1943 and terminating at 2:00 A.M. September 23, 1943. Re Kurtz, Bulletin 585, Item 5. The violation alleged in said disciplinary proceedings concerned the same sale to minors which was the basis for the indictment in the criminal proceedings.

On October 26, 1943 the Department was notified of the conviction and thereupon petitioner's license was picked up by an agent of the State Department of Alcoholic Beverage Control because of the automatic suspension of the license which resulted from the conviction in the criminal proceedings.

Petitioner herein prays that the automatic suspension be lifted in accordance with the provisions of R. S. 33:1-31.1.

Under all the circumstances, the penalty previously imposed by me in the disciplinary proceedings referred to herein appears to be adequate. Hence, I shall grant the relief prayed for in the petition.

Accordingly, it is, on this 27th day of October, 1943,

ORDERED, that the automatic suspension of Plenary Retail Consumption License C-7 held by Fred Kurtz, t/a Johnny's Beer Garden, for premises 1 Cooper Street, Rockaway Borough, be lifted, effective immediately. The license may be returned to the licensee.

ALFRED E. DRISCOLL
Commissioner.

4. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - PREVIOUS RECORD - 20 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ANGELINA DI PAULA, ADMINISTRATRIX OF THE ESTATE OF ALBERT PAULA) 341 Jackson Avenue Jersey City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-538, issued by the Board of Commissioners of the City of Jersey City.)
-----)

Louis Paula, Attorney-in-Fact for Angelina DiPaula, Administratrix of the Estate of Albert Paula.
Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant, administratrix of the Estate of Albert Paula, pleads non vult to the charge that alcoholic beverages were sold in an original container on the licensed premises after hours, in violation of Rule 1 of State Regulations No. 38.

On Friday, September 10, 1943, at 11:05 P.M., an investigator from this Department purchased a quart bottle of beer from an employee of the within licensee. The normal minimum penalty for a violation of this kind would be a suspension of the license for a period of fifteen days. However, the records in the Department of Alcoholic Beverage Control disclose that Albert Paula, now deceased, had, on February 7, 1940, entered a plea of guilty to a Fair Trade violation, as a result of which his license was suspended for five days, beginning February 11, 1940. In view of the fact that this record must be taken into consideration, the minimum penalty may not be imposed herein.

Under all the circumstances, I shall suspend the license for a period of twenty days, with remission of five days for the non vult plea, or a net suspension of fifteen days.

Accordingly, it is, on this 29th day of October, 1943,

ORDERED, that Plenary Retail Consumption License C-538, issued by the Board of Commissioners of the City of Jersey City to Angelina Di Paula, Administratrix of the Estate of Albert Paula, for premises 341 Jackson Avenue, Jersey City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 A.M. November 3, 1943, and terminating at 2:00 A.M. November 18, 1943.

ALFRED E. DRISCOLL
Commissioner.

5. ACTIVITY REPORT FOR OCTOBER, 1943

To: Alfred E. Driscoll, Commissioner

<u>ARRESTS:</u>	Licensees and employees - - - - -	5	Bootleggers - - - - -	13	
	Total number of persons arrested- - - - -				18
<u>SEIZURES:</u>	Still - 1 to 50 gallons daily capacity - - - - -	0			
	50 gallons and more daily capacity- - - - -	1			
	Total number of stills seized - - - - -				1
	Mash - gallons- - - - -				1,650
	Motor vehicles - Trucks - - - - -	1			
	Passenger cars - - - - -	1			
	Total number of motor vehicles seized - - - - -				2
	Beverage alcohol - gallons- - - - -				0
	Brewed malt alcoholic beverages (beer, ale, etc.) - gallons - - -				89.45
	Wine - gallons- - - - -				1.40
	Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons -				168.92

RETAIL LICENSEES:

Total number of premises inspected- - - - -	1,672
Total number of bottles gauged- - - - -	11,518
Total number of premises where violations were found- - - - -	131
Total number of violations found- - - - -	149
Type of violations found:	
Illicit (bootleg) liquor- - - - -	14
Improper beer tap markers - - - - -	12
Gambling devices- - - - -	0
Stock disposal permits necessary- - - - -	8
Prohibited signs- - - - -	0
No sign denoting legal sale	
Unqualified employees - - - - -	33
hours - off-premises consumption	77
"Fronts" (concealed ownership)- - - - -	3
Other types of violations - - - - -	2

MILITARY AREA PATROL INSPECTIONS: - - - - - 519

STATE LICENSEES:

Premises inspected- - - - -	83
License applications investigated - - - - -	17

COMPLAINTS:

Investigated, reviewed and closed - - - - -	415
Investigation assigned, not yet completed - - - - -	427

LABORATORY:

Analyses made - - - - -	110
"Shake-up" cases (alcohol, water and artificial coloring) - - - - -	4
Liquor found to be not genuine as labeled - - - - -	8

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made - - - - -	18
Persons fingerprinted for non-criminal purposes - - - - -	200
Identification contacts with other enforcement agencies - - - - -	201
Motor vehicle identifications via N. J. State Police Teletype - - - - -	17

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -	18
Cases instituted at Department- - - - -	29

HEARINGS HELD AT DEPARTMENT:

Total number of hearings held - - - - -	60
Appeals - - - - -	4
Seizures- - - - -	5
Disciplinary proceedings- - - - -	39
Tax revocations - - - - -	2
Eligibility - - - - -	9
Application for license - - - - -	1

PERMITS ISSUED:

Total number of permits issued- - - - -	1,095
Unqualified employees - - - - -	210
Solicitors- - - - -	37
Social affairs- - - - -	148
Home manufacture of wine- - - - -	521
Disposal of alcoholic beverages - - - - -	74
Miscellaneous permits - - - - -	105

Respectfully submitted,
 SYDNEY B. WHITE
 Chief Inspector.

6. DISCIPLINARY PROCEEDINGS - MISLABELING OF BEER TAPS - 3 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against JULIAN JAGIELSKI T/a JULE'S CAFE 1024 Chestnut Street Camden, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-167, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

Walter A. Uliase, Esq., Attorney for Defendant-Licensee. Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

On the date fixed for a hearing herein, defendant pleaded non vult, with a statement, to charges alleging:

"1. On or about August 21, 1943 you possessed on your licensed premises, a barrel from which beer of the Jacob Hornung Brewing Company was being drawn through a spigot or other dispensing apparatus which did not contain the name or brand of the manufacturer of that beer but, instead, was labeled 'Valley Forge', in violation of Rule 1 of State Regulations No. 22.

"2. On or about the date aforesaid, you possessed on your licensed premises, a barrel from which beer of the Camden County Beverage Company was being drawn through a spigot or other dispensing apparatus which did not contain the name or brand of the manufacturer of that beer but, instead, was labeled 'Hornung's', in violation of Rule 1 of State Regulations No. 22."

The charges were preferred after an A.B.C. agent reported that beer made by the Jacob Hornung Brewing Company was being dispensed through a spigot labeled "Valley Forge" and beer made by the Camden County Beverage Company was being dispensed through a spigot labeled "Hornung's." Defendant admits this condition existed. In mitigation of the offense he represents that this is his first violation of the liquor law during the nine years he has held a license.

Ordinarily I would, in the absence of a previous record, suspend the license for a period of three days and remit one day from the penalty because of the non vult plea. Re Capriotti, Bulletin 563, Item 9. In this case, however, defendant delayed the entry of his non vult plea until the date of the hearing, thereby putting the Department to the loss of time and expense incurred in bringing one of its investigators from the field as a witness. Hence, I will deny any remission of the penalty because of the plea. Re Free Bridge Tavern, Inc., Bulletin 591, Item 12.

Accordingly, it is, on this 29th day of October, 1943,

ORDERED, that Plenary Retail Consumption License C-167, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Julian Jagielski, t/a Jule's Cafe, for premises 1024 Chestnut Street, Camden, be and the same is hereby suspended for a period of three (3) days, commencing at 2:00 A.M. November 3, 1943 and terminating at 2:00 A.M. November 6, 1943.

ALFRED E. DRISCOLL
Commissioner.

7. MORAL TURPITUDE - FACTS EXAMINED - CRIME OF OPERATING A STILL FOUND TO INVOLVE MORAL TURPITUDE.

DISQUALIFICATION - APPLICATION TO LIFT - GOOD CONDUCT FOR FIVE YEARS LAST PAST AND NOT CONTRARY TO PUBLIC INTEREST - APPLICATION TO LIFT GRANTED.

In the Matter of an Application)
to Remove Disqualification be-)
cause of a Conviction, Pursuant)
to R. S. 33:1-31.2.)

CONCLUSIONS
AND ORDER

Case No. 303.
-----)

BY THE COMMISSIONER:

Petitioner herein, under and pursuant to the provisions of R. S. 33:1-31.2, seeks to have any disqualification removed that may exist by reason of his having been convicted of a crime.

The application of petitioner for a special permit shows that he was convicted by a jury, on May 15, 1935, in the Federal Court, for having been an accessory in the operation of a large still. He was sentenced to serve a term of one year and one day in a Federal penitentiary and, in addition thereto, a fine of \$200.00 was imposed upon him. The crime in question involves the element of moral turpitude within the meaning of the Alcoholic Beverage Law. Re Case No. 267, Bulletin 313, Item 1.

The testimony of petitioner discloses that since his arrival in the United States of America in 1928 from Italy, with the exception of the aforementioned conviction, he has been law-abiding. Three character witnesses, neighbors of petitioner produced at the hearing, were in agreement that he has a good reputation in the community in which he lives.

I find, therefore, that petitioner has conducted himself in a law-abiding manner for more than five years immediately past. I conclude that his association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 3rd day of November, 1943,

ORDERED, that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby lifted, in accordance with the provisions of R. S. 33:1-31.2.

ALFRED E. DRISCOLL
Commissioner.

8. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 26 DAYS' SUSPENSION.

AUTOMATIC SUSPENSION - R. S. 33:1-31.1 - SALE OF ALCOHOLIC BEVERAGES TO A MINOR - LICENSEE PAID FINE OF \$100.00 - LICENSE SUSPENDED FOR 26 DAYS - APPLICATION TO LIFT GRANTED.

In the Matter of Disciplinary Proceedings against)

ALBERT TER MEER)
T/a TIMMY'S LODGE)
Log Cabin, N/S Valley Road)
Passaic Township)
P.O. Stirling, N. J.,)

Holder of Plenary Retail Consumption License C-7 issued by the Township Committee of the Township of Passaic.)

Case No. 33)
In the Matter of Petition by)

ALBERT TER MEER)

To Lift the Automatic Suspension of Plenary Retail Consumption License C-7 issued by the Township Committee of the Township of Passaic.)

CONCLUSIONS AND ORDER

Harry R. Stern, Esq., Attorney for Defendant-Petitioner.
Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.
Charles R. Urban, Township Committeeman appearing for Township Committee of the Township of Passaic.

BY THE COMMISSIONER:

On October 7, 1943 defendant-petitioner herein pleaded guilty in the Morris County Court of Special Sessions to an indictment alleging that he had sold alcoholic beverages to a minor and was fined the sum of \$100.00. In accordance with the provisions of R. S. 33:1-31.1, this conviction automatically suspended his license and, on October 9, 1943, his license was picked up by an agent of the State Department of Alcoholic Beverage Control. No alcoholic beverage activities have been conducted at the licensed premises since that time.

On October 14, 1943, disciplinary proceedings were instituted directly by the Department in accordance with our usual practice in cases where a license has been automatically suspended.

The charges in the disciplinary proceedings alleged that on July 29, 1943 defendant, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20, sold to, and permitted the consumption of alcoholic beverages by, Herbert ---, a minor. The charges concerned the same sale which led to the indictment in the criminal proceedings.

On October 21, 1943 defendant pleaded non vult to the charges in the disciplinary proceedings and, on the same day, filed with me a petition to lift the automatic suspension of his license.

At the request of Charles R. Urban, a member of the Township Committee of the Township of Passaic, a hearing was held upon the petition to lift the automatic suspension of the license. At said hearing Mr. Urban appeared and stated that he did not wish to make any complaint in his official capacity against the licensee or any of his employees at that time but, as he stated, "I would like to caution them that, if we do find that things are lax, we may have to take action." I desire to commend Mr. Urban for his interest in this case.

It appears that Albert Ter Meer held a consumption license in another municipality for a period of more than three years prior to July 1, 1943, and that he has held a consumption license in the Township of Passaic since that date. There is no prior adjudicated record against Ter Meer and no valid reason was developed at the hearing opposing the relief which he seeks in his petition filed herein. However, he is now on notice that any future violation may result in a severe penalty if disciplinary proceedings are instituted, and may result in denial of renewal of his license.

The file in this case discloses that, on July 29, 1943, Herbert ---, then sixteen years of age, purchased and consumed five or six glasses of beer in defendant's premises. The beer was sold by defendant. In a statement given to our investigators, the minor admitted that he told defendant that he was over the age of twenty-one, but in another statement given to our investigators defendant admitted that the minor appeared to him to be seventeen or eighteen years of age. There is no doubt as to the guilt of defendant. The facts warrant a penalty substantially in excess of the minimum ten-day penalty imposed in cases of sales to minors where no aggravating circumstances appear.

The licensed premises have now been closed for a period of twenty-six days under the automatic suspension of the license. I believe that that punishment is sufficient under the facts of the case. Hence I shall impose as a penalty in the disciplinary proceedings the period of time already served under the automatic suspension of the license. The petition to lift the automatic suspension of the license will, therefore, be granted, effective immediately.

Accordingly, it is, on this 3rd day of November, 1943,

ORDERED, that the statutory suspension now in force be lifted, and that Plenary Retail Consumption License C-7, issued to Albert Ter Meer, t/a Timmy's Lodge, be and it is hereby declared to be again in full force and effect.

ALFRED E. DRISCOLL
Commissioner.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - FAILURE TO DISPLAY "HOURS" SIGN, IN VIOLATION OF RULE 3 OF STATE REGULATIONS NO. 38 - 17 DAYS' SUSPENSION, LESS \$ FOR PLEA.

In the Matter of Disciplinary Proceedings against CLARENCE W. STARN T/a Capt. Starn's Seafood Restaurant & Bar Inlet Dock, End of Boardwalk at Main Avenue Atlantic City, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-152, issued by the Board of Commissioners of the City of Atlantic City.

Harcourt & Steelman, Esqs., by Hiram Steelman, Esq., Attorneys for Defendant-Licensee. Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleads non vult to the following charges:

"1. On Sunday, October 3, 1943, at about 11:55 A.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., four - twelve ounce bottles of beer, at retail, in their original containers for consumption off the licensed premises, thereby violating Rule 1 of State Regulations No. 38 which prohibits any such type of sale or delivery on Sunday.

"2. On October 3, 1943, and on divers days prior thereto, you failed to keep properly displayed on or near the entrance to your licensed premises and clearly visible from the exterior, a sign not less than 10 x 12 inches in size stating clearly and legibly the legal hours during which the sale of alcoholic beverages in original containers for off-premises consumption is permitted, thereby violating Rule 3 of State Regulations No. 38."

The file discloses that four bottles of beer for off-premises consumption were purchased from an employee of the defendant-licensee by two investigators of this Department, on Sunday morning, October 3, 1943.

The investigators also observed that no sign was displayed upon the licensed premises as required by Rule 3 of State Regulations No. 38. Both the employee who made the sale and the defendant-licensee admitted that they had no knowledge whatsoever of State Regulations No. 38.

The minimum penalties for violations of Rules 1 and 3 of State Regulations No. 38 are fifteen days and two days, respectively. Inasmuch as no aggravating circumstances appear in the instant case, the minimum penalties shall be imposed. Therefore, the defendant's

license shall be suspended for a period of seventeen days on the two charges, less remission of five days for the plea of non vult entered herein, or a net suspension of twelve days.

Accordingly, it is, on this 4th day of November, 1943,

ORDERED, that Plenary Retail Consumption License C-152, issued by the Board of Commissioners of the City of Atlantic City to Clarence W. Starn, t/a Capt. Starn's Seafood Restaurant & Bar, for premises Inlet Dock, End of Boardwalk at Main Avenue, Atlantic City, be and the same is hereby suspended for a period of twelve (12) days, commencing at 12:01 A.M. November 8, 1943 and terminating at 12:01 A. M. November 20, 1943.

ALFRED E. DRISCOLL
Commissioner.

10. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 20 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ARCANGELA CENERINO)
T/a CENERINO'S CAFE)
57 Leigh Avenue)
Princeton Township)
P. O. Princeton, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-1 issued by the Township Committee of Princeton Township.)
-----)

Louis Gerber, Esq., Attorney for Defendant.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult, with an explanation, to charges which alleged, in substance, that on July 24, 1943 she sold alcoholic beverages to, and permitted the consumption of alcoholic beverages upon her licensed premises by, two minors. The charges alleged that defendant thereby violated R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

The file discloses that statements were taken by ABC investigators from two boys, each of whom is sixteen years of age. Each boy alleges therein that, on the night of July 24, 1943, he purchased three or four glasses of beer from Michael Thomas, the bartender in defendant's premises. In a statement taken by ABC investigators the bartender alleges that, when they entered the premises, the two boys were accompanied by several young men and that all members of the group took seats in a booth; that, during the course of the evening, one of the young men, who was over twenty-one, purchased several rounds of beer at the bar and brought the drinks to the booth where the group was seated. Even if the bartender's version be accepted, it is clear that the minors were permitted to consume alcoholic beverages in the licensed premises, in violation of Rule 1 of State Regulations No. 20.

As to penalty: The licensee has no prior adjudicated record. Apparently she was not present when the violation occurred. However, I deem it advisable to warn her that she is strictly accountable for the acts of her agents and that she must take all necessary precautions to prevent the sale to or consumption of alcoholic beverages by minors. Under the circumstances of this case, and mindful of the age of the two minors, I shall suspend her license for a period of twenty days, less five days for the plea, making a net suspension of fifteen days. Re Konvitz, Bulletin 539, Item 8.

Accordingly, it is, on this 4th day of November, 1943,

ORDERED, that Plenary Retail Consumption License C-1, issued by the Township Committee of Princeton Township to Arcangela Cenerino, t/a Cenerino's Cafe, for premises 57 Leigh Avenue, Princeton Township, be and the same is hereby suspended for fifteen (15) days, commencing at 8:00 A.M. November 8, 1943 and terminating at 8:00 A.M. November 23, 1943.

ALFRED E. DRISCOLL
Commissioner.

II. DISCIPLINARY PROCEEDINGS - APPLICATION TO TEMPORARILY LIFT
SUSPENSION - GRANTED.

In the Matter of Disciplinary Proceedings against
CLARENCE W. STARN
T/a CAPT. STARN'S SEAFOOD RESTAURANT & BAR
Inlet Dock, End of Boardwalk at Main Avenue
Atlantic City, N. J.,
Holder of Plenary Retail Consumption License C-152, issued by the Board of Commissioners of the City of Atlantic City.

O R D E R

Harcourt & Steelman, Esqs., by Hiram Steelman, Esq.,
Attorneys for Defendant-Licensee.

BY THE COMMISSIONER:

An order having been entered herein on the 4th day of November, 1943, suspending Plenary Retail Consumption License C-152, issued by the Board of Commissioners of the City of Atlantic City to Clarence W. Starn, t/a Capt. Starn's Seafood Restaurant & Bar, for a period of twelve (12) days, commencing November 8, 1943, at 12:01 A.M.; and

It appearing in an application for postponement of the commencement of suspension of the license that, prior to entry of the order of suspension, arrangements were completed for two public affairs to be held at the licensed premises between November 8, 1943 and November 18, 1943, and being satisfied that numerous innocent persons would be inconvenienced by the suspension of the license on November 8, 1943, in accordance with the order heretofore entered,

It is, on this 8th day of November, 1943,

ORDERED, that the said suspension of twelve (12) days, instead of being effective commencing November 8, 1943, at 12:01 A.M., shall, in lieu thereof, commence on November 18, 1943, at 12:01 A.M. and terminate on November 30, 1943, at 12:01 A.M.

ALFRED E. DRISCOLL
Commissioner.

12. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACTS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - SALE OF ALCOHOLIC BEVERAGES TO MEMBERS OF THE MILITARY FORCES DURING PROHIBITED HOURS; IN VIOLATION OF LOCAL ORDINANCE - 30 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

WILLIAM J. DAILEY)
T/a BILL DAILEY'S BAR)
2601 Atlantic Avenue)
Atlantic City, N. J.,)

Holder of Plenary Retail Consumption License C-127, issued by the Board of Commissioners of the City of Atlantic City, and transferred during the pendency of these proceedings to)

GEORGE W. LYDON)
for the same premises.)

CONCLUSIONS AND ORDER

Jacob S. Glickenhous, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult, with a statement, to charges alleging, in substance, that he (1) falsely concealed in his 1943-44 application the interest of George W. Lydon in the license and business conducted thereunder, in violation of R. S. 33:1-25; (2) permitted the said George W. Lydon to exercise the rights and privileges of his license, in violation of R. S. 33:1-52; and (3) sold and dispensed alcoholic beverages to uniformed persons in the military service after 11:30 P.M. on Tuesday, August 10, 1943, and before 9:00 A.M. on Wednesday, August 11, 1943, in violation of a local ordinance.

As to charges (1) and (2): In 1940 defendant, a bartender, orally agreed with George W. Lydon, a letter carrier, that they would engage in the tavern business as partners. Their agreement was that Lydon would provide the necessary capital and defendant would manage the tavern. Lydon invested \$1,850.00 in the enterprise which was used to purchase the license in question at a receiver's sale. On October 3, 1940 the license was transferred to the defendant, and at the beginning of each fiscal year thereafter, to and including the year beginning July 1, 1943, he renewed the license in his name. The lease for the premises in question was signed by defendant and included the tavern's fixtures. The defendant managed the licensed business and all bills were paid by checks signed by him.

After the charges herein were preferred, a dispute which had arisen between defendant and Lydon as to the distribution of the receipts from the tavern was settled by an agreement that defendant would sell all his interest in the licensed business to Lydon for \$3,000.00 in cash and find other employment. As a result thereof, on October 21, 1943, the license in question was transferred by the local issuing authority to Lydon upon the special condition that it was subject to any penalty which may be imposed against the defendant in these proceedings. The penalty imposed herein will be against the current license for the premises.

As to penalty: It appears that both individuals mentioned herein have been fully qualified at all times to hold a liquor license. It is represented that they entered into the partnership following years of friendship and that there was no intent to deceive the local issuing authority with respect to the interest of the silent partner. However, applicants for liquor licenses must learn to answer each question in the application frankly and honestly. Since it appears both partners were at all times fully qualified, that they frankly admitted the violation, and that the illegal situation has apparently been corrected, I shall impose the minimum penalty and suspend the license for a period of ten days on charges (1) and (2). Re Woods, Bulletin 576, Item 7.

As to charge (3): The charge was preferred after two A.B.C. agents observed two soldiers drinking beer on the licensed premises at about 12:50 A.M. on Wednesday, August 11, 1943. Shortly thereafter defendant served alcoholic beverages to another soldier at the bar.

In the absence of a prior record, I shall suspend the license for twenty days on charge (3) and, in view of the non vult plea, five days of this penalty will be remitted, leaving a net suspension of fifteen days on charge (3). Re Keeley, Bulletin 553, Item 5.

Accordingly, it is, on this 9th day of November, 1943,

ORDERED, that Plenary Retail Consumption License C-127, issued by the Board of Commissioners of the City of Atlantic City to William J. Dailey, t/a Bill Dailey's Bar, for premises 2601 Atlantic Avenue, Atlantic City, and transferred during the pendency of these proceedings to George W. Lydon for the same premises, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 8:00 A.M. November 15, 1943 and terminating at 8:00 A.M. December 10, 1943.

ALFRED E. DRISCOLL
Commissioner.

13. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against
JERRY TRIANO
2 Montgomery Street
Bloomfield, N. J.,
Holder of Plenary Retail Consumption License C-26, issued by the Town Council of the Town of Bloomfield.

CONCLUSIONS
AND ORDER

James R. Giuliano, Esq., Attorney for Defendant-Licensee.
Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to charges alleging that he sold alcoholic beverages to minors at his licensed premises, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

It appears that, on October 23, 1943, two male minors, one nineteen and the other twenty years of age, were each served a glass of beer at the defendant's tavern.

Since the defendant has never heretofore been cited in disciplinary proceedings, I shall suspend the license for the usual period of ten days, with remission of five days for the plea, or a net penalty of five days. Re Lombardi, Bulletin 588, Item 8.

Accordingly, it is, on this 9th day of November, 1943,

ORDERED, that Plenary Retail Consumption License C-26, heretofore issued by the Town Council of the Town of Bloomfield to Jerry Triano, for premises 2 Montgomery Street, Bloomfield, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 A.M. November 15, 1943 and terminating at 2:00 A. M. November 20, 1943.

ALFRED E. DRISCOLL
Commissioner.

14. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)
JOHN A. BAHR'S)
T/a BAHR'S LANDING)
2 Bay Avenue)
Highlands, N. J.,)
Holder of Plenary Retail Consumption License C-19, issued by the Borough Council of the Borough of Highlands.)
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CONCLUSIONS
AND ORDER

John A. Bahrs, Pro Se.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads guilty to charges alleging sale and service of alcoholic beverages to a minor girl, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

On August 22, 1943, three A.B.C. investigators observed an agent of the defendant serve a glass of beer to the minor girl in question on the licensed premises. The girl was nineteen years of age.

Since no aggravating circumstances appear in this case, and defendant herein has no previous adjudicated record, I shall suspend his license for ten days, less five days for the guilty plea, making a net suspension of five days. Re Lombardi, Bulletin 588, Item 8.

Accordingly, it is, on this 9th day of November, 1943,

ORDERED, that Plenary Retail Consumption License C-19, issued by the Borough Council of the Borough of Highlands to John A. Bahrs, t/a Bahr's Landing, for premises 2 Bay Avenue, Highlands, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 A.M. November 15, 1943 and terminating at 2:00 A.M. November 20, 1943.

ALFRED E. DRISCOLL
Commissioner.

15. DISCIPLINARY PROCEEDINGS - POSSESSION OF SLOT MACHINE ON LICENSED PREMISES, IN VIOLATION OF RULE 8 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against
 PENNS GROVE LODGE NO. 1358
 B. P. O. ELKS
 57-59 West Main Street
 Penns Grove, N. J.,
 Holder of Club License CB-35, issued by the State Commissioner of Alcoholic Beverage Control.

CONCLUSIONS AND ORDER

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

BY THE COMMISSIONER:

Defendant pleaded guilty to the following charge:

"On or about September 17, 1943 and on divers dates prior thereto, you possessed, allowed, permitted and suffered on and about your licensed premises two slot machines or devices in the nature of slot machines which might be used for the purpose of playing for money and other valuable things, in violation of Rule 8 of State Regulations No. 20."

There being no aggravating circumstances, and it appearing that this is defendant's first offense of any nature, the minimum penalty of ten days for gambling devices shall be imposed from which I shall deduct five days for the plea. Re Packer Hotel Co., Inc., Bulletin 568, Item 9.

Accordingly, it is, on this 9th day of November, 1943,

ORDERED, that Club License CB-35, issued by the State Commissioner of Alcoholic Beverage Control to Penns Grove Lodge No. 1358 B. P. O. Elks, for premises 57-59 West Main Street, Penns Grove, be and the same is hereby suspended for five (5) days, commencing at 7:00 A.M. November 15, 1943 and terminating at 7:00 A.M. November 20, 1943.

Alfred E. Dunsen
 Commissioner.