

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

BULLETIN 794

FEBRUARY 19, 1948

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Trenton) - ILLICIT LIQUOR - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
2. APPELLATE DECISIONS - GRANT LUNCH CORP. v. NEWARK AND THE STALL, INC.
3. DISCIPLINARY PROCEEDINGS (Orange) - SALES TO MINORS BY HOLDER OF PLENARY WINERY LICENSE - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Trenton) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
5. APPELLATE DECISIONS - BURNS v. ELIZABETH.
6. DISCIPLINARY PROCEEDINGS (Lyndhurst) - SALES DURING PROHIBITED HOURS - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Lakewood) - PERMITTING PIN BALL MACHINES ON LICENSED PREMISES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
8. APPELLATE DECISIONS - TOWN HOUSE, INC. v. MONTCLAIR - APPLICATION FOR WRIT OF CERTIORARI ABANDONED - SUSPENSION REIMPOSED.
9. APPELLATE DECISIONS - HUNTERDON COUNTY TAVERN ASSN. v. STOCKTON BOROUGH and PHILLIPS.
10. DISCIPLINARY PROCEEDINGS (Carlstadt) - PERMITTING FEMALE IMPERSONATORS ON LICENSED PREMISES - STRIP TEASE DANCE - UNQUALIFIED EMPLOYEES - PERMITTING PREMISES TO BE CONDUCTED AS A NUISANCE - LICENSE SUSPENDED FOR BALANCE OF TERM.
11. STATE LICENSES - NEW APPLICATIONS FILED.
12. DISCIPLINARY PROCEEDINGS (Cape May City) - FALSE STATEMENT IN APPLICATION - AIDING AND ABETTING NON-LICENSEES TO EXERCISE RIGHTS AND PRIVILEGES OF LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO APPLY TO LIFT SUSPENSION AFTER 30 DAYS, IF ILLEGAL SITUATION CORRECTED.
13. DISCIPLINARY PROCEEDINGS (Union) - FRONT - FALSE STATEMENT IN APPLICATION - AIDING AND ABETTING NON-LICENSEE (ALIEN) TO EXERCISE RIGHTS AND PRIVILEGES OF LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR 45 DAYS.
14. DISCIPLINARY PROCEEDINGS (Hammonton) - FALSE STATEMENT IN APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE RIGHTS AND PRIVILEGES OF LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO APPLY TO LIFT SUSPENSION AFTER 90 DAYS, IF ILLEGAL SITUATION CORRECTED.
15. AUTOMATIC SUSPENSION (Hoboken) - R.S. 33:1-31.1 - SALE OF ALCOHOLIC BEVERAGES TO MINORS - LICENSE PREVIOUSLY SUSPENDED FOR 10 DAYS BY LOCAL ISSUING AUTHORITY ON SAME FACTS - APPLICATION TO LIFT GRANTED.

## 2. APPELLATE DECISIONS - GRANT LUNCH CORP. v. NEWARK AND THE STALL, INC.

Grant Lunch Corporation, )  
 Appellant, )  
 v. ) On Appeal  
 Municipal Board of Alcoholic )  
 Beverage Control of the City ) CONCLUSIONS and ORDER  
 of Newark, and The Stall, Inc., )  
 Respondent. )

-----  
 Kasen, Schnitzer & Kasen, Esqs., by Daniel G. Kasen, Esq.,  
 Attorneys for Appellant.

Thomas I. Parsonnet, Esq., by George B. Astley, Esq., and Louis  
 Weiss, Esq., Attorney for Respondent Municipal Board  
 of Alcoholic Beverage Control.

Salman Friedman, Esq., and Harold Simandl, Esq., by Sidney Simandl,  
 Esq., Attorneys for Respondent The Stall, Inc.

BY THE COMMISSIONER:

This is an appeal from the renewal, by respondent Municipal Board, of plenary retail consumption license held by respondent The Stall, Inc., for premises known as 326-328 Plane Street, Newark.

Appellant sets forth various grounds of appeal, to wit:

- "(a) The Board should have determined from the evidence before it that it was not in the public interest to renew the license of The Stall, Inc.
- (b) The Board should have determined from the evidence before it that The Stall, Inc., was not qualified to hold the license.
- (c) The Board should have determined that the stockholders mentioned in the application for renewal, or one or more of them, were a 'front' for others, and, that said application should therefore have been denied.
- (d) The Board should have determined from the evidence before it that the application for renewal was false in many respects and that the application for renewal should therefore have been denied.
- (e) The Board should have permitted appellant an adequate opportunity to establish the falsity of the application in many respects.
- (f) The hearing as conducted by the Board was illegal, null and void."

The principal argument advanced by the appellant alleged that one or more of the stockholders of the subject corporation were "fronts" for persons whose names did not appear in the application for renewal. Appellant produced as its witnesses the officers of respondent, The Stall, Inc., and some relatives and next of kin of said officers in an attempt to elicit information that might disclose some evidence of the alleged "front" situation. However, counsel for the appellant admitted that neither he nor his client could identify the alleged undisclosed interested parties. Furthermore, the aforesaid appellant's witnesses denied the existence of any interests other than those of the stockholders named in the application and testified affirmatively that such stockholders were the only persons in interest and ownership.

After a careful scrutiny of the entire record herein, I can find no foundation whatsoever for any of the aforesaid allegations. Under the circumstances, I am satisfied that the appellant failed to establish that the action of the respondent issuing authority was erroneous and should be reversed.

Accordingly, it is, on this 10th day of February, 1948,

ORDERED that the action of respondent Municipal Board be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

ERWIN B. HOCK,  
 Commissioner.

3. DISCIPLINARY PROCEEDINGS - SALES TO MINORS BY HOLDER OF PLenary WINERY LICENSE - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the matter of Disciplinary Proceedings against

HENRY and MARY BARLETTA, t/a Barletta & Co. 64 South Essex Avenue, Orange, New Jersey,

CONCLUSIONS

AND

Holder of Plenary Winery License V-22, issued by the State Commissioner of Alcoholic Beverage Control.

ORDER

Henry and Mary Barletta, Defendant-licensees, Pro Se. William F. Wood, Esc., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendants plead non vult to the following charges:

- "1. On or about December 23, 1947, you sold alcoholic beverages to Frank T. ---, Nicholas --- and Pvt. Joseph ---, minors; in violation of R.S. 33:1-77.
"2. On the occasion aforesaid, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Fran. T. ---, Nicholas --- and Pvt. Joseph ---, persons under the age of twenty-one (21) years, in violation of Rule 1 of State Regulations No. 20."

The departmental file discloses that, on December 23, 1947, each minor involved in the instant case purchased a bottle of wine for off-premises consumption from employees of defendant-licensees. Two of the boys were fifteen years old and the other boy was sixteen years of age. There can be scarcely any excuse for a direct sale of alcoholic beverages to minors who are fifteen or sixteen years of age.

Defendant has no previous adjudicated record. However, in view of the number of minors involved, and particularly because of the youthfulness of the boys, I shall suspend defendants' license for a period of forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 10th day of February, 1948,

ORDERED that Plenary Winery License V-22, issued by the State Commissioner of Alcoholic Beverage Control to Henry and Mary Barletta, t/a Barletta & Co., for premises 64 South Essex Avenue, Orange, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 12:01 a.m., February 17, 1948, and terminating at 12:01 a.m., March 23, 1948.

ERWIN B. HOCK, Commissioner.

4. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR -  
LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the matter of Disciplinary Proceedings against )

Hamilton Grill, A Corporation, t/a Hamilton Grill, 523 Hamilton Avenue, Trenton N.J., New Jersey, )

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-66 issued by the Board of Commissioners of the City of Trenton. )

ORDER

-----  
Stewart & Leventhal, Esqs., by Samuel Leventhal, Esq., Attorneys for Defendant-licensee.  
William F. Wood, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that it possessed six bottles of illicit alcoholic beverages, in violation of R.S. 23:1-50.

On December 22, 1947, an ABC agent seized two 4/5 quart bottles labeled "Canadian Club Blended Canadian Whisky", two 4/5 quart bottles labeled "Seagrams V.O. Canadian Whisky" and two 4/5 quart bottles labeled "Seagrams Seven Crown Blended Whiskey", when his preliminary field tests indicated that the contents of said six bottles were not genuine as labeled. Subsequent analysis by the Department chemist confirmed the fact that each of said bottles contained an alcoholic beverage other than that described on its label.

The Defendant has no previous adjudicated record. I shall suspend the license for twenty-five days, less five days' remission for the plea, leaving a net suspension of twenty days. Cf. Re Pascac. Inn, Bulletin 758, Item 6.

Accordingly, it is, on this 11th day of February, 1948,

ORDERED that plenary retail consumption license C-66, issued by the Board of Commissioners of the City of Trenton to Hamilton Grill, A Corporation, t/a Hamilton Grill, for premises 523 Hamilton Avenue, Trenton, N.J. and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. February 16, 1948, and terminating at 2 a.m. March 7, 1948.

ERWIN B. HOCK,  
Commissioner.

5. APPELLATE DECISIONS - BURNS v. ELIZABETH.

James P. Burns, )  
 Appellant, )  
 v. )  
 Municipal Board of Alcoholic Beverage Control of the City of Elizabeth, )  
 Respondent. )

On Appeal

CONCLUSIONS and ORDER

-----  
 Edward L. Whelan, Jr., Esq., Attorney for Appellant.  
 Louis P. Longobardi, Esq., by Raymond A. Leahy, Esq.,  
 Attorney for Respondent.  
 Julius R. Pollatscher, Esq., Attorney for Union County Retail  
 Liquor Dealers Association, an Objector.

BY THE COMMISSIONER:

This is an appeal from the denial of appellant's application for a plenary retail distribution license for premises at 245-247 West Grand Street, Elizabeth.

Respondent denied the application because "this license is within 1500 feet of an existing license, in violation of an ordinance passed May 5, 1947, by the City Council."

At the hearing appellant withdrew all grounds set forth in his petition of appeal except his contentions that said ordinance is unreasonable in itself and that the application of said ordinance to the present case was unreasonable, improper and contrary to law.

In 1935 the City of Elizabeth adopted a resolution, the pertinent part of which is as follows:

"BE IT RESOLVED that no licenses whatsoever excepting renewals, shall be granted for any premises within the area of a circle having a radius of 1500 feet and having as its central point an existing licensed premises."

Said resolution was held to be reasonable in Elizabeth Beverage Dealers Assn. v. Elizabeth and Fenik, Bulletin 514, Item 8, and New Jersey Licensed Beverage Assn. v. Elizabeth, et al., Bulletin 665, Item 9. On May 5, 1947, after decision in the latter case was rendered, the City Council of the City of Elizabeth adopted an ordinance, approved by the Mayor on May 7, 1947, the pertinent part of which ordinance is as follows:

"No license for the sale and consumption of alcoholic beverages whatsoever, excepting renewals, shall be granted for any licensed premises within the area of a circle having a radius of 1500 feet, and having for its central point an existing licensed premises, excepting, however, that a club license may be issued \*\*\*."

It should be noted that R.S. 35:1-12 provides for various types of retail licenses, including club licenses, issued for the sale of alcoholic beverages for on-premises consumption, off-premises consumption, or both. It is apparent that the ordinance was intended to exempt only club licenses, as described therein, from the effect of the 1500 foot rule originally set forth in the resolution adopted in 1935.

The facts in this case are not in dispute. The evidence shows that there is an existing licensed premises in the

City of Elizabeth known as 205 Orchard Street. From the diagram introduced into evidence it is clear that, if a circle be drawn having a radius of 1500 feet and having as its central point the premises known as 205 Orchard Street, said circle would include the premises for which appellant seeks a new license.

Appellant contends, however, that the distance between 205 Orchard Street and 245-247 West Grand Street should be measured in the normal way that a pedestrian would properly walk from one licensed premises to the other. He contends further that the distance, measured in this manner, between the two premises is more than 2000 feet, instead of approximately 1153 feet as shown on the diagram introduced into evidence.

In Re Guenther, Bulletin 206, Item 15, the Commissioner stated that, where no method of measurement is specified in an ordinance, the distance should be measured in the method provided by Section 76 of the Act (now R.S. 33:1-76) in an analogous situation. Hence, if the ordinance in question provided merely that no license should be granted within 1500 feet of another licensed premises, appellant's contention would prevail.

In Elizabeth Beverage Dealers Assn. v. Elizabeth and Fenix, supra, the Commissioner, in upholding the 1935 resolution said:

"I find that the resolution in question establishes a method of measuring distances which generally may be easily applied to the facts as in the present case; that for the past six years the resolution apparently has resulted in a distribution of licensed premises in accordance with the plan adopted by the City Council; and that no licenses had previously been granted in violation of the terms thereof. Under these circumstances, I find that the resolution is reasonable in itself."

The ordinance adopted on May 5, 1947, contains the exact language used in the 1935 resolution as to the manner in which the distance between licensed premises should be measured. This indicates a clear intent to continue to follow the previous method fixed for measuring the distance between licensed premises and, since this has been done, the method of measurement set forth in R.S. 33:1-76 does not apply.

I conclude that the ordinance is reasonable in itself and as applied to appellant's premises. The mere fact that appellant's premises are more than 1500 feet from other licensed premises if measurements are made in a manner different from that specifically set forth in the ordinance, does not entitle appellant to relief. Respondent has no jurisdiction to grant a license in violation of the ordinance. I shall affirm the action of respondent.

Accordingly, it is, on this 16th day of February, 1948,

ORDERED that the action of respondent be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

ERWIN B. HOGL,  
Commissioner.

6. DISCIPLIN BY PROCEEDINGS - SALFS DURING PROHIBITED HOURS - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

Nicola Coschignano, t/a Nic's Tavern, 614 Freeman Street, Lyndhurst, New Jersey, )

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License C-4 issued by the Board of Commissioners of the Township of Lyndhurst. )

Nicola Coschignano, Defendant-licensee, Pro se. William F. Wood, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleads non vult to the following charges:

- "1. On Sunday, January 11, 1948 you suffered and permitted persons other than yourself or your actual employees and agents in and upon your licensed premises before 12 Noon, in violation of Ordinance No. 951 concerning alcoholic beverages, adopted by the Board of Commissioners of Lyndhurst on November 15, 1943.
"2: On the aforesaid occasion, while agents of the State Department of Alcoholic Beverage Control were investigating the above alleged violation, you hindered and failed to facilitate such investigation, in violation of R.S. 33:1-35."

The file in the instant case discloses that on Sunday, January 11, 1948, at 10:15 a.m., ABC agents observed two men enter defendant's premises by way of a rear door. One of the agents proceeded to the rear door and found it locked. A man, later identified as the licensee, informed the agent that the place was closed. The other ABC agent proceeded to the front entrance and peered through the glass portion of the door. He observed a man with a glass of beer in front of him at a table in the rear room. The agent attracted the attention of the licensee, and displayed his credentials to him. The licensee walked to the rear room and removed the glass of beer from the table. He then returned and admitted the ABC agents to the premises. Three men, none of whom was an employee of defendant, were found in the licensed premises.

Defendant has no previous adjudicated record.

Under all of the circumstances, I shall suspend the defendant's license for a period of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 11th day of February, 1948,

ORDERED that plenary retail consumption license C-4, issued by the Board of Commissioners of the Township of Lyndhurst to Nicola Coschignano, t/a Nic's Tavern, for premises 614 Freeman Street, Lyndhurst, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. February 17, 1948, and terminating at 2 a.m. March 13, 1948.

ERWIN B. HOCK, Commissioner.

7. DISCIPLINARY PROCEEDINGS - PERMITTING PIN BALL MACHINES ON LICENSED PREMISES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

Leo Gartenberg & Jacob Schechter, t/a La Rhum Bar, 705 Madison Avenue, Lakewood, New Jersey, )

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-31 issued by the Township Committee of the Township of Lakewood. )

ORDER

-----  
Leo Gartenberg and Jacob Schechter, Defendant-licensees, pro se.  
Edward F. Ambrose, Esq., Appearing for Department of Alcoholic Beverage Control

BY THE COMMISSIONER:

Defendants have pleaded non vult to a charge alleging that they possessed on their licensed premises two "bagatelle or pin ball" machines, in violation of State Regulations No. 20, Rule 7.

On January 16, 1948, an ABC agent observed the machines in a room which is admittedly part of defendants' licensed premises. In alleged mitigation defendants state that the machines had been placed only temporarily on the licensed premises, and that they have been removed therefrom. It is clear, nevertheless, that defendants are guilty as charged.

Defendants have no prior record. I shall suspend their license for ten days, less five days for the plea, leaving a net suspension of five days. See Bulletin 672, Item 12, and Bulletin 786, Item 6.

Accordingly, it is, on this 13th day of February, 1948,

ORDERED that plenary retail consumption license C-31, issued by the Township Committee of the Township of Lakewood to Leo Gartenberg & Jacob Schechter, t/a LaRhum Bar, for premises 705 Madison Avenue, Lakewood, be and the same is hereby suspended for five (5) days, commencing at 7 a.m. February 23, 1948, and terminating at 7 a.m. February 28, 1948.

ERWIN B. HOCK,  
Commissioner.



8. APPELLATE DECISIONS - TOWN HOUSE, INC. v. MONTCLAIR - APPLICATION FOR WRIT OF HABEAS CORPUS ABANDONED - SUSPENSION REIMPOSED.

Town House, Inc., )
Appellant, )
v. ) On Appeal
Board of Commissioners of the )
Town of Montclair, ) O. I. D. E. R.
Respondent. )

BY THE COMMISSIONER:

On January 15, 1948, the suspension heretofore imposed upon affirmance of respondent's action was stayed to permit appellant to apply to the Supreme Court for a writ of certiorari. See Bulletin 752, Items 3 and 4.

Appellant, through its attorney, has advised me that it has decided to abandon its application for said writ. The suspension will, therefore, be reinstated.

Accordingly, it is, on this 17th day of February, 1948,

ORDERED that plenary retail consumption license C-7, issued by the Board of Commissioners of the Town of Montclair to Town House, Inc. for premises 636 Bloomfield Avenue, Montclair, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2 a.m. February 20, 1948, and terminating at 2 a.m. March 11, 1948.

ERWIN B. HOCK,
Commissioner.

9. APPELLATE DECISIONS - HUNTERDON COUNTY TAVERN ASSN. v. STOCKTON BOROUGH and PHILLIPS.

Hunterdon County Tavern )
Association, )
Appellant, ) On Appeal
v. )
Borough Council of the Borough ) ORDER OF DISCONTINUANCE
of Stockton, and Richard C. )
Phillips, )
Respondents. )

William C. Egan, Esq., Attorney for Appellant.
Herr & Fisher, Esqs., by Lloyd Fisher, Esq., Attorneys for Respondents.

BY THE COMMISSIONER:

This is an appeal from the issuance of a plenary retail distribution license to the individual respondent herein on October 6, 1947 for premises located on Bridge Street, Borough of Stockton, N.J.

Prior to the date scheduled for hearing, the attorneys for the respective parties agreed that the appeal may be withdrawn. Since no cause appears to the contrary,

It is, on this 11th day of February, 1948,

ORDERED that the within appeal be and the same is hereby discontinued.

ERWIN B. HOCK,
Commissioner.

10. DISCIPLINARY PROCEEDINGS - PERMITTING FEMALE IMPERSONATORS ON LICENSED PREMISES - STRIP TEASE DANCE - UNQUALIFIED EMPLOYEES - PERMITTING PREMISES TO BE CONDUCTED AS A NUISANCE - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the matter of Disciplinary Proceedings against

JOHN SANSONE & WILLIAM PALMIERI, t/a Club Harmony, 533 Division Avenue, Carlstadt, New Jersey,

CONCLUSIONS AND

Holder's of Plenary Retail Consumption License C-15, issued by the Mayor and Council of the Borough of Carlstadt.

ORDER.

William J. Hanley, Esq., Attorney for Defendant-licensees. Edward F. Ambrose, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licenseses plead nonvult to charges alleging that:

- "1. On Friday night, September 26, 1947, and early Saturday morning, September 27, 1947, and on divers days prior thereto, you allowed, permitted and suffered known female impersonators in and upon the licensed premises; in violation of Rule 4 of State Regulations No. 20.
"2. On the occasions aforesaid, you allowed, permitted and suffered lewdness and immoral activities in and upon your licensed premises in that the aforementioned female impersonators performed as entertainers in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulations No. 20.
"3. On the occasions aforesaid, you knowingly employed as entertainers on your licensed premises William ---, Robert --- (alias Rodney ---), David --- (alias Dixie ---) and Sidney ---, non-residents of New Jersey who had not obtained requisite employment permits from the Commissioner of Alcoholic Beverage Control; in violation of Rule 4 of State Regulations No. 13.
"4. On the occasions aforesaid, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered all the foregoing violations to occur, and conducted the licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulations No. 20."

The file in the instant case disclosed that A.B.C. agents visited defendants' licensed premises on September 26, 1947. Five male performers, speaking in high-pitched voices, attired in feminine dress and wigs, and having feminine facial make-up, danced and sang. The dances consisted of suggestive movements of their bodies, too lewd to describe in detail, and, in one instance, a performer did a so-called "strip-tease" removing

all of the feminine clothing with the exception of a small G-string. The performers sang parodies of popular songs with suggestive meanings and at times used vile and indecent language.

The defendants admitted that all of the five performers were female impersonators and one of the defendants stated that he believed three were perverts. In an attempt to assert mitigating circumstances, the defendants stated that they were ignorant of the fact that either female impersonators or performances such as indicated above are prohibited on licensed premises in New Jersey because they had seen similar performances in licensed establishments in another State. If it were not that the defendants had an otherwise clear record I might well revoke the license outright.

Under the circumstances I shall suspend the license for the balance of its term. In view of the serious nature of the circumstances surrounding the charges in this case it is only proper to call to the attention of the issuing authority that improper conduct during a preceding licensing year may be considered by such issuing authority before reaching its decision on an application for renewal. In a goodly number of cases it has been held that improper conduct by a licensee during a preceding licensing term warrants the denial of renewal. Re Bellucci, Bulletin 248, Item 3; Re Zicherman, Bulletin 647, Item 5; Re Zicherman v. Driscoll, 133 N.J.L. 586.

Accordingly, it is, on this 17th day of February, 1948,

ORDERED that Plenary Retail Consumption License C-15 for the 1947-48 fiscal year, issued by the Mayor and Council of the Borough of Carlstadt to Joan Sansone & William Palmieri, t/a Club Harmony, for premises 533 Division Avenue, Carlstadt, be and the same is hereby suspended for the balance of its term, effective at 3 A.M., February 25, 1948.

ERWIN B. HOCK,  
Commissioner.

11. STATE LICENSES - NEW APPLICATIONS FILED:

Nagle Bros.  
2814-2816 Jeanette St.  
Union City, N. J.  
Application for Limited Wholesale License filed  
February 16, 1948.

Trentini's Winery  
635 Jackson St.  
Camden, N. J.  
Application for Plenary Winery License with retail  
privileges, filed February 17, 1948.

Napa Valley Grape Products, Inc.  
335-339 Jackson Ave.  
New York, N. Y.  
Application for Wine Wholesale License filed February 17, 1948

ERWIN B. HOCK,  
Commissioner.

12. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION - AIDING AND ABETTING NON-LICENSEES TO EXERCISE RIGHTS AND PRIVILEGES OF LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO APPLY TO LIFT SUSPENSION AFTER 30 DAYS, IF ILLEGAL SITUATION CORRECTED.

In the Matter of Disciplinary Proceedings against

CLEMENTINE MOLES RICHARDSON, t/a Richardson's Hotel, 217-13-21 Jackson Street, Cape May City, N. J.,

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-10, issued by the Board of Commissioners of the City of Cape May City.

ORDER

T. Millet Hand, Esq., Attorney for Defendant-licensee. William F. Wood, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant, Clementine Moles Richardson, pleaded non vult to charges alleging that (1) in her application dated May 28, 1947, she falsely concealed the fact that Thomas Moles and Oliver Lisby were the real owners of the licensed business, in violation of R.S. 33:1-25; (2) in said application she falsely concealed the fact that Thomas Moles and Oliver Lisby retained all the profits derived from the licensed business, in violation of R.S. 33:1-25; and (3) from July 1, 1941 until April 1, 1944, she knowingly aided and abetted Thomas Moles, and from April 1, 1944 until the present time she knowingly aided and abetted Thomas Moles and Oliver Lisby to exercise, contrary to R.S. 33:1-26 the rights and privileges of her successive plenary retail consumption licenses, in violation of R.S. 33:1-52.

The investigation in the instant case discloses that Harry Richardson, husband of defendant, held the liquor license for the premises in question until his death in 1941. Thomas Moles, brother of defendant, managed the business for Harry Richardson until the date of Harry Richardson's decease. Eventually, the license was transferred to defendant. Although defendant has held the license since 1941, her brother, Thomas Moles, operated the business for his sole benefit until April 1, 1944, at which time he formed a partnership for the operation of said business with one Oliver Lisby. This partnership arrangement continued until October 31, 1947, when, apparently, Lisby withdrew from the partnership.

Defendant is a resident of Philadelphia, Pennsylvania, and is therefore disqualified from holding a liquor license in this State. R.S. 33:1-25.

No correction of the illegal situation has been made to date. Therefore, I shall suspend defendant's license for the balance of its term. It has been represented that negotiations are presently under way to correct the illegal situation by transfer of the license to a qualified person. If and when the unlawful situation is actually corrected, I shall entertain a petition to lift the suspension and restore the license. However, the suspension will not be lifted in any event until at least thirty

days after the effective date of the suspension herein imposed have elapsed. Re Fricke, Bulletin 737, Item 6.

Accordingly, it is, on this 17th day of February, 1948,

ORDERED that Plenary Retail Consumption License C-10, issued by the Board of Commissioners of the City of Cape May City to Clementine Moles Richardson, t/a Richardson's Hotel, for premises 217-19-21 Jackson Street, Cape May City, be and the same is hereby suspended for the balance of its term, effective at 1 A.M., March 1, 1948; and it is further

ORDERED that, in the event the unlawful situation is properly corrected, an application by petition may be made to the Commissioner of the Department of Alcoholic Beverage Control for the lifting of said suspension, in accordance with the terms aforesaid.

ERWIN B. HOCK,  
Commissioner.

13. DISCIPLINARY PROCEEDINGS - FRONT - FALSE STATEMENT IN APPLICATION - AIDING AND ABETTING NON-LICENSEE (ALIEN) TO EXERCISE RIGHTS AND PRIVILEGES OF LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary Proceedings against

Adele Prupis,  
t/a Prupis Food & Liquor Market,  
1903-5 Morris Avenue,  
Union, New Jersey,

Holder of Plenary Retail Distribution License D-5, issued by the Township Committee of the Township of Union, and transferred during the pendency of these proceedings to

Adele Prupis & Jack Prupis,  
t/a Prupis Food & Liquor Store,

for the same premises.

CONCLUSIONS

AND

ORDER

-----  
Samuel Poleshuck, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to charges as follows:

- "1. In your application filed with the Township Committee of the Township of Union, and upon which you obtained your current plenary retail distribution license, you falsely stated 'No' in answer to Question 30, which asks: 'Has any individual --- other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?', whereas in truth and fact, Jack Prupis was so interested as a real and beneficial owner; in violation of R.S. 33:1-25.
- "2. From March 13, 1945 and until the present time, you knowingly aided and abetted Jack Prupis, a person ineligible for license by reason of non-citizenship until December 9, 1946, to exercise, contrary to R.S. 33:1-26, the rights and privileges of your successive plenary retail distribution licenses; in violation of

Jack and Adele Prupis are husband and wife. The business is admittedly a joint venture of this family entity and is owned and operated by them for their joint benefit.

When the "front" was created in March 1945, Jack Prupis was ineligible to hold a license because he was not a citizen of the United States, but a native of Russia. R.S. 33:1-25. Prior to the investigation in this case, however, he became a citizen of the United States on or about December 9, 1946. Nevertheless, the illegal "front" situation was continued. On February 10, 1948, after the service of charges in this matter, the license was duly transferred by the local issuing authority, subject to the outcome of these proceedings, to the partnership of Jack Prupis and Adele Prupis. I shall accept this as a correction of the illegal situation.

The minimum suspension for "fronts" motivated by reason of citizenship is forty-five days. Cf. Re Mentine, Bulletin 774, Item 6. Under the circumstances, I shall suspend the license for forty-five days.

Accordingly, it is, on this 18th day of February, 1948,

ORDERED that plenary retail distribution license D-5, issued by the Township Committee of the Township of Union to Adele Prupis, t/a Prupis Food & Liquor Market, for premises 1903-5 Morris Avenue, Union, and transferred during the pendency of these proceedings to Adele Prupis & Jack Prupis, t/a Prupis Food & Liquor Store, for the same premises, be and the same is hereby suspended for forty-five (45) days, commencing at 9 a.m. February 23, 1948, and terminating at 3 a.m. April 8, 1948.

ERWIN B. HOCK,  
Commissioner.

14. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE RIGHTS AND PRIVILEGES OF LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO APPLY TO LIFT SUSPENSION AFTER 90 DAYS, IF ILLEGAL SITUATION CORRECTED.

In the Matter of Disciplinary Proceedings against )

MARY MASCIO,  
t/a Mary's Grill,  
122 Railroad Avenue,  
Hammonton, New Jersey, )

) CONCLUSIONS

) AND

) ORDER

Holder of Plenary Retail Consumption License C-21, issued by the Town Council of the Town of Hammonton. )

-----  
Leon Leonard, Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult to charges alleging that:

- "1. In your application dated June 18, 1947, filed with the Town Council of the Town of Hammonton, upon which you obtained your current plenary retail consumption license, you falsely stated 'No' in answer to Question 30, which asks: 'Has any individual ---, other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?'; whereas in truth and fact Albert Mascio had such an interest in that he was co-owner with you of the said business; said false statement being in violation of R.S. 33:1-25.

"2. From August 15, 1944 until the present time, you knowingly aided and abetted Albert Mascio to exercise, contrary to R.S. 33:1-26, the rights and privileges of your successive plenary retail consumption licenses; thereby yourself violating R.S. 33:1-52."

The licensed business operated by virtue of the license granted Mary Mascio herein is admittedly the joint business of Mary and her husband, Albert Mascio. It was purchased by their joint money and is operated for their joint profit.

This "front" situation was caused, it is alleged, by the desire of the parties to hide the husband's interest in the business from his judgment creditors. However, in addition to this reason a more compelling reason seems to exist. In 1930 he, then more than 18 years of age, pleaded non vult to a crime which involved moral turpitude and, hence, is disqualified from holding a license in New Jersey. R.S. 33:1-25.

This illegal situation cannot continue. I must therefore suspend the license for the balance of its term. I shall, however, permit the business to be sold and the license transferred to a duly qualified person and such transferee may petition me for a reinstatement of the license providing, however, that the suspension imposed herein shall continue for ninety days. Cf. Clinton Cut Rate Drugs, Inc., Bulletin 538, Item 3.

Accordingly, it is, on this 18th day of February, 1948,

ORDERED that Plenary Retail Consumption License C-21, heretofore issued by the Town Council of the Town of Hammonton to Mary Mascio, t/a Mary's Grill, for premises 122 Railroad Avenue, Hammonton, be and the same is hereby suspended for the balance of its term, effective February 24, 1948; and it is further

ORDERED that if and when the license is transferred, subject to this suspension, by the local issuing authority, application may be made to me by the transferee to vacate the suspension herein imposed; provided, however, that in no event will the suspension be lifted until at least ninety (90) days have elapsed from the effective date of the suspension herein imposed.

ERWIN B. HOCK,  
Commissioner.

15: AUTOMATIC SUSPENSION - R.S. 33:1-31.1 - SALE OF ALCOHOLIC BEVERAGES TO MINORS - LICENSE PREVIOUSLY SUSPENDED FOR 10 DAYS BY LOCAL ISSUING AUTHORITY ON SAME FACTS - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by )  
Nicholas Protomastro, ) On Petition  
15<sup>th</sup> First Street, )  
Hoboken, New Jersey, ) O R D E R

To Lift the Automatic Suspension of )  
Plenary Retail Consumption License C-157, )  
issued by the Board of Commissioners of )  
the City of Hoboken. )

-----  
Charles DeFazio, Jr., Esq., Attorney for Petitioner.

BY THE COMMISSIONER:

It appears from petition filed herein that on January 30, 1948, Nicholas Protomastro was fined the sum of \$100. and costs in the Hudson County Court of Quarter Sessions after he had pleaded non vult to charges of selling alcoholic beverages to minors. On February 18, 1948, agents of the Department of

Alcoholic Beverage Control picked up the license held by petitioner and no business has been conducted under the license since that time.

It further appears from the records of the Department of Alcoholic Beverage Control that the Board of Commissioners of the City of Hoboken suspended the license held by petitioner for a period of ten days, effective from November 18, 1946, to November 28, 1946, after he had been found guilty in a disciplinary proceeding of charges alleging that he had sold alcoholic beverages to two minors, in violation of R.S. 33:1-77 and Rule 1 of State Regulations No. 20. These disciplinary proceedings were instituted by the local issuing authority on its own initiative.

The indictment in the criminal proceedings and the charges in the disciplinary proceedings were based upon the same facts. The conviction in the criminal proceedings has resulted in an automatic suspension of petitioner's license for the balance of its term. R.S. 33:1-31.1. The petition herein prays that the automatic suspension of the license may be lifted.

Under all the circumstances, the penalty heretofore imposed by the Board of Commissioners of the City of Hoboken would appear to be adequate. Hence, the relief sought in the petition will be granted.

Accordingly, it is, on this 18th day of February, 1948,

ORDERED that the automatic suspension of License C-157, held by Nicholas Protomastro for premises at 159 First Street, Hoboken, be and the same is hereby lifted and said license is hereby restored to full force and operation, effective immediately.

*Ernie B. Hoek*  
COMMISSIONER.