

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

BULLETIN 579

AUGUST 10, 1943.

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

BULLETIN 579

AUGUST 10, 1943.

1. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - DISCREPANCY IN PROOF,
SOLIDS AND ACIDS - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary)
Proceedings against)

JOHN KOSIK & JOHN BIENKO)
180 Wilson Avenue)
Newark, 5, N. J.,)

CONCLUSIONS
AND ORDER

-----)
Holders of Plenary Retail Consump-)
tion License C-640 for the fiscal)
year 1942-43, and now holder of)
Plenary Retail Consumption License)
C-640 for the current (1943-44) year,)
both issued by the Municipal Board)
of Alcoholic Beverage Control of the)
City of Newark.)
-----)

Anthony P. Bianco, Esq., Attorney for Defendant-Licensee.
Harry Castelbaum, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendants pleaded nolo contendere to a charge alleging, in substance, that they possessed an illicit alcoholic beverage, in violation of R. S. 33:1-50.

An investigator for the Department of Alcoholic Beverage Control visited the licensed premises on June 4, 1943 for the purpose of making a routine inspection. He observed a bartender (later identified as the defendant John Bienko, father-in-law of the defendant John Kosik) standing behind the bar. The investigator went behind the bar and seized a 4/5th quart bottle containing about eight ounces of whiskey labeled "Carstairs White Seal Blended Whiskey 86.8 Proof" which he found beneath the carpet on the floor under the bar. An analysis by the Department chemist shows that the contents of the seized bottle were 2.8 points under proof and that the acids and solids were, respectively, 52.8 and 1082.4, whereas the acids and solids in genuine whiskey of this brand range, respectively, from 28 to 36 in acids and 145 to 225 in solids.

At the hearing the defendant, John Bienko, testified in mitigation of the violation that, when he opened the tavern on the morning in question, a pint bottle of Wilson whiskey and the seized Carstairs' bottle were on the bar. Each bottle contained about one drink of whiskey. He poured the Wilson whiskey into the seized bottle and placed it on the floor beneath the bar for the purpose of keeping it for his personal consumption at luncheon. He denied that he attempted to conceal the seized bottle from the investigator or that its contents were ever intended for sale to patrons. Be that as it may, the undisputed fact is that illicit liquor was discovered on the licensed premises.

In the absence of prior record or aggravating circumstances, I shall impose the minimum penalty of a ten-day suspension. See Re Laengle, Bulletin 576, Item 11.

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

ORDERED, that Plenary Retail Consumption License C-640, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark for the current fiscal year to John Kosik and John Bienko, for premises 180 Wilson Avenue, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2:00 A. M. August 3, 1943, and terminating at 2:00 A.M. August 13, 1943.

ALFRED E. DRISCOLL
Commissioner.

2. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO PERSON ACTUALLY OR APPARENTLY INTOXICATED, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 20 - PERMITTING DISTURBANCE ON LICENSED PREMISES, IN VIOLATION OF RULE 5 OF STATE REGULATIONS NO. 20 - 30 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against

JOHN DZIEDZIC
671-3 Ferry Avenue
Camden, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-170 for fiscal year 1942-43, and now holder of Plenary Retail Consumption License C-208, both issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

Edward V. Martino, Esq., Attorney for Defendant-Licensee.
Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded not guilty to the following charges:

"1. On the night of March 6, 1943, and on March 7, 1943, during the early morning, you sold, served and delivered, and allowed, permitted and suffered the service and delivery of alcoholic beverages to Stephen (Steven) Daniluk and Bruno Brozowski, persons who were actually and apparently intoxicated, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons on the licensed premises, in violation of Rule 1 of State Regulations No. 20.

"2. On March 7, 1943, at about 1:30 A. M., you allowed, permitted and suffered a disturbance in and upon the licensed premises, in violation of Rule 5 of State Regulations No. 20."

At the time the alleged violations occurred, Wanda Dziejdzic, daughter of the licensee, was in charge of the licensed premises.

It appears from the testimony that Stephen Daniluk entered defendant's premises at about 11:30 P.M. on the evening of March 6, 1943. He testified that, between that time and 2:00 A.M. on the following morning, he consumed almost a quart of liquor and stated that, when

Wanda served him his last drink, he was "pretty well drunk." Bruno Brozowski had entered the licensed premises about an hour before Stephen arrived. Three witnesses testified that later on this same evening Bruno had rested his head on the bar and staggered as he left the bar, and that he was intoxicated when Wanda served him a couple of glasses of beer. At the hearing Bruno testified that he was not intoxicated when served, and that his appearance was due to a heart condition from which he has suffered for some time. It appears, however, that, on March 9, 1943, Bruno admitted to an ABC investigator that he had been drinking for three or four days prior to March 6th and that he was intoxicated when served by Wanda on the latter date. Defendant produced three police officers of the City of Camden who testified that in their opinion neither Daniluk nor Brozowski was intoxicated when they were arrested shortly after 2:00 A. M. on March 7, 1943. This, of course, was some time after the drinks had been served. Wanda admits serving beer to both of these men, but states that in her opinion they were sober at the time service was made. I am satisfied from all the evidence that she served alcoholic beverages to both of these men while they were intoxicated. Hence, I find defendant guilty as to the first charge.

At about 1:30 A. M. on the morning of March 7, 1943, Daniluk became involved in a verbal argument with a colored patron. After this had continued for about five minutes, Daniluk attacked the colored patron, who attempted to defend himself by picking up a stool. This fight apparently continued for about five minutes. Within a few minutes thereafter, two shots were fired by a patron in the licensed premises, one of which shots struck Cecil Henderson in the leg. Wanda did not call the police. She did not attempt to stop the fight because, as she said, she "was scared." A licensee must assume full responsibility where his employees fail to take appropriate action to prevent the occurrence of a brawl or disturbance upon the licensed premises. I am satisfied from the evidence that the agent of the licensee allowed, permitted and suffered a disturbance upon the licensed premises. Hence I find defendant guilty as to charge (2).

As to penalty: I shall suspend defendant's license for a period of twenty days as to the first charge, and for an additional period of ten days as to the second charge, making a total suspension of thirty days.

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

ORDERED, that Plenary Retail Consumption License C-208, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to John Dziedzic, for premises 671-3 Ferry Avenue, Camden, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2:00 A.M. August 3, 1943, and terminating at 2:00 A.M. September 2, 1943.

ALFRED E. DRISCOLL
Commissioner.

3. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACT - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - ILLEGAL SITUATION CORRECTED - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)
)
 GERTRUDE FREEMAN)
 351 Prospect Street)
 Perth Amboy, N. J.,)
)
 Holder of Plenary Retail Consumption License C-13 for the fiscal years 1942-43 and 1943-44, both issued by the Board of Commissioner of the City of Perth Amboy, and transferred during the pendency of these proceedings to)
)
 MAX GUTT,)
 for the same premises.)

CONCLUSIONS AND ORDER

 David T. Wilentz, Esq., by Harold N. Gast, Esq., Attorney for Defendant-Licensee.
 Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult, with an explanation, to charges which allege in substance that, in her application filed for the fiscal year 1942-43, she suppressed the material fact that Max Gutt was the real and beneficial owner of the license and business, said suppression being in violation of R. S. 33:1-25; and also that, from July 1, 1934 until June 1, 1943, she knowingly aided and abetted Max Gutt to exercise the rights and privileges of her successive licenses, in violation of R. S. 33:1-52.

On July 1, 1934 a plenary retail consumption license for the premises in question was issued to the defendant. At the beginning of each fiscal year thereafter, to and including the year beginning July 1, 1942, she renewed the license in her own name. The departmental files disclose that at all times Max Gutt, father of the defendant, was the real and beneficial owner of the licensed business.

On July 1, 1943, after the institution of these proceedings, the local issuing authority granted a simultaneous renewal of the license for the present fiscal year to Gertrude Freeman and a transfer of said license to Max Gutt. It appears, therefore, that the unlawful situation has been corrected.

As to penalty: The files disclose that this family "front" was created because Max Gutt desired to engage in the liquor business but was fearful of operating a tavern under his own name because of certain judgments standing against him. The unlawful situation was continued by his daughter for nine years to protect her father from his judgment creditors.

On behalf of the defendant it is represented that neither she nor her father realized they were evading the law. However, in various license applications, the defendant falsely denied under oath that

any individual other than herself had any interest in the licenses or the business to be conducted thereunder. All questions in applications must be answered frankly and honestly. Moreover, on June 1, 1942, in Bulletin 512, Item 9, I warned that in all disciplinary proceedings involving "fronts", created or continued after July 1, 1942, the penalties would be increased. Hence, despite the fact that this "front" case involves a family relationship, I shall suspend the license for ten days. Re Fiorello, Bulletin 577, Item 9. The penalty shall apply to the license issued for the current fiscal year. Regulations No. 15, Rule 3.

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

ORDERED, that Plenary Retail Consumption License C-13, issued by the Board of Commissioners of the City of Perth Amboy to Gertrude Freeman, for premises 351 Prospect Street, Perth Amboy, and transferred to Max Gutt, for the same premises, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 A. M. August 3, 1943, and terminating at 2:00 A.M. August 13, 1943.

ALFRED E. DRISCOLL
Commissioner.

4. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - DISCREPANCY IN PROOF AND COLORING MATTER - PREVIOUS RECORD - 15 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)
MRS. DOMICELE STANULIS)
33 Paterson Street)
Newark, N. J.,)
Holder of Plenary Retail Consumption License C-358 for fiscal year 1942-43 and now holder of Plenary Retail Consumption License C-358 for the present fiscal year, both issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)
-----)

CONCLUSIONS
AND ORDER

Leon J. Lavigne, Esq., Attorney for Defendant-Licensee.
Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult, with an explanation, to the following charge:

"On or about May 27, 1943 you possessed illicit alcoholic beverages at your licensed premises, viz., a quart bottle labeled 'Old Drum Brand Blended Whiskey 85 Proof' and a quart bottle labeled 'Green River Blended Whiskey 85 Proof', which bottles contained alcoholic beverages which were not genuine as labeled; such possession being in violation of R. S. 33:1-50."

On May 27, 1943 an ABC investigator tested fourteen opened bottles and seized the two bottles mentioned in the charge. Subsequent analysis by the Departmental chemist disclosed that each of the seized bottles contained a natural colored whiskey instead of a blended whiskey.

Defendant testified that she had refilled both of the seized bottles with other whiskey and had placed the bottles in a closet in her apartment which is located above the licensed premises. She says that she intended to mix this whiskey with herbs for her own use and that her brother removed the bottles to the licensed premises without her knowledge. Defendant's brother testified that he took the bottles from the closet and brought them to the licensed premises when a customer requested service of "Old Drum." The licensee is strictly responsible for any "refills" found in her stock of liquor. Re Kurian, Bulletin 517, Item 2.

Defendant has a prior record. In November 1942 her license was suspended for three days by the local issuing authorities for selling during prohibited hours. Because of her prior record, I shall suspend her license in this proceeding for a period of fifteen days.

Accordingly, it is, on this 2nd day of August, 1943,

ORDERED, that Plenary Retail Consumption License C-358, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Mrs. Domicela Stanulis, for premises 33 Paterson Street, Newark, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 A.M. August 5, 1943, and terminating at 2:00 A.M. August 20, 1943.

ALFRED E. DRISCOLL
Commissioner.

- 5. DISCIPLINARY PROCEEDINGS - ALLOWING PERSONS OF ILL REPUTE ON THE LICENSED PREMISES, IN VIOLATION OF RULE 5 OF STATE REGULATIONS NO. 20 - VIOLATION OF LOCAL CLOSING ORDINANCE - EMPLOYING A MINOR IN VIOLATION OF R. S. 33:1-26 - 50 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
ETHEL HORVATH
62-4-6 Sitgreaves Street
Phillipsburg, N. J.,
Holder of Plenary Retail Consumption License C-86 for the fiscal year 1942-43, issued by the Board of Commissioners of the Town of Phillipsburg, with Plenary Retail Consumption License C-146 for the same premises for the present fiscal year having been issued during the pendency of these proceedings to
JOSEPH MILLER
-----)

CONCLUSIONS
AND ORDER

Andrew Varga, Jr., Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult to charges alleging, in substance, that she (1) allowed known persons of ill repute on the licensed premises, in violation of Rule 5 of State Regulations No. 20; (2) allowed

persons other than employees on the licensed premises after 2:00 A.M., in violation of a local ordinance; and (3) knowingly employed a minor, in violation of R. S. 33:1-26 and Rule 1 of State Regulations No. 11.

The plea of non vult is accepted as fully equivalent to a plea of guilty.

Defendant has failed to apply for a renewal of her license for the present fiscal year. On July 9, 1943 Plenary Retail Consumption License C-146 was issued to Joseph Miller for the same premises by the local issuing authority upon the special condition that it is subject to any penalty which may be imposed against the defendant Ethel Horvath in these proceedings. In view of this condition, the penalty imposed herein will be against the current license for the premises.

As this was defendant's first adjudicated offense, I shall take this fact into consideration in fixing a penalty.

As to charge (1): The Departmental files disclose that two women of ill repute were allowed to frequent the tavern. There is no evidence that defendant permitted any immoral activities upon her licensed premises. However, the reprehensible conduct of the defendant in allowing these women to frequent her premises warrants a severe penalty. I shall suspend the operation of the current license for a period of thirty days on this charge. Cf. Re Silidker, Bulletin 352, Item 9.

As to charge (2): It appears that three women, including the above mentioned women of ill repute, were permitted to remain in the licensed premises for more than an hour after the closing time fixed by a local ordinance. I shall impose the minimum penalty and suspend the operation of the current license for a period of fifteen days on this charge. See Re Morgan, Bulletin 542, Item 10.

As to charge (3): It also appears that on at least two occasions a twenty year old girl who frequented the tavern was employed by the defendant as a waitress and served alcoholic beverages to patrons without having first obtained an employment permit. I shall impose the minimum penalty and suspend the operation of the current license for a period of five days on this charge. See Re Feldman, Bulletin 498, Item 5.

I shall remit five days for the plea from the total suspension of fifty days, making a net suspension of forty-five days.

Accordingly, it is, on this 2nd day of August, 1943,

ORDERED, that Plenary Retail Consumption License C-146, heretofore issued by the Board of Commissioners of the Town of Phillipsburg for the current fiscal year to Joseph Miller for premises 62-4-6 Sitgreaves Street, Phillipsburg, be and the same is hereby suspended for a period of forty-five (45) days, commencing at 7:00 A.M. August 9, 1943, and terminating at 7:00 A. M. September 23, 1943.

ALFRED E. DRISCOLL
Commissioner.

6. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN LICENSE APPLICATION
CONCEALING MATERIAL FACT - PREVIOUS RECORD - 15 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)
)
 JOE'S WINES & LIQUORS INC.)
 4 West Broadway)
 Paterson, N. J.,)
)
 Holder of Plenary Retail Distribution License D-51 for the fiscal year 1942-43 and now holder of Plenary Retail Distribution License D-51 for the current (1943-44) year, both issued by the Municipal Board of Alcoholic Beverage Control of the City of Paterson.)
 -----)

CONCLUSIONS AND ORDER

Harold Simandl, Esq., Attorney for Defendant-Licensee.
 Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant, a corporate licensee, pleaded non vult to a charge alleging, in substance, that it falsely stated in its license application for the fiscal year 1942-43 that Herbert Brooks held 148 of the corporation's 150 shares of stock when in truth David Thaler was the holder of said 148 shares, such false statement being in violation of R. S. 33:1-25.

The fraudulent application was executed because David Thaler was then disqualified by lack of five years' residence in this State to hold more than 10% of the defendant's stock. On March 27, 1943 the law was amended so as to eliminate the requirement for five years' residence and to require instead that such a stockholder be a bona fide resident of this State and that he thereafter continue such residence. (P. L. 1943, c. 46). On May 25, 1943 defendant executed its application for the current fiscal year, which listed David Thaler as the holder of 148 shares of stock. It appears that David Thaler has been a bona fide resident of this State for more than one year last past and is fully qualified to hold any amount of stock in defendant corporation. Hence it appears that the unlawful situation has been corrected. In mitigation, it is represented that the defendant acted on the advice of a lawyer.

If this were defendant's first offense I would, in view of the plea, the correction and the changed residence requirement, impose a ten day suspension, which is the usual penalty in this type of case. (Re Beekman Wines & Liquors Inc., Bulletin 572, Item 8.) However, I note that on March 3, 1941, defendant's license was suspended for five days as the result of a Fair Trade violation. I shall, therefore, suspend the license for a period of fifteen days.

Accordingly, it is, on this 2nd day of August, 1943,

ORDERED, that Plenary Retail Distribution License D-51, issued by the Municipal Board of Alcoholic Beverage Control of the City of Paterson for the current fiscal year to Joe's Wines & Liquors Inc., for premises 4 West Broadway, Paterson, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 A.M. August 5, 1943, and terminating at 3:00 A.M. August 20, 1943.

ALFRED E. DRISCOLL
 Commissioner.

7. DISCIPLINARY PROCEEDINGS - CHARGE OF SELLING ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20, DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.

In the Matter of Disciplinary Proceedings against)

JAMES KANE)
T/a WASHINGTON HOUSE)
246 Neilson Street)
New Brunswick, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-32 for fiscal year 1942-43 and now holder of Plenary Retail Consumption License C-32 for the current (1943-44) year, both issued by the Board of Commissioners of the City of New Brunswick.)
-----)

George R. Morrison, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant-licensee pleads not guilty to the following charges:

"1. On or about February 14, 1943, you sold alcoholic beverages to Rose N--- and Sophie H---, minors, in violation of R. S. 33:1-77.

"2. On or about the date aforesaid, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Rose N--- and Sophie H---, persons under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon your licensed premises, in violation of Rule 1 of State Regulations No. 20.

"3. On or about the date aforesaid, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Rose N---, a person who was actually or apparently intoxicated, and allowed, permitted and suffered the consumption of alcoholic beverages by such person on the licensed premises, in violation of Rule 1 of State Regulations No. 20."

At the time of the alleged violation Rose N--- was twenty years and ten months of age and Sophie H--- was eighteen years and nine months of age.

At the hearing herein, Rose testified that on Sunday, February 14, 1943, she and Sophie, accompanied by a civilian and a soldier, entered defendant's premises; that a bartender, Ben Wengrzynek, served a glass of Calvert Whiskey and a glass of beer to each of the four members of the party and that, thereafter, the licensee himself served a second round of the same kind of drinks. Sophie testified that a glass of Calvert Whiskey and a glass of beer were served by the licensee himself to each of the four members of the party and that,

thereafter, a second round of the same kind of drinks was served to the other three members of the party by the bartender, Ben Wengrzynek. Both girls testified that they were neither intoxicated nor apparently intoxicated when the drinks were served. On April 1, 1943 both girls were brought to the licensed premises by a county prosecutor and ABC investigators. They then identified the licensee and the bartender as the persons who had previously served the drinks. There is no other corroboration of the girls' testimony.

On behalf of defendant, the licensee testified that he has known both girls by sight for a number of years, and that he knew they were minors. He said that on Sunday, February 14, 1943, at about 10:00 P.M., they entered his premises accompanied by a civilian and two soldiers; that Rose asked for a drink of Calvert Whiskey, which he refused to sell to her, and that he did not serve any alcoholic beverages to either of the girls. He testified that he served sandwiches to the girls and a glass of beer to the civilian and each of the soldiers during the half-hour period that they remained upon the premises.

The testimony of the licensee is corroborated by Frank J. Sisco, a patron, who states that he was on the licensed premises when the girls arrived and remained there after they had left. The bartender denied that he was on the licensed premises on the evening of Sunday, February 14, 1943. He testified that his wife died that evening in a hospital and that he was at the hospital shortly after her death. Investigation discloses that the records of the Middlesex General Hospital show that the bartender's wife died at about 8:50 P. M. on February 14, 1943, and that the bartender was at the hospital approximately one-half hour after her death.

In this case the question as to the guilt or innocence of defendant depends to a great extent upon the credence to be given to the girls' testimony. I am satisfied that the bartender was not present, and hence their testimony that he served drinks is not true. This affects the weight to be given their entire testimony. On the other hand, the licensee's story is corroborated by the patron. The licensee has been in business for approximately a year and a half and has a clear record. He knew that both girls were minors. I shall accept his sworn testimony as true. On the record presented, I find that the Department has not sustained the burden of proof as to any of the charges, and hence all charges will be dismissed.

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

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

ALFRED E. DRISCOLL
Commissioner.

8. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACT - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against)

JOHN PANKOVICS, JR.)
801 South Clinton Ave.)
Trenton, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-284, issued by the Board of Commissioners of the City of Trenton.)
-----)

Felcone & Felcone, Esqs., by Joseph J. Felcone, Esq.,
Attorneys for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant-licensee has pleaded non vult to charges summarized as follows: (1) falsifying his application for a license for 1942-43 in that he concealed the interest of one Stephen Bodolsky in the license applied for and in the business to be conducted thereunder; and (2) aiding and abetting said Stephen Bodolsky, a non-licensee, to exercise the rights and privileges of his license. The plea of non vult will be accepted as fully equivalent to a plea of guilty.

These proceedings were instituted against plenary retail consumption license C-284, issued to John Pankovics, Jr. for the fiscal period 1942-43, ending June 30, 1943. The license was not renewed and I am advised that it will not be so renewed. Expiration of the license, however, does not abate the proceedings herein. See State Regulations No. 15. Despite the expiration of the license, it will be revoked, thus imposing a mandatory disqualification against John Pankovics, Jr., disqualifying him for two years from holding or receiving another liquor license in this State. R. S. 33:1-31. Cf. Zabrycki, Bulletin 500, Item 4.

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

ORDERED, that Plenary Retail Consumption License C-284, issued to John Pankovics, Jr. by the Board of Commissioners of the City of Trenton for premises 801 South Clinton Ave., Trenton, for the fiscal year 1942-43, be and the same is hereby revoked.

ALFRED E. DRISCOLL
Commissioner.

9. ELIGIBILITY - FACTS EXAMINED - CONVICTION OF PETTY LARCENY AND GAMBLING FOUND NOT TO INVOLVE MORAL TURPITUDE - APPLICANT DECLARED NOT DISQUALIFIED BY SUCH CONVICTION - FALSE ANSWER IN APPLICATION FOR PERMIT - ISSUANCE OF PERMIT WITHHELD FOR 10 DAYS.

August 4, 1943

Re: Case No. 498.

Applicant, a native of the Dutch West Indies, seeks to have the Commissioner determine whether he is eligible to be employed by a person holding a liquor license in this state.

The record of applicant discloses that he pleaded guilty, on August 19, 1933, to the charge of petty larceny, and as a result of such plea was placed on probation for one year. The record also reveals that applicant was fined \$50.00, on October 31, 1941, on a plea of guilty of participating in a dice game. Also, the record of applicant shows that he was released on November 24, 1939 after serving a fraction of a two year sentence on the charge of vagrancy.

Applicant did not attempt to conceal the aforementioned offenses but explained rather fully the circumstances upon which the charges were based. The petty larceny conviction was predicated on the fact that applicant tampered with an automobile headlight. The gambling charge was brought when the police raided a "friendly dice game", as the applicant phrased it, soon after it got under way. As to the last charge, applicant testified that he was booked on a charge of vagrancy following his arrest by the police in Attleboro, Massachusetts. The Police Chief, he testified, stated to him that if he signed a slip of paper he would be released in a few days. He was sent to a farm at Bridgewater, Massachusetts in July 1939, and the following November 1939 he was released.

None of these offenses involve moral turpitude. That being the case, applicant is not disqualified by statute from being employed by a liquor licensee. However, in his application heretofore filed for an employment permit because of non-citizenship, he neglected to state he had run afoul of the law. There is no plausible excuse for answering the question pertaining to conviction of a crime in an untruthful manner.

Normally, applicant could obtain his employment permit immediately, but due to his denial under oath relative to criminal convictions in his application for said permit filed with this Department, I recommend that the issuance of the permit be withheld for ten (10) days from the date hereof. Re Case No. 478, Bulletin 554, Item 4.

Clarence E. Kremer
Attorney.

APPROVED:
ALFRED E. DRISCOLL
Commissioner.

10. ACTIVITY REPORT FOR JULY, 1943

To: Alfred E. Driscoll, Commissioner

<u>ARRESTS:</u>	Licensees and employees - - - - -	15	Bootleggers - - - - -	6
	Total number of persons arrested - - - - -			21
<u>SEIZURES:</u>	Still - 1 to 50 gallons daily capacity - - - - -			1
	50 gallons and more daily capacity - - - - -			0
	Total number of stills seized - - - - -			1
	Mash - gallons - - - - -			0
	Motor vehicles - Trucks - - - - -			0
	Passenger cars - - - - -			0
	Total number of motor vehicles seized - - - - -			0
	Beverage alcohol - gallons - - - - -			0
	Brewed malt alcoholic beverages (beer, ale, etc.) - gallons - - - - -			17.08
	Wine - gallons - - - - -			6.00
	Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons - - - - -			0

RETAIL LICENSEES:

Total number of premises inspected - - - - -	1,536
Total number of bottles gauged - - - - -	11,518
Total number of premises where violations were found - - - - -	86
Total number of violations found - - - - -	108
Type of violations found:	
Illicit (bootleg) liquor - 17 "Fronts" (concealed ownership) - - - - -	9
Gambling devices - - - - - 2 Improper beer tap markers - - - - -	5
Prohibited signs - - - - - 2 Stock disposal permits necessary - - - - -	24
Unqualified employees - - - - - 46 Other types of violations - - - - -	3

MILITARY AREA PATROL INSPECTIONS: - - - - - 545

STATE LICENSEES:

Premises inspected - - - - -	68
License applications investigated - - - - -	34

COMPLAINTS:

Investigated, reviewed and closed - - - - -	314
Investigation assigned, not yet completed - - - - -	380

LABORATORY:

Analyses made - - - - -	65
"Shake-up" cases (alcohol, water and artificial coloring) - - - - -	2
Liquor found to be not genuine as labeled - - - - -	8

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made - - - - -	19
Persons fingerprinted for non-criminal purposes - - - - -	1,179
Identification contacts with other enforcement agencies - - - - -	1,243
Motor vehicle identifications via N. J. State Police Teletype - - - - -	17

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -	18
Cases instituted at Department - - - - -	23

HEARINGS HELD AT DEPARTMENT:

Total number of hearings held - - - - -	48
Appeals - - - - - 15 Eligibility - - - - -	12
Disciplinary proceedings - - - - - 18 Seizures - - - - -	3

PERMITS ISSUED:

Total number of permits issued - - - - -	4,255
Unqualified employees - - - - -	1,503
Solicitors - - - - -	1,786
Social affairs - - - - -	140
Home manufacture of wine - - - - -	72
Disposal of alcoholic beverages - - - - -	113
Miscellaneous permits - - - - -	641

Respectfully submitted,
 Sydney B. White
 Chief Inspector.

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

DISQUALIFICATION - APPLICATION TO LIFT - FACTS EXAMINED - 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. 281.
-----)

BY THE COMMISSIONER:

In 1932 petitioner was convicted on the charge of larceny of an automobile, was committed to a reformatory, and released on parole June 19, 1933. In July 1934, while still on parole, he was convicted of larceny and robbery after he had held up the proprietor of a barber shop and taken a watch and about fifteen dollars from the cash register. He was sentenced to serve one to two years in prison. He was subsequently transferred to a reformatory and released on parole April 12, 1935.

The crimes in question, per se, involve the element of moral turpitude. See Re Case 192, Bulletin 495, Item 3, and Re Case 183, Bulletin 498, Item 7.

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 convictions of crimes involving moral turpitude.

Petitioner was born in 1912 in Italy and came to the United States in 1919 with his parents. In 1921 the family moved to New Jersey, where petitioner has since lived. He attended school until 1927, when he was charged with incorrigibility as a result of truancy and sent to the State Home for Boys. He was paroled in 1928 and worked as a delivery boy until about 1930, when he became a laborer in the building trade. After his release from the reformatory in 1935 he resumed his former work, and since 1936 has been employed as a labor foreman on various construction projects. He became a citizen of the United States through the naturalization of his father. Petitioner married in 1938 and is living with his wife. He represents that he desires to secure employment in a tavern as a recent injury to his back incapacitates him from following his former employment.

The business agent of petitioner's local trade union, who has known him for more than five years, testified that he is a competent workman who has a good reputation with his co-workers. A member of the Police Department of the municipality wherein petitioner resides, who has known him for twelve years, testified as to his good conduct and reputation for the last five years and that the Police Department has had no complaints against him during this time.

The report of the parole officer who had supervision of petitioner during his probation period discloses that petitioner has achieved a satisfactory adjustment, given every indication of becoming a useful citizen, and, with the attainment of maturity, has

become completely stabilized. The parole officer appeared as a character witness and confirmed this report. He also testified he has known petitioner since the conclusion of his probation period in 1939 and that petitioner has worked hard, married, established a good reputation and is over "sowing his wild oats." He believes that petitioner is qualified to become associated with the alcoholic beverage industry because of his maturity.

While petitioner's record as a young man is very unsavory, the evidence of his character witnesses, especially the testimony of the parole officer, is impressive. As petitioner appears to have mended his ways and has been law-abiding for more than eight years, I am going to accept the recommendation of the parole officer and give him the chance to secure employment in a tavern.

I therefore conclude that petitioner's association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 5th day of August, 1943,

ORDERED, that the petitioner's statutory disqualification because of the convictions 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.

12. DISCIPLINARY PROCEEDINGS - CHARGE OF SELLING ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20, DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.

In the Matter of Disciplinary Proceedings against
DUDE RANCH
607 Boardwalk
Atlantic City, N. J.,
Holder of Plenary Retail Consumption License C-21 issued by the Board of Commissioners of the City of Atlantic City.

CONCLUSIONS
AND ORDER

Allen Endicott, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded not guilty to charges alleging that, on March 20, 1943, it sold alcoholic beverages to, and permitted the consumption of alcoholic beverages in its licensed premises by, Private Henry ---, a minor, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20 and an ordinance of the City of Atlantic City dated August 11, 1938.

On the evening of March 20, 1943 six soldiers entered defendant's premises. All were over the age of twenty-one years except Private Henry ---, who was then nineteen years of age. The six soldiers took seats at a table near the dance floor. Shortly thereafter a seventh soldier, of full age, took a seat at the same table

and told the others that it was his birthday. Thereafter, one of the members of the party, who was of full age, ordered from a waitress six drinks of alcoholic beverages. Both the minor and the soldier who ordered the drinks testified that they believe that the seventh soldier was at the table when the drinks were ordered and served. It is difficult to determine from the testimony whether or not the seventh soldier was at the table when the drinks were ordered and served. There is some evidence that he had left the table before that time. In any event, the waitress placed six glasses containing alcoholic beverages on the table and received payment therefor from the soldier who had ordered the drinks. When our investigators approached the table shortly thereafter, the minor had one of the glasses in his hand. The minor denied that he consumed any of the contents of the glass. The only evidence to the contrary was given by the seventh soldier, who stated that the minor was "sipping or tasting his drink."

The testimony introduced on behalf of defendant shows that more than two hundred patrons were in the licensed premises on the evening in question. The waitress testified that seven soldiers were at the table when she took the order for six drinks and when she placed the six drinks on the table.

In view of the positive evidence by the minor that he did not consume any alcoholic beverages, and the possibility that seven soldiers, of whom six were of full age, were at the table when the waitress took the order and served the drinks, there is grave doubt as to the guilt of defendant. Defendant has been in business since September 1939 and has no prior adjudicated record. Under the circumstances, I shall resolve the doubt in favor of defendant and find it not guilty of the charges preferred herein. Although the evidence in this case is not sufficient to establish guilt, defendant and all other licensees must take every precaution necessary to prevent sales of alcoholic beverages to minors. The defendant is on notice. It should conduct itself accordingly.

Accordingly, it is, on this 5th day of August, 1943,

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

Alfred E. Griswold
Commissioner.