

BULLETIN 939

JUNE 25, 1952.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 939

JUNE 25, 1952.

1. DISCIPLINARY PROCEEDINGS - IMMORAL ACTIVITY (PROSTITUTION) -
LICENSE REVOKED.

In the Matter of Disciplinary
Proceedings against

BOND SERVICE CENTER, INC.
24 Prince Street
Paterson 1, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-120, issued by the
Board of Alcoholic Beverage
Control of the City of Paterson.

Peter J. Cammarano, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

Defendant pleaded not guilty to the following charge:

"On March 28 and 30, 1952 and April 2, 4 and 5, 1952, you
allowed, permitted and suffered lewdness and immoral activity
in and upon your licensed premises, viz., solicitation for
prostitution and maintenance of a place for the making of
arrangements for illicit sexual intercourse; in violation
of Rule 5 of State Regulations No. 20."

At the hearing an ABC agent testified that he and another agent
went to defendant's licensed premises on the night of Friday, March
28, 1952, at which time Jack Insinga, President and one of the prin-
cipal stockholders of defendant corporation, was tending bar; that
a young woman, later identified as Mary ---, "flirted" with the
agents at the bar and eventually offered to have sexual intercourse
with both agents on the following Sunday night; that during this
conversation Jack Insinga was behind the bar three or four feet away.

The agent testified that he and the other agent returned to the
licensed premises on Sunday night, March 30, 1952, at which time
Jack Insinga was tending bar; that the agents told Jack that Mary
had solicited them on Friday and that she was to charge them \$10.00
but that they had to break the date; that the agents then asked Jack
if "she was clean", to which he replied, "Well, I don't know. I've
never laid her but if she wasn't clean, I wouldn't allow her in the
tavern." Before the agents left, Mary entered the licensed premises
and made a date to meet them the following Wednesday night.

The agent testified that they returned to the licensed premises
on the night of Wednesday, April 2, 1952, and spoke to Samuel Capone,
who was tending bar; that they told the bartender that they had a
date with Mary "for a lay" in her room; that she had "solicited"
them the preceding Sunday night, and that she was charging \$10.00.
Shortly thereafter Mary entered the licensed premises and sat at
the bar with the agents. She told them that she would have to
"disappoint" them that night, but offered to take both agents to her
room for sexual intercourse the following Friday.

The agent testified that they again returned to the licensed
premises on the evening of Friday, April 4, 1952, taking with them
marked money (a five dollar bill and five one dollar bills); that
one of the agents told Jack, who was tending bar, that he and his

companion had a date with Mary "for a lay" and that, pursuant to arrangements made there on the preceding Wednesday, they were supposed to meet her at the bar; that subsequently they asked Samuel Capone if Mary was clean, to which he replied, "I never laid her but some of my best friends did", adding, "I wouldn't steer my friends wrong." The agent further testified that shortly after midnight he called Samuel over to the section of the bar where he was seated with Mary and the other agent, and asked Samuel to "toss a coin to see who would lay Mary first"; that Samuel thereupon tossed the coin. The agent who won the toss bought Samuel a cigar and left the licensed premises with Mary. The other agent followed shortly and, ultimately, other agents and local police officers apprehended Mary with the two agents in her room located in a nearby building. The marked money was found in Mary's purse. When Jack was taken to Police Headquarters, he was asked whether or not the agents had told him that Mary had solicited them at the licensed premises on a number of occasions. Jack replied that the reason he had not reprimanded Mary was "because he thought it was a joke".

It was stipulated that the second agent's testimony "on direct examination would be substantially the same as" that of the first agent "and that his answers on cross-examination, if asked the same questions, would be substantially the same".

Jack and Samuel testified on behalf of defendant. Philip Insinga, who is Secretary-Treasurer and one of the principal stockholders of defendant corporation, also testified but admitted that he was not present on any of the occasions referred to in the testimony of the agents.

Jack, although admitting that Mary had been frequenting the premises for a few months, denied that he knew that she was "soliciting". He denied any conversation with the agents as to whether Mary was "clean". He denied knowledge of any financial arrangements between Mary and the agents or of the nature of her activities with them, except that he knew they had a "date" with her. He admitted, however, that he had told the agents at Police Headquarters that their previous statements to him concerning solicitation by Mary on the licensed premises were considered by him as a "joke". I deem it highly significant that, while Jack claimed at Police Headquarters that he thought the whole thing was a "joke", at the hearing herein he denied that he knew anything of the arrangements between Mary and the agents.

Samuel admitted that he worked week-ends and Wednesdays on the licensed premises for two months and that he had seen Mary in the licensed premises "on and off", but denied any knowledge of her character or activities. He further denied any knowledge of conversations between Mary and the agents as to the price she would charge for sexual intercourse, and denied that the agents had told him of any arrangements with Mary for such intercourse. He admitted that he "flipped the coin" for the agents. He sought to explain this by saying, "I didn't know about flipping the coin, who was going to buy a drink or what", but admitted taking a cigar from the agent.

Thus it appears that, while the witnesses for the Division and those for the defendant are in substantial agreement on certain of the details, there is a sharp conflict on the principal issue, namely, knowledge on the part of Jack and Samuel as to the character and activities of Mary. I am convinced that both Samuel, the bartender, and Jack, one of the officers and principal stockholders of the licensee corporation, were fully aware of the nature of Mary's activities in the licensed premises, and that they not only took no steps to prevent them but also, to say the least, condoned them. Such conduct on their part is inexcusable and will not be tolerated.

I find defendant guilty as charged.

"Licensees must learn and remember that their liquor license is not a license to engage in activities detrimental to the public welfare." Re Paton, Bulletin 898, Item 3. The only proper penalty in this case is revocation of the license. Cf. Re Ewaski, Bulletin 937, Item 1; Re Schumacher, Bulletin 901, Item 5; Re Paton, *supra*; Re Pecorino, Bulletin 889, Item 4; Re Filippone, Bulletin 875, Item 6; Re Baldino and Panasiuk, Bulletin 871, Item 10.

Accordingly, it is, on this 9th day of June, 1952,

ORDERED that Plenary Retail Consumption License C-120, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Bond Service Center, Inc., for premises 24 Prince Street, Paterson, be and the same is hereby revoked, effective immediately.

EDWARD J. DORTON
Acting Director.

2. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING IMMORAL ACTIVITY
DISMISSED FOR LACK OF PROOF - SALE TO INTOXICATED PERSON -
PERMITTING OBSCENE LANGUAGE - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary)
Proceedings against)

ROBERT & HARRY MANSBACH)
25-27 Broadway)
Newark 4, N. J.,)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consump-)
tion License C-27, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark.)

Anthony P. Bianco, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

Defendants pleaded not guilty to the following charges:

"1. On February 21 and 23, 1952, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of arrangements for illicit sexual intercourse; in violation of Rule 5 of State Regulations No. 20.

"2. On February 23, 1952, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly to Arthur ---, a person actually or apparently intoxicated and allowed, permitted and suffered the consumption of such beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20.

"3. On February 23, 1952, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulations No. 20."

As to Charge 1: At the hearing an ABC agent testified that he and another agent visited defendants' premises on the morning of February 21, 1952, and again on the morning of February 23, 1952.

I have carefully considered the evidence as to conversation between Harry Mansbach and the agents on their first visit. It concerned some unidentified female whom the licensee said "can be had". Neither this female nor any other female was on the premises at that time. There is no evidence that any lewdness or immoral activity was permitted on February 21.

When the agents returned about 9:30 a.m. on February 23, they stationed themselves at the far end of the bar, approximately thirty-five feet from the entrance. Shortly thereafter Mae ---, who was not the female above referred to, entered and sat at the bar, near the entrance and about thirty feet from the agents. She spent nearly two hours, conversing and drinking with four male friends. There was nothing unusual in her conduct and there is no evidence as to her conversation. According to the agents, Harry Mansbach came to them and, referring to Mae, said, "There is one you can have if you're not too particular." This statement Harry Mansbach denies. He testified that the agents requested him to speak to Mae and to ask her if she would sit with them. At any rate, Harry went to the other end of the bar, spoke to Mae and returned to the agents, telling them in effect that Mae preferred to remain where she was. Nearly two hours later the agents went to the door with the intention of leaving. Apparently, Mae spoke to the agents and they returned and sat with her. Harry Mansbach served a drink and said to Mae, "These are the two fellows I was telling you about." Subsequently, after Harry Mansbach had gone down to the far end of the bar, the agents left with Mae and went with her to a room in a nearby house, where Mae was arrested by other agents and a member of the Newark Police Department. Marked money, which had been given to her by the first agent, was found in her possession.

There is no doubt that Mae solicited the agents in defendants' premises. However, there is a substantial doubt as to whether one of the licensees allowed, permitted or suffered such activity on the premises. There is nothing to show that Mae was a known prostitute or that Harry Mansbach heard any of the conversation between Mae and the agents. There is nothing to contradict his testimony that he merely asked her to sit with the agents and, if that be true, then his later remark that "These are the two fellows I was telling you about" would have an innocent meaning. This is a very serious charge. I conclude that the Division has not sustained the burden of proof as to Charge 1, and shall dismiss said charge.

As to Charges 2 and 3: The ABC agent testified that on February 23, 1952, a man came into the premises who "appeared to be intoxicated, his hair was disheveled, his eyes were bloodshot, he staggered and swayed as he walked to the bar, his clothes were disarranged"; that Harry Mansbach remarked, "Here comes the Saturday morning prize package, drunk and broke as usual"; that the man ordered a glass of beer and Harry Mansbach served him; that the man used foul and indecent language and, although he appeared intoxicated and was progressively becoming worse, Harry Mansbach served him with beer on "at least four, or five" occasions and made no attempt to quiet him; that the man became engaged in a loud argument with another man for a period of fifteen minutes, during the course of which he used filthy and offensive language and threatened to knock the patron down; that at this juncture Harry Mansbach said, "Now gentlemen"; that the man "staggered" over to a table, sat down on a chair adjoining same, "and fell into a drunken stupor"; that he remained at the table for approximately forty-five minutes, arose, came over to the bar, and was served another glass of beer by Harry Mansbach.

The man who was described by the ABC agents as intoxicated testified in behalf of the defendants. This witness admitted having four or five beers on the licensed premises on the morning in question, also that he argued with his brother "about certain personal

things". When asked whether he staggered from the effects of any alcoholic drinks, the witness answered, "Not to my recollection, but there is a possibility I might have had a little, but I don't remember being so." The witness testified further that he drank "more than I should have" on Friday evening so that he began to feel exhausted, which accounted for his action in resting his head on the table. Harry Mansbach testified that Arthur occasionally uses bad language but, in the witness' opinion, at the time in question "he was not drunk".

From the evidence I am satisfied that the violations have been established, despite the explanations made by defendants' witnesses with reference thereto. I find defendants guilty of Charges 2 and 3.

I am constrained to wonder if Harry Mansbach, one of the defendants, is a fit person to be entrusted with the privilege conferred by a liquor license. He will have to be more careful in the future if he desires to continue as a licensee. Considering the fact, however, that defendants have no prior adjudicated record, I shall suspend their license for a period of thirty days for the violations set forth in Charges 2 and 3. Re Silver Top, Bulletin 827, Item 8.

Accordingly, it is, on this 10th day of June, 1952,

ORDERED that Plenary Retail Consumption License C-27, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Robert & Harry Mansbach, for premises 25-27 Broadway, Newark, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. June 16, 1952; and it is further

ORDERED that, if any license be issued to these licensees or to any other person for the premises in question for the 1952-53 licensing year, such license shall be under suspension until 2:00 a.m. July 16, 1952.

EDWARD J. DORTON
Acting Director.

3. LICENSEES - SALE OR DISTRIBUTION OF LABELS CARICATURING ACTUAL LIQUOR LABELS DISAPPROVED.

June 18, 1952

Dear Sir:

You hold a plenary retail distribution license for your premises at the above address.

In addition to liquor, you apparently sell other merchandise at your store inasmuch as your municipality does not prohibit plenary retail distribution licensees from engaging in "other mercantile business" at their licensed premises. See the Alcoholic Beverage Law at R. S. 33:1-12(3)a.

In your letter of June 16th you ask whether there is any objection to your selling allegedly humorous labels caricaturing actual liquor labels of well-known brands, as illustrated by a folder enclosed in your letter. On purchase of these loose labels the patron may then, so the folder states, paste them "on empty bottles, bars, mirrors, lamp shades, etc."

These labels are described in the folder as "Likker Labels" and as "Hilariously Phoney Labels". One such label, for example, shows a dead crow lying on its back with feet upward, and reads as follows:

"OLD CROAK
KENTUCKY STRAIGHT
EMBALMING FLUID
100 Poof - Bobbled By
U. R. Stiff
POISONED CORN DISTRIBUTING CO.
Death Valley, Ky."

The other labels are in this same vein, and they all purport to be takeoffs on well-known alcoholic beverage brands.

We thoroughly disapprove of any liquor dealer indulging in the sale or distribution of any of these labels. Not only may these labels damage the reputation of various brands of alcoholic beverages by the caricature of actual liquor labels, but they represent an alleged type of "humor" in which the alcoholic beverage trade should have no part. It comes with peculiarly ill grace to see any member of the liquor industry selling or distributing items which hold up the industry or its products to damaging ridicule.

Don't do it.

Very truly yours,
Edward J. Dorton
Acting Director.

4. TRANSPORTATION LICENSE - NOT ISSUABLE WHERE TRANSPORTER PLANS TO PICK UP UNCONSIGNED ALCOHOLIC BEVERAGES AND STORE SAME ABOARD TRUCK AWAITING LATER ORDERS FOR DELIVERY.

PUBLIC WAREHOUSE LICENSE - NOT ISSUABLE FOR TRUCK OR VEHICLE OR OTHER PERAMBULATING WAREHOUSE.

June 13, 1952

Dear Sir:

You say that you would like to start a delivery service for local liquor stores. You plan to acquire a refrigerated truck and to install a one-way radio receiving set in it. Each day you would load aboard the truck a stock of liquor from each of the stores using your service. These stores, when receiving an order for delivery from a patron during the day, would then transmit it to you by telephoning to a central place where the order would be relayed to you via your radio. You would then immediately effect the delivery to the patron's home.

No one may engage in the business of transporting alcoholic beverages for hire in New Jersey without first obtaining a transportation license from this Division, fee \$200.00 per annum. To transport or make deliveries for hire without this license constitutes a criminal misdemeanor and also subjects the truck and its contents to seizure and forfeiture under the Alcoholic Beverage Law (R.S. 33:1-2, 50, 66).

The basic question in your case is whether a transportation license (R. S. 33:1-13) is issuable for the type of operation which you have in mind. I must herewith advise that such a license would be denied in this case. A transportation license may properly be issued only where the transporter is to pick up alcoholic beverages which are already consigned. It does not and should not contemplate a business where the transporter is to pick up unconsigned merchandise and store same, even temporarily, awaiting possible later orders of delivery. If this were permitted, it would open up dangerous enforcement problems and, in addition, it would also involve, in

your proposed case, a violation by the retail liquor establishments in that they would be storing ordinary stocks of alcoholic beverages at a place other than their licensed premises or a licensed public warehouse, contrary to Rule 25 of State Regulations No. 20. While it is true that a transportation license authorizes the holder to maintain a warehouse in connection with the transporter's business, this necessarily contemplates a warehouse for storage of consigned (and not unconsigned) alcoholic beverages in connection with the transporter's business.

Thought may perhaps arise as to whether the foregoing objection could be overcome by your obtaining not only a transportation license but also a public warehouse license, fee \$100.00 per annum, on theory that the unconsigned alcoholic beverages would be stored aboard the truck on behalf of the liquor stores pursuant to the public warehouse license, and that when orders for deliveries were received such deliveries would then be made under the transportation license. This possibility, however, meets the sound objection that we would not issue a public warehouse license for a truck or vehicle; the statute (R. S. 33:1-14), in authorizing issuance of this type of license, clearly contemplates, not a perambulating warehouse, but a building or similar premises.

In net, therefore, we must advise that your proposed plan of operation is not permissible. If you wish to restrict your operations to merely picking up from the liquor stores already consigned alcoholic beverages and effecting delivery of same in your truck, you may then apply for a transportation license. Application form will be furnished to you upon request.

Very truly yours,
Edward J. Dorton
Acting Director.

5. DISCIPLINARY PROCEEDINGS - PRIOR UNLAWFUL SITUATION CORRECTED - ORDER LIFTING SUSPENSION AND RESTORING LICENSE TO FULL FORCE AND EFFECT.

In the Matter of Disciplinary)
Proceedings against)

HAROLD and HELEN BLYMAN)
T/a WEE INN)
East Side of Highway 30)
Lebanon Township)
P.O. Glen Gardner R.D., N. J.,)

ON PETITION
O R D E R

Holders of Plenary Retail Consump-)
tion License C-7, issued by the)
Township Committee of the Township)
of Lebanon.)

- - - - -)
Hauck and Herrigel, Esqs., Attorneys for Petitioners.

On April 1, 1952, I suspended defendants' license for the balance of its term, effective at 2:00 a.m. April 7, 1952, after they had pleaded non vult to charges alleging in substance that they had "farmed out" their license. See Bulletin 932, Item 4. In said order it was provided that, when the unlawful condition was corrected, a petition might be filed for an order lifting the suspension after at least twenty-five days thereof had been served.

George Simon and Angelina Simon have filed a petition wherein they set forth that on June 6, 1952, the Township Committee of the Township of Lebanon transferred the license to George Simon subject

to the suspension now in effect. A certified copy of the resolution of the local issuing authority is attached to the petition. Petitioners request me to lift the suspension.

It appearing that the unlawful situation has been corrected, and more than twenty-five days of the suspension have been served,

It is, on this 10th day of June, 1952,

ORDERED that the suspension heretofore imposed be lifted, and that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Lebanon, be restored to full force and operation, effective on the endorsement of the transfer on the license certificate by the Township Clerk.

EDWARD J. DORTON
Acting Director.

6. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATE FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING OF BUSINESS.

In the Matter of Disciplinary)
Proceedings against)

BOLO CLUB, INC.)
T/a WEST END CASINO)
701-717 Ocean Ave.)
Long Branch, N. J.,)

O R D E R

Holder of Seasonal Retail Consump-)
tion License CS-2 for the summer)
season from May 1, 1951, until)
November 1, 1951, issued by the)
Board of Commissioners of the City)
of Long Branch to Cedar Restaurant)
and Cafe Co. and transferred to)
Defendant on May 24, 1951.)

It appearing that by Order dated September 11, 1951, the license then held by the above named defendant for the period from May 1 to November 1, 1951, was suspended for a period of five days, and that the effective dates for said suspension were to be fixed by subsequent order because it appeared that defendant's premises were then closed (Re Bolo Club, Inc., Bulletin 917, Item 7); and

It further appearing that said license was renewed by Bolo Club, Inc. for the period from May 1 to November 1, 1952, and thereafter transferred on May 20, 1952 to Cobo Bev. Inc., for the same premises, and that the premises have been reopened for business:

It is, on this 17th day of June, 1952,

ORDERED that Seasonal Retail Consumption License CS-2, for the period from May 1 to November 1, 1952, issued by the Board of Commissioners of the City of Long Branch to Bolo Club, Inc., t/a West End Casino, and thereafter transferred to Cobo Bev. Inc., for premises 701-717 Ocean Avenue, Long Branch, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. June 23, 1952, and terminating at 3:00 a.m. June 28, 1952.

EDWARD J. DORTON
Acting Director.

7. DISCIPLINARY PROCEEDINGS - PRIOR UNLAWFUL SITUATION CORRECTED - ORDER LIFTING SUSPENSION AND RESTORING LICENSE TO FULL FORCE AND EFFECT.

In the Matter of Disciplinary)
Proceedings against)

CHRISTINE CRAWFORD)

T/a WILLIE'S BAR)

562 Avenue C)

Bayonne, N. J.,)

ON PETITION
O R D E R

Holder of Plenary Retail Consump-)
tion License C-168, issued by the)
Board of Commissioners of the)
City of Bayonne.)

- - - - -)

Charles Bressler, Esq., Attorney for Petitioner, Abraham Bressler.

On April 16, 1952, I suspended defendant's license for the balance of its term, effective at 2:00 a.m. April 21, 1952, after she had pleaded non vult to charges alleging in substance that she was a "front" for Abraham Bressler. See Bulletin 934, Item 8. In said Order it was provided that a transferee of the license might petition me for an order lifting the suspension after at least twenty-five days of the suspension had been served.

Abraham Bressler has filed a petition wherein he set forth that on June 3, 1952, the Board of Commissioners of the City of Bayonne transferred the license to him, subject to the suspension now in effect. A certified copy of the resolution of the local Board is attached to the petition. Petitioner requests me to lift the suspension.

It appearing that the unlawful situation has been corrected and that more than twenty-five days of the suspension have been served,

It is, on this 4th day of June, 1952,

ORDERED that the suspension heretofore imposed be lifted and that Plenary Retail Consumption License C-168, issued by the Board of Commissioners of the City of Bayonne, be restored to full force and operation, effective on the endorsement of the transfer on the license certificate by the City Clerk.

EDWARD J. DORTON
Acting Director.

8. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALE TO MINORS IN EACH CASE DISMISSED FOR LACK OF PROOF.

In the Matter of Disciplinary
Proceedings against

ROBERT & ELIZABETH BARRY
114 South Broadway
South Amboy, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consump-
tion License C-33, issued by the
Common Council of the City of
South Amboy.

Elizabeth Barry, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

In the Matter of Disciplinary
Proceedings against

NELSON'S TAVERN, INC.
122 South Broadway
South Amboy, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-12, issued by the
Common Council of the City of
South Amboy.

Wilentz, Goldman, Spitzer and Sills, Esqs., by Joseph C. Doren, Esq.,
Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

In the Matter of Disciplinary
Proceedings against

WILLIAM A. and HELEN D. BORBELY
267 First Street
South Amboy, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consump-
tion License C-25, issued by the
Common Council of the City of
South Amboy.

Sidney Simandl, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

In the Matter of Disciplinary
Proceedings against

JOHN W. MCCARTHY & RICHARD
OSTRANDER
T/a SEASHELL TAVERN
Rte. 35 & Tyler St., Morgan
Sayreville, PO, RFD 1
South Amboy, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consump-
tion License C-24, issued by the
Borough Council of the Borough of
Sayreville, and transferred during
the pendency of these proceedings
to

GEORGE S. & MARION VANDERHOFF
T/a SEASHELL TAVERN,

for the same premises.

John W. McCarthy and Richard Ostrander, Defendant-licensees, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

In each of the above cases defendant pleaded not guilty to a charge alleging that defendant sold, served and delivered alcoholic beverages to, and permitted the consumption of alcoholic beverages by, two minors, in violation of Rule 1 of State Regulations No. 20.

Disciplinary proceedings in these cases were instituted as a result of statements given to police officials by the two minors and an adult companion after they had been arrested in an intoxicated condition early on the morning of December 15, 1951. The arrests were not made on any of the said licensed premises.

At the hearings herein, the two minors (who are, respectively, sixteen and twenty years of age) and their adult companion testified that between 8:00 p.m. and 9:00 p.m. on the evening of December 14, 1951, each of the minors and the adult consumed at least ten, and perhaps as many as fifteen, glasses of beer on the licensed premises of William & Alberta Fauble. See Re Fauble, Bulletin 927, Item 5; that about 9:30 p.m. they went to Nelson's and "looked around"; that they then visited Barry's, where two rounds of beer were purchased and consumed; that they returned to Nelson's where two rounds of beer were purchased and consumed; that thereafter they visited Borbely's, where two rounds of beer were purchased and consumed, and that, finally, they visited McCarthy's, where two rounds of beer were purchased and consumed.

On behalf of defendants Robert and Elizabeth Barry, Robert D. Langen, the bartender alleged to have served the minors, testified that the three young men entered the premises; that the adult met his mother at the bar and was served with a glass of beer, but that the two minors "rushed to the bathroom" and, when they came out, were "boisterous" and were ordered from the premises. Langen denied that any drinks were served to or consumed by the minors. Two patrons, who testified that they were present, and Elizabeth Barry, one of the licensees, corroborated the testimony of the bartender. The young man, who was of full age, testified that he met his mother in Barry's licensed premises.

On behalf of defendant Nelson's Tavern, Inc., Thelma Mendler, the bartender alleged to have served the minors, testified that she was the only bartender on duty between 6:00 p.m. and 2:00 a.m. on the evening in question. She further testified that the three young men entered the premises, looked around and walked out without asking for a drink. She denied that any drinks were served to any of the three young men. Her testimony is corroborated by three patrons who testified that they were present on the evening in question.

On behalf of defendants William A. and Helen D. Borbely, William A. Borbely, who allegedly served the minors, denied that any of the three young men was in the premises on the evening in question. Fourteen patrons, who testified that they were in defendants' premises on the evening in question, corroborated the testimony of William A. Borbely. Earl Corbin and William Shirley, two of these patrons, testified that the young men had not been in Borbely's but that, in fact, they had seen the three young men in an automobile about two and one-half blocks from Borbely's place of business, after Corbin and Shirley had left the premises and had been requested "to give somebody a push". It appears from the evidence that the worst snow storm of the winter occurred on the evening of December 14.

On behalf of defendants McCarthy and Ostrander, Richard Ostrander, the person alleged to have served the minors, testified that he was on duty from 8:00 p.m. until 3:00 a.m., and that none of the three young men was in the licensed premises on the evening in question. Two patrons, who testified that they were present between 8:00 p.m. and closing time, corroborated the testimony of Richard Ostrander.

The testimony of patrons of licensed premises must be carefully considered because patrons may not ordinarily pay any particular attention to events occurring on licensed premises. However, the patrons allege that they recall this particular evening because of the unusual snow storm and the fact that a fight was being shown on television that night. Many of these patrons are substantial citizens. I can scarcely believe the testimony of these three young men that they had exactly two rounds of drinks in each of the four licensed premises mentioned herein. I have grave doubts that they know exactly where they went or what they did after they left Fauble's premises. After weighing the testimony of defendants' witnesses against the testimony of the three young men, all of whom had been drinking heavily earlier in the evening and one of whom has been fined for carrying concealed weapons and brass knuckles, I conclude that the Division has not sustained the burden of proof in any of these cases. Hence, I must dismiss the charge in each case.

Accordingly, it is, on this 13th day of June, 1952,

ORDERED that the charge in each of the four cases mentioned above be and the same is hereby dismissed.

EDWARD J. DORTON
Acting Director.

9. MORAL TURPITUDE - BREAKING, ENTERING, LARCENY AND RECEIVING.

DISQUALIFICATION - APPLICATION TO LIFT GRANTED.

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

CONCLUSIONS
AND ORDER

Case No. 981.)
-----)

On December 7, 1925, petitioner, then eighteen years of age, was sentenced to an indeterminate term in a State Reformatory as a result of his plea of non vult to the crimes of breaking, entering, larceny and receiving, being released from the penal institution on April 5, 1927.

The crimes of breaking, entering, larceny and receiving are crimes which involve the element of moral turpitude. Re Case No. 304, Bulletin 363, Item 7.

Petitioner produced three character witnesses (a municipal employee, a salesman, and a taxicab dispatcher) who testified that they have known petitioner five or more years and that he bears a reputation for being a law-abiding person in the community in which he resides. The Police Department of the municipality in which petitioner lives indicates that there are no investigations or complaints pending wherein petitioner is a party.

I would have no hesitancy in granting relief except that petitioner now owns fifty per cent of the stock of a corporation to which a retail liquor license was transferred by a local issuing authority on February 26, 1952. Since that date he has been working on the licensed premises of said corporation. Petitioner testified that in the application for transfer of the liquor license he disclosed his criminal record. The local issuing authority, nevertheless, approved the transfer.

An investigation by this Division supports petitioner's contention that he did disclose the conviction in the application for

transfer filed by the corporation. It appears that the transfer was approved with knowledge on the part of the members of the local issuing authority of petitioner's criminal record, and that petitioner was then advised to take up the question of his eligibility with this Division. The action of the local issuing authority was irregular because the disqualification should have been removed before the transfer was granted. However, I do not believe that petitioner should be penalized because the local issuing authority did not follow the proper procedure.

Under the circumstances, it is clear that petitioner did not deceive the local issuing authority when the license was issued. I believe that petitioner acted in good faith and, because of his good record since 1927, shall lift his present disqualification.

Accordingly, it is, on this 12th day of June, 1952,

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

EDWARD J. DORTON
Acting Director.

10. DISCIPLINARY PROCEEDINGS - WHOLESALE LICENSEE - TRANSPORTATION OF ALCOHOLIC BEVERAGES IN VEHICLE WITHOUT INSIGNIA - DELIVERY OF ALCOHOLIC BEVERAGES TO RETAILERS WITHOUT INVOICE - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against)	
WINE GROWERS GUILD)	
105-117 John Street)	
Brooklyn 1, New York,)	CONCLUSIONS AND ORDER
Holder of Wine Wholesale License)	
WW-32, issued by the Director of the Division of Alcoholic Beverage Control.)	
- - - - -)		
Samuel Moskowitz, Esq., Attorney for Defendant-licensee.		
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.		

Defendant pleaded non vult to charges alleging that it (1) transported alcoholic beverages in autos owned and operated individually by two of its solicitors, without transportation insignia affixed thereto, in violation of Rule 2 of State Regulations No. 17, and (2) delivered alcoholic beverages to various retailers without accompanying invoice of sale, in violation of Rule 6 of State Regulations No. 39.

The file discloses that solicitors employed by defendant used their private automobiles, not leased to defendant and not bearing transportation insignia, to pick up various items of alcoholic beverages from retailers, return the items to defendant, and deliver replacement items to said retailers. The deliveries to retailers were made without accompanying invoices. (Disciplinary proceedings against the two solicitors are decided concurrently herewith. See Conclusions in Re Fox and Re Imperato.)

Defendant has no prior record. In view of the circumstances and the plea entered herein, I shall suspend the license for ten days.

Accordingly, it is, on this 20th day of June, 1952,

ORDERED that any renewal license for 1952-53 of Wine Wholesale License WW-32, issued by the Director of the Division of Alcoholic Beverage Control to Wine Growers Guild, 105-117 John Street, Brooklyn, New York, be and the same is hereby suspended for ten (10) days, commencing at 7:00 a.m. July 3, 1952, and terminating at 7:00 a.m. July 13, 1952.

EDWARD J. DORTON
Acting Director.

11. DISCIPLINARY PROCEEDINGS - SOLICITOR - PARTICIPATING IN CONDUCT PROHIBITED TO EMPLOYER, VIZ., DELIVERY OF ALCOHOLIC BEVERAGES IN VEHICLE WITHOUT INSIGNIA, AND DELIVERY OF ALCOHOLIC BEVERAGES TO RETAILERS WITHOUT INVOICE - PERMIT SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against

JACK FOX
163 Huntington Terrace
Newark 8, N. J.,

CONCLUSIONS
AND ORDER

Holder of Solicitor's Permit
No. 1430, issued by the Director
of the Division of Alcoholic
Beverage Control.

Samuel Moskowitz, Esq., Attorney for Defendant-permittee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

Defendant has pleaded non vult to the following charges:

- "(a) On March 10, 1952 and on divers days prior thereto, you participated in your employer's transporting various quantities of alcoholic beverages between Brooklyn, N. Y. and various points in New Jersey and in and about New Jersey in a vehicle having no transportation insignia affixed thereto, viz., in an automobile operated by you, which conduct was prohibited to your employer by Rule 2 of State Regulations No. 17;
- "(b) On March 10, 1952 and on divers days prior thereto, you participated in your employer's delivering and transporting, directly and indirectly, of various quantities of alcoholic beverages to various New Jersey retail licensees not accompanied by a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill, or similar document stating requisite information, which conduct was prohibited to your employer by Rule 6 of State Regulations No. 39;
- "all of which conduct by you was in violation of Rule 12 of State Regulations No. 14."

Defendant's actions are a serious breach of the conditions of his solicitor's permit and Rule 12 of State Regulations No. 14. See Re Wine Growers Guild, decided herewith.

Defendant's permit for the 1952-53 licensing year will be suspended for ten days.

Accordingly, it is, on this 20th day of June, 1952,

ORDERED that any renewal permit for 1952-53 of Solicitor's Permit No. 1430, issued by the Director of the Division of Alcoholic Beverage Control to Jack Fox, 163 Huntington Terrace, Newark, be and the same is hereby suspended for ten (10) days, commencing at 7:00 a.m. July 13, 1952, and terminating at 7:00 a.m. July 23, 1952.

EDWARD J. DORTON
Acting Director.

12. DISCIPLINARY PROCEEDINGS - SOLICITOR - PARTICIPATING IN CONDUCT PROHIBITED TO EMPLOYER, VIZ., DELIVERY OF ALCOHOLIC BEVERAGES IN VEHICLE WITHOUT INSIGNIA, AND DELIVERY OF ALCOHOLIC BEVERAGES TO RETAILERS WITHOUT INVOICE - PERMIT SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary)
Proceedings against)

SAMUEL IMPERATO)
530 Broad Avenue)
Palisades Park, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Solicitor's Permit)
No. 576, issued by the Director)
of the Division of Alcoholic)
Beverage Control.)

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Samuel Moskowitz, Esq., Attorney for Defendant-permittee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

Defendant has pleaded non vult to the following charges:

- "(a) On March 10, 1952 and on divers days prior thereto, you participated in your employer's transporting various quantities of alcoholic beverages between Brooklyn, N. Y. and various points in New Jersey and in and about New Jersey in a vehicle having no transportation insignia affixed thereto, viz., in an automobile operated by you, which conduct was prohibited to your employer by Rule 2 of State Regulations No. 17;
- "(b) On March 10, 1952 and on divers days prior thereto, you participated in your employer's delivering and transporting, directly and indirectly, of various quantities of alcoholic beverages to various New Jersey retail licensees not accompanied by a bona fide, authentic and accurate delivery slip, invoice, manifest, waybill, or similar document stating requisite information, which conduct was prohibited to your employer by Rule 6 of State Regulations No. 39;

"all of which conduct by you was in violation of Rule 12 of State Regulations No. 14."

Defendant's actions are a serious breach of the conditions of his solicitor's permit and Rule 12 of State Regulations No. 14. See Re Wine Growers Guild, decided herewith.

Defendant's permit for the 1952-53 licensing year will be suspended for ten days.

Accordingly, it is, on this 20th day of June, 1952,

ORDERED that any renewal permit for 1952-53 of Solicitor's Permit No. 576, issued by the Director of the Division of Alcoholic Beverage Control to Samuel Imperato, 530 Broad Avenue, Palisades Park, be and the same is hereby suspended for ten (10) days, commencing at 7:00 a.m. July 13, 1952, and terminating at 7:00 a.m. July 23, 1952.

Edward J. Dorton.
Acting Director.