

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

BULLETIN 843

MAY 16, 1949.

TABLE OF CONTENTS

ITEM

1. LICENSED PREMISES - APPLICATIONS FOR PREMISES NOT YET CONSTRUCTED AND WHICH WILL NOT BE COMPLETED BY JUNE 30th - HEREIN EXTREMELY IMPORTANT NOTICE.
2. DISCIPLINARY PROCEEDINGS (Ringwood) - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF LICENSE - FALSE STATEMENT IN APPLICATION AS TO RESIDENCE - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH PERMISSION TO QUALIFIED PERSON TO APPLY FOR LIFTING ON EXPIRATION OF 30 DAYS - CANCELLATION PROCEEDINGS DISMISSED.
3. DISCIPLINARY PROCEEDINGS (Orange) - SALES TO MINORS - LICENSE SUSPENDED FOR 10 DAYS.
4. DISCIPLINARY PROCEEDINGS (Orange) - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS.
5. DISCIPLINARY PROCEEDINGS (West Orange) - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS.
6. DISCIPLINARY PROCEEDINGS (West Orange) - SALES TO MINORS - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 35 DAYS.
7. DISCIPLINARY PROCEEDINGS (West Orange) - SALES TO MINORS BY PERMITTEE IN VIOLATION OF R. S. 33:1-77 - PERMIT SUSPENDED FOR 15 DAYS.
8. ACTIVITY REPORT FOR APRIL 1949.
9. FAIR TRADE - NOTICE OF COMPLETE PUBLICATION.
10. DISCIPLINARY PROCEEDINGS (Jersey City) - FALSE STATEMENT IN APPLICATION AS TO PRIOR SUSPENSION OF LICENSE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS (Paterson) - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS AND FAILURE TO CLOSE LICENSED PREMISES DURING PROHIBITED HOURS IN VIOLATION OF MUNICIPAL REGULATION - SEVERAL VIOLATIONS ON DIFFERENT DAYS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
12. AUTOMATIC SUSPENSION (Ridgefield) - SELLING ALCOHOLIC BEVERAGES TO MINORS - APPLICATION TO LIFT GRANTED SUBJECT TO ANY ORDER HEREAFTER ENTERED IN DISCIPLINARY PROCEEDINGS.
13. RETAIL LICENSEES - CARE IN USE AND STORAGE OF PREPARATIONS CONTAINING POISONOUS CHEMICALS USED TO CLEAN METAL AND TO CLEAR DRAINS.
14. STATE LICENSES - NEW APPLICATIONS FILED.



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

BULLETIN 843

MAY 16, 1949.

1. LICENSED PREMISES - APPLICATIONS FOR PREMISES NOT YET CONSTRUCTED AND WHICH WILL NOT BE COMPLETED BY JUNE 30th - HEREIN EXTREMELY IMPORTANT NOTICE.

May 3, 1949.

TO ALL MUNICIPAL ISSUING AUTHORITIES:

The Alcoholic Beverage Law makes it the duty of municipal issuing authorities to investigate not only a license applicant's personal qualifications but also to investigate the premises sought to be licensed. (Revised Statutes, 33:1-24.) The State Commissioner's ruling has been that where application is made for a building not yet constructed, or for a building in process of construction, the most the municipal issuing authority may do is to grant the application subject to the express condition (imposed in the authorizing resolution, pursuant to Revised Statutes, 33:1-32) that the premises as described in the plans and specifications prepared and submitted by the applicant and found acceptable by the issuing authority shall first be completed. (Re Harris, Bulletin 183, Item 11; Re Salter, Bulletin 184, Item 8; Re Murphy, Bulletin 389, Item 11.)

Unless a license has been actually issued and is in effect on June 30th, it may not legally be renewed for the new license year beginning July 1st. Under our Alcoholic Beverage Law, a renewal must be to the holder of the expired or expiring license and for the same licensed premises; otherwise it is a new license. (Revised Statutes, 33:1-96.) In most New Jersey municipalities issuance of a new license is prohibited by the State Limitation Law (P. L. 1947, c. 94) or by local ordinance, or by both.

There are circumstances in which a person (whose application for license, or for place-to-place transfer, shall have been granted subject to completion of premises) will be unable, despite good faith and full effort, to complete the premises by June 30th of the then license year. In that situation the municipal issuing authority may determine, in its discretion, to grant a renewal for the ensuing license year. It may not do so, however, unless it adopts a resolution amending the original resolution (or motion) and setting forth that such original resolution (or motion) dated \_\_\_\_\_, is amended to provide that the license is authorized to be issued (or the place-to-place transfer endorsed, as the case may be), effective immediately, for the sole purpose of permitting a renewal.

If the indicated amendatory resolution is passed, a certified copy should, of course, be forwarded at once to this Division by the Municipal Clerk.

Where such an amendatory resolution is passed and the license issued thereunder (or place-to-place transfer endorsed, as the case may be) and a renewal application for the ensuing year is duly filed, then, if the issuing authority determines to grant the application for renewal, its resolution granting such application must impose (or reimpose) a special condition reading in the following manner:

"....provided, however, that the license shall not be actually issued unless and until the premises as described in the plans and specifications prepared, submitted to, and found acceptable by this issuing authority, shall first be completed."

Thus the renewal certificate will not be issued and delivered to the applicant unless and until the premises are duly completed by June 30th of the licensing year for which the renewal was granted.

A copy of the resolution imposing (or reimposing) the indicated special condition must be forwarded to this Division for the State Director's approval required by Revised Statutes, 33:1-32.

Furthermore, the applicant's published Notices of Application for the renewal must contain a statement that: "Plans and specifications for premises to be constructed may be examined at the office of the Municipal Clerk."

Where application has been granted for place-to-place transfer to premises which will not be duly completed by June 30th of the then license year, and where the applicant will continue to have possession of the old premises on and after July 1st, the applicant will probably wish to continue operation of the business without interruption. Under those circumstances it would appear the proper course to apply for a renewal for the old premises. If such renewal is granted, then, if and when (after July 1st) the new premises are completed, a new application may be filed for a place-to-place transfer to those premises.

This Notice points out the possibility of granting relief in bona fide and hardship cases. Whether or not the indicated relief is to be granted in a specific case rests in the first instance, and subject to appeal to the State Director, in the sound discretion of the issuing authority.

ERWIN B. HOCK  
Director.

2. DISCIPLINARY PROCEEDINGS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF LICENSE - FALSE STATEMENT IN APPLICATION AS TO RESIDENCE - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH PERMISSION TO QUALIFIED PERSON TO APPLY FOR LIFTING ON EXPIRATION OF 30 DAYS - CANCELLATION PROCEEDINGS DISMISSED.

In the Matter of Disciplinary Proceedings against )

MIDVALE CAMP CORPORATION )  
T/a NATURE FRIENDS CAMP )  
Snake Den Road )  
Ringwood )  
P. O. Wanaque, R.F.D., N. J., )

CONCLUSIONS  
AND ORDERS

Holder of Plenary Retail Consumption License C-4, issued by the Borough Council of the Borough of Ringwood. )  
----- )

Spitz & LaCava, Esqs., by Benjamin J. Spitz, Esq., Attorneys for Defendant-licensee.

William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. In your application dated May 28, 1948, filed with the Borough Council of Ringwood, upon which you obtained your current plenary retail consumption license, you, after listing your stockholders in Question 22 as George Schmidt, Carl Lumnitz and Kurt Bender, falsely stated 'No' in answer to Question 23, which asks: 'Has any corporation, partnership, association or

individual other than the stockholders hereinbefore set forth any beneficial interest, directly or indirectly, in the stock held by said stockholders?', whereas in truth and fact New York Local, Nature Friends of America had such interest in that it was the real and beneficial owner of all of your stock; said false statement being in violation of R. S. 33:1-25.

"2. In your aforesaid application you falsely stated that your aforesaid stockholders resided at 258 W. 15th Street, New York City, whereas in truth and fact George Schmidt resided at 256 W. 15th Street, New York City, Carl Lumnitz resided at 6861 - 147th Street, Flushing, Long Island and Kurt Bender resided at Winfield Road, Ringwood, New Jersey; said false statement being in violation of R. S. 33:1-25."

Defendant was also served with a notice to show cause why its license should not be cancelled on the ground that said license was improvidently issued, in that George Schmidt and Carl Lumnitz, each the holder of more than 10% of defendant's stock, lacked bona fide New Jersey residence.

The Midvale Camp Corporation was incorporated in New Jersey in May 1935. The total authorized capital stock of said corporation, consisting of twenty shares, is held by the three persons mentioned in the charges in trust for the benefit of New York Local, Nature Friends of America, a foreign corporation. In July 1936 defendant obtained a plenary retail consumption license and has renewed said license for each licensing period thereafter.

Defendant's trustees have admitted the existence of the illegal situation.

Since it appears that the unlawful situation continues to exist, I have no alternative except to suspend the license for the balance of its term. Under the circumstances of this case, leave will be given to a qualified person or persons to file with me a petition to lift the suspension herein imposed after the expiration of thirty days from the effective date hereof. Cf. Re Gordon, Bulletin 796, Item 7. If a petition is filed, the petitioner must satisfy me that the unlawful situation has been corrected. The rule to show cause why the license should not be cancelled is dismissed.

Accordingly, it is, on this 29th day of April, 1949,

ORDERED that Plenary Retail Consumption License C-4, issued by the Borough Council of the Borough of Ringwood to Midvale Camp Corporation, t/a Nature Friends Camp, for premises on Snake Den Road, Ringwood, be and the same is hereby suspended for the balance of its term expiring June 30, 1949, effective at 3:00 a.m. May 4, 1949; with leave to file a petition to lift said suspension as aforesaid; and it is further

ORDERED that the rule to show cause why the license should not be cancelled be and the same is hereby dismissed.

ERWIN B. HOCK  
Director.

3. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against

JOSEPH GROSSO  
T/a STAR CLUB  
400-402 High Street  
Orange, New Jersey,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-26 issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange.

-----  
Frank A. Palmieri, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to charges alleging that he sold, served and delivered alcoholic beverages to a minor, and allowed, permitted and suffered the consumption of alcoholic beverages by said minor, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

At the hearing herein, Harold --- testified that on March 14, 1949, he and a girl, who was then a minor, visited defendant's premises. Harold --- was also a minor, having celebrated his twentieth birthday on February 17, 1949. His testimony shows that he and the girl who accompanied him went to the bar, where they met John Christie and Elaine Zuber, both of full age. He further testified that on this occasion Angelo DeSabato, who was then tending bar on defendant's premises, served him with two glasses of beer, which he consumed, and also served two glasses of ginger ale to the minor girl.

On March 18, 1949, Harold --- again visited defendant's premises accompanied by Elaine Zuber. Harold --- testified that they went to the bar, where they met John Christie, and that on this occasion the licensee, who was then tending bar, served him with two drinks of Schenley whiskey, which he consumed. He further testified that, shortly thereafter, he and Miss Zuber and John Christie sat at a side booth where Ross Mangina, a waiter, served him with two glasses of beer, which he consumed.

Defendant presented no evidence. On defendant's behalf it is contended that the testimony of Harold --- is not worthy of belief because he had previously identified the licensee, instead of Angelo DeSabato, as the person who served him on March 14, and because, at a hearing held in criminal proceedings on April 1, 1949, he had testified that only one round of drinks, instead of two rounds, had been served at the bar on March 18. However, the testimony given at the hearing herein by John Christie and Elaine Zuber substantially corroborates the testimony given at the hearing herein by Harold ---. I believe that the three witnesses who testified at the hearing are telling the truth and, hence, I find defendant guilty as charged.

Defendant has no prior record. Since no aggravating circumstances appear, I shall suspend defendant's license for the minimum period of ten days.

Accordingly, it is, on this 29th day of April, 1949,

ORDERED that Plenary Retail Consumption License C-26, issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange to Joseph Grosso, t/a Star Club, for premises 400-402 High Street, Orange, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. May 9, 1949, and terminating at 2:00 a.m. May 19, 1949.

ERWIN B. HOCK  
Director.

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against

HARRY ROSENTHAL & M. W. GELLER  
T/a THE POST  
404-406 Main Street  
Orange, New Jersey,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-64, issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange.

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

BY THE DIRECTOR:

Defendants pleaded not guilty to charges alleging that they sold, served and delivered alcoholic beverages to two minors, and allowed, permitted and suffered the consumption of alcoholic beverages by said minors, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

It appears from the evidence herein that on Saturday, March 19, 1949, Private First Class George ---, who was then eighteen years of age, and Private William ---, who was then seventeen years of age, visited defendants' premises. George --- testified that they sat at the bar, and that he and William --- each consumed four glasses of beer which had been purchased from, and served by, Harry Rosenthal, one of the licensees, who was then acting as bartender. He also testified that a girl who was under the age of twenty-one accompanied them but that she drank only ginger ale on defendants' premises.

The testimony given by William --- is substantially the same as that given by George ---, but William --- testified that he also purchased from the same bartender two additional glasses of beer, one of which was consumed by him and one of which was consumed by another girl who was of full age.

Defendants presented no testimony, but requested an adjournment of the case until after a decision has been reached in criminal charges pending against Harry Rosenthal. It has never been the practice of the Department (now Division) to withhold the institution and completion of disciplinary proceedings until after criminal proceedings arising out of the same facts have been terminated. In Re DuPree, Bulletin 108, Item 8, it was said:

"Revocation proceedings are separate and distinct from any criminal action against a licensee and are directed mainly against the privilege that has been accorded by the municipality to the licensee. If that privilege has been abused the issuing authority has the right, conferred by Section 28 of the Control Act, to take action. The fact that the

civil privilege has been abused makes it, in the Commissioner's opinion, the duty of the issuing authority to punish that abuse by appropriate suspension or revocation."

The claim that any constitutional rights of Harry Rosenthal would be violated by denying the requested adjournment is without weight. The case of In Re Noonan, 65 N.J.L. 142, cited by defendants, is not in point. The request for an adjournment is, therefore, denied.

On the evidence presented, I find defendants guilty as charged.

Defendants have no prior record. The minimum suspension for sales to minors is ten days. However, because of the fact that one of these minors was only seventeen years of age, I shall suspend defendants' license for a period of fifteen days.

Accordingly, it is, on this 29th day of April, 1949,

ORDERED that Plenary Retail Consumption License C-64, issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange to Harry Rosenthal and M. W. Geller, t/a The Post, for premises 404-406 Main Street, Orange, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. May 9, 1949, and terminating at 2:00 a.m. May 24, 1949.

ERWIN B. HOCK  
Director.

5. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 20 days.

In the Matter of Disciplinary Proceedings against )

LUIGI DiMARZO )  
8 Main Street )  
West Orange, New Jersey, )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-42 issued by the Municipal Board of Alcoholic Beverage Control of the Town of West Orange. )

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

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charges:

- "1. On Saturday night, March 19th and early Sunday morning, March 20, 1949, you sold alcoholic beverages to Kathryn ---, George --- and Louise ---, minors, in violation of R. S. 33:1-77.
- "2. On the occasions aforesaid, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises, to Kathryn ---, George --- and Louise ---, 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."

It appears from the evidence herein that on Saturday, March 19, 1949, Private First Class George ---, who was then eighteen years of age, Kathryn ---, who was then seventeen years of age, and Louise ---, who was then twenty years of age, visited defendant's premises. Kathryn is deceased. The testimony of George ---, Louise --- and Merritt Nulin, an adult who had entered the licensed premises shortly before the minors, satisfies me that each of the three named minors, while seated at the bar, was served with four glasses of beer which they consumed. I find that three rounds of drinks were served by Donald Busold, and that the fourth round of drinks was served by James O'Reilly. Busold and O'Reilly were bartenders in defendant's premises.

Defendant presented no testimony. He moved to dismiss Charge (1) on the ground that there was no evidence that defendant personally served the minors. The case of State v. Pinto, 129 N.J.L. 255, cited by defendant, is not in point because that was a criminal proceeding. The rule is different in disciplinary proceedings. Thus, in Re Kneller (decided October 16, 1934), Bulletin 49, Item 4, the Commissioner said:

"A licensee, when apprehended for violation of the law, may not hide behind the cloak of his employees. The license is his. So is the business. It is his duty to see to it that the business is conducted in accordance with the law. If unable to do so because of other interests, that is his personal lookout. It does not exonerate him from full responsibility for what goes on upon the licensed premises."

This ruling has been consistently followed for nearly fifteen years.

Defendant also moved to dismiss Charge (2) because the word "and" is used in the charges where the word "or" is used in the State Regulation. This point is also without merit. State v. Hill, 73 N.J.L. 78. The motion to dismiss is denied. Upon the evidence presented, I find defendant guilty as charged.

It might be well to point out that in similar cases it has been the usual policy to impose the same penalty whether defendant is found guilty of both charges or only of Charge (2). It is perfectly clear in this case that defendant is guilty of Charge (2). Essex Holding Corp. v. Hock, 136 N.J.L. 28.

Defendant has no prior record. The minimum suspension for sales to minors is ten days. However, because of the number of minors involved and the fact that one of these minors was only seventeen years of age, I shall suspend defendant's license for a period of twenty days.

Accordingly, it is, on this 29th day of April, 1949,

ORDERED that Plenary Retail Consumption License C-42, issued by the Municipal Board of Alcoholic Beverage Control of the Town of West Orange to Luigi DiMarzo, for premises 8 Main Street, West Orange, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. May 7, 1949, and terminating at 2:00 a.m. May 27, 1949.

ERWIN B. HOCK  
Director.

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 35 DAYS.

In the Matter of Disciplinary Proceedings against )

THEODORE'S INC. )  
318-320-322 Valley Road )  
West Orange, New Jersey, )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-30 issued by the Municipal Board of Alcoholic Beverage Control of the Town of West Orange. )

-----  
Curtis R. Brundage, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to the following charges:

- "1. On Saturday night, March 19, 1949, and early Sunday morning, March 20, 1949, you sold alcoholic beverages to Kathryn ---, George ---, Louise ---, Earl ---, and Harold ---, minors; in violation of R. S. 33:1-77.
- "2. On the occasions aforesaid, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Kathryn ---, George ---, Louise ---, Earl ---, and Harold ---, 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."

The evidence herein establishes that on the evening of Saturday, March 19, 1949, Kathryn --- (then 17 years of age), George --- (then 18 years of age) and Louise --- (then 20 years of age) entered defendant's premises with Merritt Nulin, an adult. The evidence also establishes that on the same evening Earl --- (then 17 years of age) and Harold --- (then 20 years of age) were also on defendant's premises.

At the hearing herein Merritt Nulin testified that he, Kathryn, George and Louise entered defendant's premises on the evening in question and seated themselves at a side booth; that on two occasions he went to the bar and purchased four glasses of beer which he brought to the booth; that thereafter, on two occasions, George --- went to the bar and purchased four glasses of beer which he brought to the booth, and that, as a result of these purchases, he (Nulin) and each of the three minors consumed four glasses of beer. All of these purchases were made from Jack Hennessey, who was then acting as bartender.

It appears from the evidence that thereafter Nulin and his three minor companions left defendant's premise and visited the premises of Luigi DiMarzo. See Re DiMarzo (decided herewith).

At the hearing herein Merritt Nulin further testified that on the evening in question he and the three minors returned to defendant's premises at about 11:30 p.m. and seated themselves at another booth. He stated that on this occasion he purchased at the bar four glasses of beer which were consumed by himself and the minors after he brought them to the booth, and that thereafter he ordered two rounds of beer

from Nettie DeFazio, a waitress, all of which drinks were consumed by him and the three minors after the waitress had placed the drinks on the table in the booth.

The aforesaid evidence was substantially corroborated by George --- and Louise ---. Kathryn --- is deceased.

At the hearing Harold --- testified that he and Earl --- arrived at defendant's premises on the evening in question between 11:30 p.m. and midnight; that he consumed three or four drinks of whiskey and ginger ale, and that Earl consumed four glasses of beer which they had purchased from, and which had been served by, Jack Hennessey, the bartender. He stated that he left defendant's premises at about 2:30 a.m. on March 20, 1949. The testimony of Harold --- was substantially corroborated by Earl ---.

Defendant presented no testimony except that of two patrons who said that they were present on the evening in question and that they saw no drinks sold to, or consumed by, any of the minors. Defendant is handicapped in presenting its defense by reason of the fact that the bartender, Jack Hennessey, has died since the alleged violation was committed, and that Mrs DeFazio refused to testify for the stated reason that criminal proceedings are pending against her. In any event, I am satisfied that the five witnesses produced by the Division are telling the truth. There is absolutely no reason appearing on the record why they should have given false testimony at the hearing. Hence, I find defendant guilty as charged. Re Kneller, Bulletin 49, Item 4; Re Morgenstern & Oliver, Bulletin 292, Item 9; Essex Holding Corp. v. Hock, 136 N.J.L. 28.

In alleged mitigation defendant represents that on the evening in question its licensed premises was unusually crowded because many of the patrons had just returned from Elizabeth where the West Orange High School Basketball Team had won a championship game. This is scarcely an excuse for "letting down the bars" and selling alcoholic beverages to a large group of minors.

Defendant has no prior record. The minimum suspension for serving minors is ten days. However, because of the fact that two of these minors were only seventeen years of age, and because of the number of minors involved and the large number of drinks they were permitted to consume, I shall suspend defendant's license for a period of thirty-five days.

Accordingly, it is, on this 29th day of April, 1949,

ORDERED that Plenary Retail Consumption License C-30, issued by the Municipal Board of Alcoholic Beverage Control of the Town of West Orange to Theodore's Inc., for premises 318-320-322 Valley Road, West Orange, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. May 9, 1949, and terminating at 2:00 a.m. June 13, 1949.

ERWIN B. HOCK  
Director.

7. DISCIPLINARY PROCEEDINGS. - SALES TO MINORS BY PERMITTEE IN VIOLATION OF R. S. 33:1-77 - PERMIT SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against )

NETTIE N. DeFAZIO )  
31 Mitchell Street )  
West Orange, N. J., )

CONCLUSIONS AND ORDER

Holder of Employment Permit No. 3433, issued by the State Commissioner of Alcoholic Beverage Control. )

-----  
Sol S. Solky, Esq., Attorney for Defendant-permittee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to the following charge:

"On Saturday night, March 19, 1949 and early Sunday morning, March 20, 1949, you, while acting as an employee for Theodore's, Inc., holder of a plenary retail consumption license for premises 318-320-322 Valley Road, West Orange, New Jersey, sold alcoholic beverages at those premises to Kathryn ---, George --- and Louise ---, minors; in violation of R. S. 33:1-77."

The facts concerning this case are set forth in Re Theodore's Inc., which was heard at the same time and which is decided herewith.

Although the orders were given by an adult, it is clear from the testimony that defendant delivered two glasses of beer to each of the three minors mentioned in the charge. R. S. 33:1-1(w) defines a sale to include every delivery of an alcoholic beverage other than by purely gratuitous title and, hence, on the facts, I find defendant guilty as charged. Re Morgenstern & Oliver, Bulletin 292, Item 9.

Defendant has no prior record. Since three minors were involved, one of whom was seventeen years of age, I shall suspend her employment permit for a period of fifteen days.

Accordingly, it is, on this 29th day of April, 1949,

Ordered that Employment Permit No. 3433, issued by the State Commissioner of Alcoholic Beverage Control to Nettie N. DeFazio, 31 Mitchell Street, West Orange, be and the same is hereby suspended for fifteen (15) days, commencing at 7:00 a.m. June 13, 1949, and terminating at 7:00 a.m. June 28, 1949.

ERWIN B. HOCK  
Director.

8.

ACTIVITY REPORT FOR APRIL 1949

May 2, 1949

<b>ARRESTS:</b>		
Total number of persons arrested	-----	14
Licensees and employees	----- 5	
Bootleggers	----- 9	
<b>SEIZURES:</b>		
Motor vehicles - trucks	-----	1
Stills - 50 gallons or under	-----	3
Mash - gallons	-----	350.00
Distilled alcoholic beverages - gallons	-----	15.95
Wine - gallons	-----	261.97
Brewed malt alcoholic beverages - gallons	-----	54.55
<b>RETAIL LICENSEES:</b>		
Premises inspected	-----	678
Premises where alcoholic beverages were gauged	-----	653
Bottles gauged	-----	10,905
Premises where violations were found	-----	42
Violations found	-----	44
Type of violations found:		
Unqualified employees	----- 7	Other mercantile business
Reg. #38 sign not posted	----- 7	Improper beer taps
Probable fronts	----- 6	Disposal permits required
Prohibited signs	----- 5	Other violations
		----- 10
<b>STATE LICENSEES:</b>		
Premises inspected	-----	19
License applications investigated	-----	18
<b>COMPLAINTS:</b>		
Complaints assigned for investigation	-----	282
Investigations completed	-----	257
Investigations pending	-----	140
<b>LABORATORY:</b>		
Analyses made	-----	120
"Shake-up" cases (alcohol, water and artificial color) - bottles	-----	5
Liquor found to be not genuine as labeled - bottles	-----	16
<b>IDENTIFICATION BUREAU:</b>		
Criminal fingerprint identifications made	-----	21
Persons fingerprinted for non-criminal purposes	-----	151
Identification contacts made with other enforcement agencies	-----	117
Motor vehicle identifications via N. J. State Police Teletype	-----	15
<b>DISCIPLINARY PROCEEDINGS:</b>		
Cases transmitted to municipalities	-----	9
Violations involved:		
Sale to minors	----- 6	Permitting lottery activity on premises (numbers game)
Permitting bookmaking on premises	----- 2	Permitting gambling on premises (numbers writing)
Sale during prohibited hours	----- 1	
Cases instituted at Division	-----	12
Violations involved:		
Sale during prohibited hours	----- 4	Employee working while drunk
Fraud and front	----- 3	Sale to intoxicated persons
Permitting pin ball machines on premises	----- 2	Permitting brawls on premises
Possessing illicit liquor	----- 1	Conducting business as a nuisance
Unqualified employees	----- 1	Permitting gambling on premises (cards)
Permitting hostesses on premises	----- 1	Failure to file notice of change in application
Serving women at a bar	----- 1	Delivery without bona fide invoices
Cases brought by municipalities on own initiative and reported to Division	-----	5
Violations involved:		
Permitting brawls on premises	----- 2	
Permitting bookmaking on premises	----- 2	
Sale during prohibited hours	----- 1	
<b>HEARINGS HELD AT DIVISION:</b>		
Total number of hearings held	-----	39
Appeals	----- 2	
Disciplinary proceedings	----- 16	Tax revocation
Eligibility	----- 7	Application for license
Seizures	----- 8	Hearing on petition
<b>PERMITS ISSUED:</b>		
Total number of permits issued	-----	736
Employment	----- 93	
Solicitors	----- 116	Social affairs
Disposal of alcoholic beverages	----- 97	Miscellaneous
		----- 360
		----- 70

ERWIN B. HOCK  
Director

## 9. FAIR TRADE - NOTICE OF COMPLETE PUBLICATION.

May 6, 1949.

The next official publication of minimum resale prices pursuant to Fair Trade rules (Revised Regulations No. 30) will become effective on July 1, 1949. Prices to be listed must be filed with the office of this Division not later than May 20, 1949. The publication will be a complete pamphlet in accordance with Rule 3 of Regulations No. 30, providing for issuance of quarterly complete publications.

In submitting price listings it is important to note the following:

1. The importance of listing all brands of alcoholic beverages (including malt beverages) is emphasized in light of Rule 6 of Revised Regulations No. 30 which prohibits price advertising of any brand not listed in Fair Trade.
2. It is earnestly suggested that traditional and adequate markups should be maintained for the retailer.
3. Only manufacturers and wholesalers owning brands or wholesalers having specific written authorization of the owner of brands, may file price listings for publication in minimum resale price pamphlets.
4. Where listers of brands choose to publish a permissive case lot discount, the phrase "Discount of \_\_\_\_\_% permitted on case lot purchases" should be used.
5. True copies of labels or photostats of labels of any brands not previously listed in Fair Trade must be submitted with the price listings.
6. Price listings may be submitted by letter in the same form as heretofore but must bear a statement certifying the existence of a Fair Trade contract between the manufacturer or wholesaler and a licensed New Jersey retailer. It is important to note that copies of such Fair Trade contracts need no longer be filed with the Division.

Notification of the proportionate share of aggregate expenses involved in the publication of the complete pamphlet will be made to participating companies as soon as the pamphlet is mailed to all retail licensees.

ERWIN B. HOCK  
Director.

10. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION AS TO PRIOR SUSPENSION OF LICENSE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against PALACE DRUG STORES, INC., 172 Newark Avenue Jersey City 2, N. J., Holder of Plenary Retail Distribution License D-16, issued by the Board of Commissioners of the City of Jersey City.

CONCLUSIONS AND ORDER

Palace Drug Stores, Inc., by Morris Winograd, Vice-President. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it falsely answered "No" to a question in its application upon which it secured its current license, in violation of R. S. 33:1-25.

It is admitted that defendant's application, dated June 3, 1948, contains the answer "No" to Question 41, which asks: "Have you or has any person mentioned in this application ever had any interest, directly or indirectly, in any alcoholic beverage license in New Jersey which was....suspended...?" Obviously the statement is not true. Defendant admits that its license was, in fact, suspended for ten days, effective December 2, 1938, and again for fifteen days, effective February 23, 1943, in both instances for Fair Trade violations. Defendant claims that the false statement was made because of a misinterpretation of the intent of the question. The question is clear. Licensees must learn to answer all questions in the application fully and frankly. R. S. 33:1-25, provides, inter alia:

"Applicants for licenses shall answer such questions as may be asked and make such declarations as shall be required by the form of application for license as may be promulgated by the commissioner from time to time..... Fraud, misrepresentation, false statements, misleading statements, evasions or suppression of material facts in the securing of a license are grounds for suspension or revocation of the license."

Defendant's only prior adjudicated record is as set out above. Considering the time elapsed since the last previous suspension, over six years, I shall suspend the license for the minimum period of ten days. Remitting five days because of the plea will leave a net suspension of five days.

Accordingly, it is, on this 3rd day of May, 1949,

ORDERED that Plenary Retail Distribution License D-16, issued by the Board of Commissioners of the City of Jersey City to Palace Drug Stores, Inc., for premises 172 Newark Avenue, Jersey City, be and the same is hereby suspended for a period of five (5) days, commencing at 9:00 a.m. May 9, 1949, and terminating at 9:00 a.m. May 14, 1949.

ERWIN B. HOCK Director.

II. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS AND FAILURE TO CLOSE LICENSED PREMISES DURING PROHIBITED HOURS IN VIOLATION OF MUNICIPAL REGULATION - SEVERAL VIOLATIONS ON DIFFERENT DAYS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MICHAEL SCHWEDER  
725 Madison Avenue  
Paterson 1, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-357, issued by the Board of Alcoholic Beverage Control of the City of Paterson.

Morris Dobrin, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleads non vult to charges alleging that on Saturday, March 26, 1949, between 3:00 a.m. and 3:30 a.m., he sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, in violation of the local ordinance; and that on Saturday, March 19, 1949, between 3:00 a.m. and 3:20 a.m.; Sunday, March 20, 1949, between 3:00 a.m. and 3:15 a.m., and on Saturday, March 26, 1949, between 3:00 a.m. and 3:30 a.m., he failed to keep his premises closed, also in violation of the local ordinance.

The file discloses that after the 3:00 a.m. closing hour on March 19 and 20, 1949, ABC agents observed patrons on the licensed premises but did not see any alcoholic beverages being served. On March 26, 1949, at 3:27 a.m., ABC agents observed nine patrons in defendant's licensed premises, some of whom were drinking beer and others who had partly filled glasses of beer on the bar in front of them.

Licensee has no previous adjudicated record. The minimum penalty for a first offense against curfew regulations is fifteen days' suspension less five days for a confessional plea entered in advance of hearing. However, the instant case is aggravated by reason of the several violations that occurred on different days. Accordingly, I shall suspend defendant's license for a period of twenty days, less five days' remission for the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 4th day of May, 1949,

ORDERED that Plenary Retail Consumption License C-357, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Michael Schweder, for premises 725 Madison Avenue, Paterson, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. May 11, 1949, and terminating at 3:00 a.m. May 26, 1949.

ERWIN B. HOCK  
Director.

12. AUTOMATIC SUSPENSION - SELLING ALCOHOLIC BEVERAGES TO MINORS - APPLICATION TO LIFT GRANTED SUBJECT TO ANY ORDER HEREAFTER ENTERED IN DISCIPLINARY PROCEEDINGS.

In the Matter of a Petition by )

FRANK TUZZO & RENE J. ZIMMERMAN )  
T/a CAUSEWAY BAR & GRILL )  
Hendricks Causeway )  
Ridgefield, N. J., )

ON PETITION  
O R D E R

To Lift the Automatic Suspension )  
of Plenary Retail Consumption )  
License No. C-6 issued by the )  
Borough Council of the Borough of )  
Ridgefield. )

-----)  
Max Atran, Esq., Attorney for Petitioners.

BY THE DIRECTOR:

It appears from a petition filed herein that on April 13, 1949, Rene J. Zimmerman, one of the petitioners, was convicted of a charge of selling alcoholic beverages to minors, in violation of R.S.33:1-77, in the Criminal Judicial District Court of Bergen County and was fined \$100.00. Because of the conviction, the license held by petitioners was automatically suspended for the balance of its term pursuant to R. S. 33:1-31.1.

It further appears that the criminal proceedings arose from the sale of alcoholic beverages to the minors presently the subject of disciplinary proceedings pending before me entitled Re Tuzzo & Zimmerman, in which a hearing has been held but in which decision has not yet been made.

The petition seeks a lifting of the automatic suspension.

I shall grant the relief sought herein and lift the automatic suspension of the license forthwith subject to such action as may be indicated after a complete review of the record in said disciplinary proceedings.

Accordingly, it is, on this 5th day of May, 1949,

ORDERED that the automatic suspension of License C-6, issued by the Borough Council of the Borough of Ridgefield to Frank Tuzzo & Rene J. Zimmerman, t/a Causeway Bar & Grill, for premises on Hendricks Causeway, Ridgefield, be lifted, effective at 6:00 a.m., May 6, 1949, subject to the provisions of any order hereafter entered in said disciplinary proceedings.

ERWIN B. HOCK  
Director.

13. RETAIL LICENSEES - CARE IN USE AND STORAGE OF PREPARATIONS CONTAINING POISONOUS CHEMICALS USED TO CLEAN METAL AND TO CLEAR DRAINS.

May 11, 1949.

TO ALL PLENARY AND SEASONAL RETAIL CONSUMPTION AND CLUB LICENSEES:

Many preparations commonly used to clean metal and to clear drains contain highly poisonous chemicals which, if taken internally, may produce violent illness or sudden death.

Recently a patron in a New Jersey tavern was served a glass of what was presumed to be carbonated water, but which was apparently a solution containing sodium cyanide, a deadly poison used in cleaning copper. He died an hour later.

The apparently fatal drink in this instance was a non-alcoholic "chaser". In the case of alcoholic beverages, R.S. 33:3-10 provides that any person who furnishes to another any alcoholic beverage which contains any poisonous chemicals or ingredients causing injury to health or bodily condition or death is guilty of a high misdemeanor punishable by a fine of not more than \$2,000.00 or imprisonment not exceeding ten years, or both.

Therefore, you should exercise extreme care in the use and storage of any such preparations at your licensed premises. Be sure that all cleaning compounds and poisonous substances are (1) plainly marked as such, (2) not placed or stored in any bottle or container which usually contains beverages or food, (3) stored in such a manner that they cannot possibly become mixed with drinks or food dispensed at your premises, and (4) used only by competent persons.

ERWIN B. HOCK  
Director.

14. STATE LICENSES - NEW APPLICATIONS FILED.

Jersey Warehouse Corporation  
150 Bay St.  
Jersey City, N. J.

Application for Public Warehouse License filed May 6, 1949.

Wilson Line Operating Co.  
Fourth Street Wharf  
Wilmington, Delaware.  
SS "M. V. Liberty Belle"

Application for Plenary Retail Transit License filed May 9, 1949.

*Erwin B. Hock*

Director.