

41 Sheffield St.

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

BULLETIN 942

AUGUST 13, 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 942

AUGUST 13, 1952.

1. APPELLATE DECISIONS - PULIDO v. HIGHLANDS.

ARTHUR P. PULIDO, t/a CLUB #75, )

Appellant, )

-vs- )

BOROUGH COUNCIL OF THE BOROUGH  
OF HIGHLANDS, )

Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

Frank Metro, Esq., Attorney for Appellant.

John M. Pillsbury, Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellant appealed from a ten-day suspension imposed on his Plenary Retail Consumption License C-21, issued by respondent for the 1951-52 licensing period for premises at 75 Miller Street, Highlands. Such suspension was originally imposed for the period commencing at 3:00 a.m. June 17, 1952 and terminating at 6:00 a.m. June 27, 1952.

The suspension was imposed by the respondent after it had found appellant guilty of sale, service and delivery of alcoholic beverages to minors and allowing, permitting and suffering the consumption of such beverages by such minors upon the licensed premises. On the filing of this appeal an order was entered staying respondent's order of suspension until the further order of the Director. During the course of the hearing on this appeal appellant, by his attorney, requested leave to withdraw and abandon the appeal. Respondent, by its attorney, consented to said withdrawal. This request is hereby granted.

Although the proceedings were instituted during the 1951-52 licensing period and although the suspension imposed was against License C-21, issued by respondent for the 1951-52 licensing period, the proceedings do not abate but remain fully effective against the renewal license for the 1952-53 licensing period. State Regulations No. 16.

Accordingly, it is, on this 1st day of August, 1952,

ORDERED that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that the ten-day suspension imposed by respondent as aforesaid, which suspension was stayed pending disposition of the instant appeal, be and the same is hereby restored and reimposed against License C-21, issued by respondent for the 1952-53 licensing period to appellant, for premises 75 Miller Street, Highlands, to commence at 3:00 a.m. August 4, 1952, and terminate at 3:00 a.m. August 14, 1952.

DOMINIC A. CAVICCHIA  
Director.

2. DISCIPLINARY PROCEEDINGS - SALE AND KEEPING OPEN DURING PROHIBITED HOURS AND OBSTRUCTING PUBLIC VIEW DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - HOSTESSES - EMPLOYING NON-RESIDENT - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 75 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

NEVIN'S BANKERS CLUB, INC.  
6220 Park Avenue  
West New York, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-79, issued by the  
Board of Commissioners of the Town  
of West New York.

Samuel M. Cole, Esq., by Thomas Tumulty, Esq., Attorney for  
Defendant-licensee.

Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On Saturday, June 14, 1952, between 3:00 A.M. and 3:32 A.M., you sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and allowed the consumption of such beverages on your licensed premises; in violation of Section 6 of a Resolution concerning alcoholic beverages passed by the Board of Commissioners of the Town of West New York on December 15, 1933, as amended by Ordinance adopted January 12, 1942, which prohibits any such activity between 3:00 A.M. and 7:00 A.M. on weekdays.

"2. On Saturday, June 14, 1952, between 3:00 A.M. and 3:45 A.M., you failed to close your licensed premises and you allowed thereon persons other than yourself and your bona fide employees; in violation of the aforesaid Resolution as amended, which requires that licensed premises be closed, and that persons other than the licensee and his bona fide employees be excluded therefrom, between 3:00 A.M. and 7:00 A.M. on weekdays.

"3. On Saturday, June 14, 1952, between 3:00 A.M. and 4:00 A.M., you failed to remove all shades, screens and other obstructions so as to permit a clear view of the bar in your licensed premises from the public thoroughfare; in violation of the aforesaid Resolution as amended, which requires that such view be provided between the hours of 3:00 A.M. and 7:00 A.M. on weekdays.

"4. On the aforesaid date, you allowed, permitted and suffered Millaine Vale, a female employed on your licensed premises, to accept beverages at the expense of and as a gift from customers and patrons; in violation of Rule 22 of State Regulations No. 20.

"5. On the aforesaid date and prior thereto, you knowingly employed on your licensed premises Millaine Vale, a non-resident of the State of New Jersey who had not obtained the requisite employment permit from the Director of the Division of Alcoholic Beverage Control; in violation of Rule 4 of State Regulations No. 13.

"6. On the aforesaid date, while an inspector and an investigator of the Division of Alcoholic Beverage Control were investigating the above alleged violations, and during March, April and May 1952, while inspectors of the Division of Alcoholic Beverage Control were investigating an alleged undisclosed interest in your license and your licensed business, you hindered and delayed and failed to facilitate such investigations; in violation of R. S. 33:1-35."

As to Charges (1), (2) and (3): The file herein discloses that ABC agents arrived in the vicinity of defendant's premises on Saturday, June 14, 1952, at about 2:15 a.m. At about 2:20 a.m. one of the agents entered the licensed premises and remained there until the agents identified themselves at approximately 3:30 a.m. The file also discloses that, promptly at 3:00 a.m., the lights on a large neon sign and the bright ceiling lights were extinguished so that the only illumination was from dimmed floor lights. The second ABC agent entered the licensed premises at about 3:25 a.m. and observed ten persons drinking at the bar. Included in this number of persons was the agent who had previously entered. After the second agent had ordered a drink of whiskey and soda, which was served by the bartender, the agents identified themselves. It was then approximately 3:30 a.m. The agents reported that, during the entire period of their inspection, venetian blinds on the windows were closed and that it was impossible to obtain a clear view of the bar from the public thoroughfare.

As to Charges (4) and (5): During the course of their visit the agents observed Millaine Vale consume a drink which had been purchased by one of three patrons who were seated with her at the bar. Millaine Vale was employed as an entertainer on defendant's premises. She is a resident of New York City and does not hold an employment permit authorizing her employment on licensed premises in New Jersey.

As to Charge (6): The file also discloses that during a "front" investigation conducted by ABC agents during the months of March, April and May, 1952, William Nevins, the president and 31.2% stockholder of the licensee corporation, when questioned first stated that he had invested no money and had no financial interest in the licensed business, but later claimed that he had invested \$2,000.00 in the business. Similarly, Elsie Grey, secretary-treasurer, director and 62.5% stockholder of the licensee corporation, first gave one of the agents a sworn statement declaring that although Nevins "was supposed to put up" \$2,000.00 towards the purchase price of the business, she did not know whether in fact he had done so. Later she gave another sworn statement claiming that she, herself, had turned over Nevins' \$2,000.00 to the seller of the business. Moreover, Elsie Grey, in her first statement, claimed that she had advanced \$2,000.00 and had withdrawn these funds from her bank account in a certain bank. However, subsequent examination of that bank's records by the Division disclosed no such withdrawal from her account. Furthermore, Samuel M. Cole, a director and minority stockholder of the licensee corporation, refused to exhibit to one of the agents for inspection the agreement for the purchase of the business. Finally, during the conduct of investigation of the violations which are the subject of charges 1 through 5, when Division agents called to the attention of Mrs. Grey (who was then present and in charge of the licensed premises) the apparent violations of the local "hours" regulations and requested her to

clear the premises of patrons, she not only failed to accede to the request but expressly refused to do as requested, became very belligerent and verbally abusive to the agents, and stood by while two patrons actively interfered with the agents to such an extent that it was necessary for the agents to obtain the aid of local police officers to maintain order.

Licensees who fail to facilitate any investigation or inspection of their licensed business or premises by the Division, or who actively hinder and delay or in any way cause the hindrance or delay of such investigation or inspection, raise strong doubts as to their fitness to hold the license privilege. At the very least, such conduct warrants the imposition of vigorous penalties to impress the offending licensees with their responsibilities, and, as well, to serve as a deterrent to other licensees who might be tempted similarly to violate the plain mandate of the Alcoholic Beverage Law requiring licensees fully to cooperate in such investigations and inspections.

Defendant is guilty as to all charges.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of twenty days because of the violations set forth in Charges 1, 2 and 3 (Re Schmidt, Bulletin 881, Item 13); for an additional period of twenty days because of the violation set forth in Charge 4 (Re Manno, Bulletin 921, Item 6); for an additional period of five days because of the violation set forth in Charge 5 (Re Schnur, Bulletin 923, Item 12); and for an additional period of thirty days because of the violation set forth in Charge 6. (Cf. Re Mrozek, Bulletin 906, Item 7, and Re Zuman, Bulletin 847, Item 2). This effects a total suspension of seventy-five days. Five days will be remitted because of the plea entered herein, leaving a net suspension of seventy days.

Accordingly, it is, on this 5th day of August, 1952,

ORDERED that Plenary Retail Consumption License C-79, issued by the Board of Commissioners of the Town of West New York to Nevin's Bankers Club, Inc., for premises 6220 Park Avenue, West New York, be and the same is hereby suspended for seventy (70) days, commencing at 3:00 a.m. August 11, 1952, and terminating at 3:00 a.m. October 20, 1952.

DOMINIC A. CAVICCHIA  
Director.

3. DISCIPLINARY PROCEEDINGS - HOSTESSES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

FRISCO CLUB CORP.  
8 Sherman Avenue  
Lodi, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-17 for the 1951-52  
and 1952-53 licensing years, issued  
by the Mayor and Council of the  
Borough of Lodi.

-----  
William T. Ferraro, Esq., Attorney for Defendant-licensee.  
David S. Piltzer, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on June 12, 1952 and on June 13, 1952, it allowed, permitted and suffered a female employee to accept food and beverages at the expense of or as a gift from customers and patrons, in violation of Rule 22 of State Regulations No. 20.

The file in the instant case discloses that on the early morning of June 12, 1952, an ABC agent, who was then in defendant's licensed premises, purchased three drinks of alcoholic beverages for a female entertainer employed by defendant. The ABC agent returned to defendant's licensed premises on the early morning of the following day, at which time he again purchased food and drinks for the same female entertainer.

Defendant (through his attorney) has set forth in mitigation of penalty that the female employee accepted the food and drinks at the expense of the ABC agent contrary to instructions given to her by the officers of the defendant corporate-licensee. A licensee is under a duty, however, to exercise close supervision over the licensed premises, and violations cannot be excused merely because the licensee has no personal knowledge of them or because the violations were committed contrary to instructions. Rule 31 of State Regulations No. 20; Stein v. Passaic, Bulletin 451, Item 5; Essex Holding Corp. v. Hock, 136 N.J.L. 28; Re Club Fazzari, Inc., Bulletin 917, Item 3; Re Larsen, Bulletin 919, Item 12; Re Jablonski, Admr., Bulletin 921, Item 3. As was said in Re Paton, Bulletin 898, Item 3: "He (a licensee) cannot hide behind his employees".

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, making a net suspension of fifteen days. Re Manno, Bulletin 921, Item 6.

Although this proceeding was instituted during the 1951-52 licensing period it does not abate but remains fully effective against the renewal license for the licensing year 1952-53. State Regulations No. 16.

Accordingly, it is, on this 1st day of August, 1952,

ORDERED that Plenary Retail Consumption License C-17, issued for the 1952-53 licensing year by the Mayor and Council of the Borough of Lodi to Frisco Club Corp., 8 Sherman Avenue, Lodi, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 4:00 a.m. August 11, 1952, and terminating at 4:00 a.m. August 26, 1952.

DOMINIC A. CAVICCHIA  
Director.

4. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD -  
 LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary )  
 Proceedings against )

SALVATORE MANNO & MARY MANNO )  
 187 Ellison Street )  
 Paterson 1, N. J., )

CONCLUSIONS  
 AND ORDER

Holders of Plenary Retail Consump- )  
 tion License C-296 for the 1951-52 )  
 and 1952-53 licensing years, )  
 issued by the Board of Alcoholic )  
 Beverage Control of the City of )  
 Paterson. )  
 - - - - - )

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

BY THE DIRECTOR:

Defendants have pleaded not guilty to a charge alleging that they sold, served and delivered alcoholic beverages to minors and allowed, permitted and suffered the consumption of alcoholic beverages by said minors on their licensed premises, in violation of Rule 1 of State Regulations No. 20.

An ABC agent testified that on the evening of March 8, 1952, when in defendants' licensed premises with another agent, he heard Mary Manno, one of the defendant-licensees, order a drink of whiskey. He then observed that the bartender placed a shot glass and a tall glass in front of Lynn ---; that the bartender filled the shot glass with whiskey and the tall glass with a dark fluid. He further testified that Mary Manno called the bartender and pointed towards the front of Nancie ---; that the bartender then filled a shot glass with whiskey and a large glass with a dark fluid for Nancie ---; that the girls (Lynn and Nancie), each of whom was 18 years of age at the time, consumed their respective drinks. Thereafter, according to the testimony of the ABC agent, Lynn --- went to the section of the bar where Salvatore Manno, the other defendant-licensee, was seated. The agent also testified that Salvatore Manno called the bartender, who placed a shot glass and a tall glass in front of Lynn --- and filled the shot glass with whiskey and the tall glass with a dark fluid. The ABC agent attempted to seize the glass of whiskey but before he could do so Lynn --- had nearly consumed the whiskey in the glass. The ABC agent made his identity known to Salvatore Manno and directed that he and Lynn --- follow him to the rear of the barroom where he made a telephone call to the local Police Department. In response thereto, two police officers were dispatched to defendants' licensed premises. The testimony of the second ABC agent who was present at the time in question was substantially the same as the testimony of the other agent except that this agent testified that Mary Manno ordered two drinks of whiskey, one of which she drank.

Mary Manno admitted that she ordered a glass of whiskey and a lemon chaser on two occasions but claimed that the drinks were for her own personal consumption. Mary Manno further testified that both girls sat at the bar with her for at least fifteen minutes but that she did not order any drinks for Lynn --- or Nancie ---. Salvatore Manno also admitted that he ordered a glass of whiskey for himself and a cola drink for Lynn ---; that he drank the whiskey but that the cola drink was still on the bar when an ABC agent seized the glass. Lynn --- and Nancie --- testified that they were not served alcoholic beverages at the defendants' licensed premises on the

evening in question. Leo Dellanno, the bartender, testified that he was on duty on the evening of March 8, 1952 and that he served two glasses of whiskey to Mary Manno at different times and a glass of whiskey to Salvatore Manno; that he did not serve alcoholic beverages to the two girls. He testified that previous to the time that Mary Manno and Salvatore Manno came into the licensed premises Nancie --- had a glass of "coke", but that Lynn --- had nothing to drink. Leo Dellanno further testified that he served a drink of coke to Lynn --- while she was at the bar with Salvatore Manno.

Defendants' witnesses, with the exception of Nancie ---, testified that they heard one of the ABC agents suggest to a police officer to say, if he made a report, that the ABC agents were there on a "minors" complaint but that there was insufficient evidence or lack of evidence. The ABC agent who was alleged to have made such a statement denied ever doing so.

The evidence presented herein on behalf of the Division and that presented on behalf of the defendants is contradictory. I am satisfied, however, after a careful review of all of the evidence presented in this case, that the testimony given by the two ABC agents is an accurate account of what occurred in defendants' licensed premises at the time in question. Therefore, I find defendants guilty of selling, serving and delivering alcoholic beverages to Lynn --- and Nancie ---, minors, and permitting the consumption thereof by said minors at the time in question.

Ordinarily, in the absence of a prior record, a violation such as that under consideration herein would warrant a suspension of the license for ten days. Re Siciliano, Bulletin 882, Item 9. Defendants, however, have a prior adjudicated record. Effective November 26, 1951, their license was suspended for a period of fifteen days after a plea of non vult to a charge of permitting and suffering "hostess" activities on their licensed premises. See Re Manno, Bulletin 921, Item 6. Under the circumstances, I shall suspend defendants' license for a period of fifteen days.

Although this proceeding was instituted during the 1951-52 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1952-53. State Regulations No. 16.

Accordingly, it is, on this 6th day of August, 1952,

ORDERED that Plenary Retail Consumption License C-296, issued for the 1952-53 licensing year by the Board of Alcoholic Beverage Control of the City of Paterson to Salvatore Manno & Mary Manno, 187 Ellison Street, Paterson, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. August 13, 1952, and terminating at 3:00 a.m. August 28, 1952.

DOMINIC A. CAVICCHIA  
Director.



5. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

CEDAR BAR OF BERGEN COUNTY INC.  
T/a CEDAR BAR OF BERGEN COUNTY INC.  
14 Ridge Road  
North Arlington, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption  
License C-3 for the 1951-52 and  
1952-53 licensing years, issued by  
the Borough Council of the Borough  
of North Arlington.

-----)  
Cedar Bar of Bergen County Inc., by Thomas W. Hudson, Treas.  
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage  
Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold, served and delivered, and allowed, permitted and suffered the service and delivery of alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on June 7, 1952, James ---, 17 years of age, purchased and consumed several glasses of beer which were served to him on the licensed premises by a bartender employed by defendant.

Defendant contends, in mitigation, that before making the sale and service of the alcoholic beverages to the minor under consideration, he examined an identification card then in possession of the minor which indicated that the person named thereon was an adult. The said card was issued by the Naval Reserve to a person other than the minor referred to herein. The minor is 5 feet 11 inches in height and weighs 160 pounds. In a statement made on June 9, 1952 to a member of the North Arlington Police Department, he admitted that before sale and service of the alcoholic beverages to him he had shown to the bartender as proof of his age the identification card above referred to. It is clear, however, that defendant has not established a defense under the provisions of R.S. 33:1-77, because, admittedly, the minor did not falsely represent in writing that he was 21 years of age or over. Re Smith, Bulletin 890, Item 10. The defendant is guilty as charged.

Defendant has no prior adjudicated record. Considering the age of the minor, I shall suspend its license for a period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Drucker, Bulletin 801, Item 5. The case of Re Schmitz, Bulletin 937, Item 14, to the extent that similar facts were deemed mitigating circumstances in fixing the period of suspension, is overruled.

Although this proceeding was instituted during the 1951-52 licensing period, it does not abate but remains fully effective against the renewal license for the 1952-53 licensing period. State Regulations No. 16.

Accordingly, it is, on this 29th day of July, 1952,

ORDERED that Plenary Retail Consumption License C-3, issued for the 1952-53 licensing period by the Borough Council of the Borough of

North Arlington to Cedar Bar of Bergen County Inc., t/a Cedar Bar of Bergen County Inc., 14 Ridge Road, North Arlington, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. August 4, 1952, and terminating at 2:00 a.m. August 14, 1952.

DOMINIC A. CAVICCHIA  
Director.

6. DISCIPLINARY PROCEEDINGS - EMPLOYING MINORS AS PIN BOYS WITHOUT PERMIT - EMPLOYING MINORS UNDER FIFTEEN AS PIN BOYS - PREVIOUS RECORD - LICENSE AND PERMIT SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
MAX KNEBLE  
Olden Avenue  
Somerdale, N. J.,  
Holder of Plenary Retail Consumption License C-1 for the 1951-52 and 1952-53 licensing years, issued by the Borough Council of the Borough of Somerdale; and Special Permit "P No. 3090" for the 1951-52 licensing year and "P No. 3161" for the 1952-53 licensing year, issued by the State Director of the Division of Alcoholic Beverage Control.  
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William T. Cahill, Esq., Attorney for Defendant.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging (1) that on March 31, 1952 and on divers days prior thereto he knowingly employed four 15-year-old minors as pin boys on his licensed premises who had not obtained requisite employment permits from the Director of the Division of Alcoholic Beverage Control, in violation of Rule 3 of State Regulations No. 13; and (2) that on March 31, 1952 and on divers days prior thereto he knowingly employed two minors, 14 years of age and 12 years of age, respectively, as pin boys on his licensed premises, in violation of Rule 6 of State Regulations No. 13.

At the time the violations occurred defendant was the holder of Special Permit "P No. 3090" issued July 18, 1951, permitting him to employ minors 16 years of age or over as pin boys on the licensed premises, subject to the provisions of the State Labor Law concerning such employment. The Department of Labor and Industry, Division of Labor, reported to this Division that an inspection of defendant's premises on March 31, 1952, disclosed that four minors (each 15 years of age), one minor (14 years of age) and one minor (12 years of age) were then employed as pin boys on defendant's premises. As indicated, defendant's permit permitted him to employ minors 16 years of age or over as pin boys. Moreover, Rule 6 of State Regulations No. 13 provides:

"No licensee shall employ in any manner whatsoever on the licensed premises any person under the age of fifteen (15 years."

Defendant has a prior adjudicated record. Effective February 5, 1945, defendant's license and a special permit issued to him were each suspended by the State Commissioner (now Director) of Alcoholic Beverage Control for a period of five days (ten days less five days for a non vult plea) as the result of violations substantially the same as those presently under consideration. Re Kneble, Bulletin 649, Item 8. However, instead of doubling for a second similar violation of this nature the usual ten-day penalty for a first offense, in this case I shall suspend defendant's license and permit for fifteen days because more than five years have elapsed since the previous violations. Five days will be remitted for the plea entered herein, leaving a net suspension of both license and permit for a period of ten days.

It has been urged in defendant's behalf, by way of mitigation, that his "violation was brought about by the desire on his part to accommodate patrons who desired to bowl at a time when the older boys were not present" and that in "trying to please his customers, he, of course, neglected his obligation under the law." To this, there can be but one answer: The defendant must learn that, of course, his obligation under the law is paramount to his desire to accommodate his patrons. Unless he learns this once and finally, he may one day learn that his license and permit have been revoked.

Although this proceeding was instituted during the 1951-52 licensing period, it does not abate but remains fully effective against both the renewal license and the Special Permit obtained for the 1952-53 licensing year. State Regulations No. 16.

Accordingly, it is, on this 30th day of July, 1952,

ORDERED that Plenary Retail Consumption License C-1 issued for the 1952-53 licensing year by the Borough Council of the Borough of Somerdale to Max Kneble, Olden Avenue, Somerdale, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. August 5, 1952, and terminating at 3:00 a.m. August 15, 1952; and it is further

ORDERED that Special Permit "P No. 3161" issued for the 1952-53 licensing year by the State Director of the Division of Alcoholic Beverage Control to Max Kneble, Olden Avenue, Somerdale, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. August 5, 1952, and terminating at 3:00 a.m. August 15, 1952.

DOMINIC A. CAVICCHIA  
Director.

7. DISCIPLINARY PROCEEDINGS - LOTTERY - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

ANNA & WILLIAM EDWARDS  
84 Sitgreaves Street  
Phillipsburg, N. J.,

CONCLUSIONS  
AND ORDER

Holders of Plenary Retail Consump-  
tion License C-117, issued by the  
Board of Commissioners of the  
Town of Phillipsburg.  
- - - - - )

Thomas C. Swick, Esq., Attorney for Defendant-licensees.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charge:

"On June 13, 1952, you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, tickets and participation rights in a lottery known and designated as 'E.P.', in which the published daily balance of the United States Treasury was used as the factor in determining the winners of such lottery; in violation of Rule 6 of State Regulations No. 20."

The file herein discloses that on June 13, 1952, at about 11:30 a.m., an officer of the State Police and an ABC agent entered defendants' premises. They sat at the bar and observed upon a carton located behind the bar a small brown paper bag and a small stack of white papers. Peter Miller, who was then tending bar, apparently spent most of his time talking to another customer. At about 12:30 p.m. Peter Miller picked up the paper bag and paper slips and placed them in his pocket. As Miller started to leave the premises, the police officer and the agent identified themselves to him. They found that the paper bag which Miller had placed in his pocket contained forty-eight "Empire Treasury" tickets. They also found that the white paper slips consisted of about one hundred return slips indicating winners of the lottery during the week of June 6, 1952 to June 12, 1952. Miller was placed under arrest. In a statement given to the ABC agent he stated that he had obtained the items found in his possession on the evening of June 12, 1952, from one Jacob Rosenberg, and that he had brought these items to the licensed premises on the morning of June 13, 1952. He denied that he had ever sold any tickets on the licensed premises.

In alleged mitigation, the attorney for defendants has written me a letter in which he states that both licensees deny that they had any knowledge that the bartender had these slips in his possession and that they have discharged the bartender. The contention of lack of knowledge is weakened by the report of the ABC agent which shows that William Edwards went behind the bar and served sandwiches, while the agent and the police officer were seated at the bar. In any event, even in the absence of actual knowledge, the licensees cannot escape the consequences of an occurrence such as related above. They cannot hide behind their employee. Re Paton, Bulletin 898, Item 3. However, in fixing a period of suspension I shall take into consideration the fact that there is no evidence that any slips were sold on the licensed premises.

Defendants have no prior adjudicated record. In Re Davis, Bulletin 913, Item 5, defendant's license was suspended for a period

of twenty days after defendant had pleaded non vult to charges alleging that she allowed, permitted and suffered a lottery to be conducted in her licensed premises, and permitted and suffered tickets and participation rights in said lottery in and upon her licensed premises. In that case defendant denied that she had any knowledge of the illegal activity. In the instant case the facts are quite similar except that there is no charge that a lottery was conducted on the licensed premises. In view of all the circumstances of this case I shall suspend defendants' license for a period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 4th day of August, 1952,

ORDERED that Plenary Retail Consumption License C-117, issued by the Board of Commissioners of the Town of Phillipsburg to Anna & William Edwards, for premises 84 Sitgreaves Street, Phillipsburg, be and the same is hereby suspended for ten (10) days, commencing at 1:00 a.m. August 11, 1952, and terminating at 1:00 a.m. August 21, 1952.

DOMINIC A. CAVICCHIA  
Director.

8. DISQUALIFICATION - FIVE YEARS' GOOD CONDUCT SHOWN DESPITE ARREST DURING PAST FIVE YEARS FOLLOWED BY WITHDRAWAL OF COMPLAINT - APPLICATION HEREIN GRANTED.

In the Matter of an Application	)	
to Remove Disqualification	)	
because of a Conviction, Pursuant	)	CONCLUSIONS
to R. S. 33:1-31.2.	)	AND ORDER
Case No. 989.	)	
- - - - -	)	

BY THE DIRECTOR:

In 1932, petitioner pleaded non vult in a county court to the crime of breaking, entering, larceny and receiving, as the result of which he was placed on probation for five years. Since the crime of which he was convicted involves moral turpitude, he became ineligible to hold a license or be connected in any business capacity with the alcoholic beverage industry in New Jersey.

In addition to the aforementioned conviction petitioner, in 1944, pleaded guilty in a federal court to the crime of possession and transportation of untaxed alcoholic beverages, for which he was placed on probation for five years; in 1945, he pleaded guilty in a police court to a charge of gambling at cards in violation of a municipal ordinance for which he was fined \$25.00; and, in 1946, he pleaded non vult in a county court to the crime of robbery, as the result of which he was sentenced to a term of two to three years in State Prison. He was released in June 1947 and placed on parole. Since that time he has not been convicted of any crime. He was arrested, however, on October 25, 1949, upon complaint of his wife and charged with desertion and assault and battery. The complaint for desertion was withdrawn on November 18, 1949 and, on December 13, 1949, the grand jury dismissed the charge of assault and battery.

Petitioner produced three witnesses, an insurance agent, a trucker and a dental mechanic, all of whom have known him for at least eight years. They testified that he bears a good reputation in the community and that, so far as they know, he has been law-abiding for at least five years last past.

Petitioner testified that since his release from prison in June 1947, he has been employed as a warehouseman by three different employers. He seeks to have his disqualification resulting from conviction of crime removed so that he may be employed by warehousemen who handle alcoholic beverages or be otherwise employed in the alcoholic beverage industry in this state. He admitted having had some marital difficulties in 1949 but denied having deserted his wife and child, claiming that he and his wife merely had an argument. The testimony of the other witnesses shows that petitioner presently lives with his wife and child.

In order to grant the relief sought by petitioner I must find that he has been law-abiding for at least five years last past. While his arrest in 1949 casts some doubt on this question, the fact that he was not indicted on the charge of assault and battery, the fact that his wife withdrew the complaint for desertion, and the fact that she presently lives with him lend support to his claim that there was merely a family argument.

Under all of the circumstances I find that petitioner has been law-abiding for at least five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 21st day of July, 1952,

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

DOMINIC A. CAVICCHIA  
Director.

9. ALIENS - AUSTRIAN NATIONALS - STATUS OF "RECIPROCAL TRADE" TREATY  
BETWEEN THE UNITED STATES AND AUSTRIA.

August 6, 1952

Ralph M. Sacks, Esq.  
New York, N. Y.

Dear Sir:

In your letter of July 24th you have raised question as to whether an Austrian national is disqualified by his alienage from holding a retail liquor license in New Jersey.

The Alcoholic Beverage Law in this state provides that no alien may hold a retail liquor license (R.S. 33:1-25), and also provides that no alien shall be employed by a retail licensee unless first obtaining a special permit from this Division with respect to such employment (R.S. 33:1-26).

However, we recognize that these statutory provisions are necessarily subject to those treaties which the Federal Government has entered with various foreign countries guaranteeing their nationals the same trade privileges in the United States as our own citizens. Under the United States Constitution, treaties signed by the President and ratified by the Senate become part of the supreme law of the land. Hence, we have ruled that nationals of the foregoing foreign countries are exempt from the above restrictions against aliens (Bulletin 228, Item 2).

Austria has such a treaty with the United States. However, on our advent into World War II, we took the position that, since Austria had at that time been incorporated into Germany, such treaty necessarily lapsed (Bulletin 491, Item 8).

Confirming your recent correspondence with the Secretary of State in Washington, D. C., we have been advised by his office that, in the view of the Secretary of State, our foregoing treaty with Austria should be deemed as presently being in full force. Consistent therewith, we hence now consider that, by reason of the foregoing treaty, Austrian nationals are not debarred by their alienage from holding a retail liquor license in New Jersey or working for a retail licensee in this state.

Very truly yours,  
DOMINIC A. CAVICCHIA  
Director.

10. MORAL TURPITUDE - ADULTERY.

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. 993. )	

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BY THE DIRECTOR:

On March 9, 1937, petitioner was found guilty in a Court of Quarter Sessions of the crime of adultery and was sentenced to serve six months in the county jail. However, her sentence was immediately suspended and she was placed on probation for three years. At the time of her conviction petitioner was married, but subsequently she and the man to whom she was then married were divorced and she married the man with whom she had been convicted of having committed adultery. Petitioner has no other criminal record.

For the past three years petitioner has been employed as a telephone operator. Her second husband died about five months ago and, after she had been appointed administratrix of his estate, a New Jersey transportation license which had been issued to him was extended to her as administratrix of his estate. She desires to have her disqualification removed so that she may apply for a transfer of the transportation license to herself individually.

At the hearing held herein, the Chief of Police of the municipality in which she resides, a member of the Police Department of another municipality, and an employee of a large oil company, all of whom have known petitioner for at least five years, testified that during that period of time she has been honest and law-abiding. The records of the Division of Alcoholic Beverage Control disclose that on July 18, 1951, prior to the time he obtained his transportation license, her second husband obtained an order from the Director removing his statutory disqualification because of his conviction of adultery at the same time petitioner was convicted of that crime in 1937.

From the evidence presented herein, I find that petitioner has conducted herself in an honest and law-abiding manner for the last five years, and I conclude that her association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 6th day of August, 1952,

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

DOMINIC A. CAVICCHIA  
Director.

11. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

DAVID HERSHCOWITZ  
T/a DAVE'S FRIENDLY BAR  
1207 St. George Avenue  
Roselle, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-6, issued by the  
Borough Council of the Borough of  
Roselle.

David Hershcowitz, Defendant-licensee, Pro Se.  
William F. Wood, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulations No. 20.

On June 26, 1952 an ABC agent entered defendant's licensed premises for the purpose of making a routine inspection. After the agent had identified himself, the licensee went behind the bar where he attempted to hide a partly filled quart bottle labeled "Calvert Reserve Blended Whiskey 86.8 Proof" by placing it among full bottles at the end of the back bar. When asked to explain this conduct the licensee told the agent that when he opened the licensed premises that morning he had poured into the bottle of Calvert Reserve several ounces of whiskey from each of two bottles of different brands of whiskey. He claimed that the reason for this was that most of his patrons ordered "double shots" and that he did not believe that these bottles contained enough for a "double shot".

The agent seized the above mentioned bottle and another partly filled bottle of the same brand. Subsequent analysis by the Division chemist disclosed that the contents of the seized bottles were not genuine as labeled. The licensee gave a signed statement in which he admitted tampering with the one bottle as above mentioned but gave no explanation as to the other bottle.

Defendant has no previous adjudicated record. Under the circumstances I shall suspend his license for fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Shinkunas, Bulletin 938, Item 9.

Accordingly, it is, on this 4th day of August, 1952,

ORDERED that Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of Roselle to David Hershcowitz, t/a Dave's Friendly Bar, 1207 St. George Avenue, Roselle, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. August 11, 1952 and terminating at 2:00 a.m. August 21, 1952.

DOMINIC A. CAVICCHIA  
Director.



12. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

GENE LAURENT'S MAPLE TREE INN  
(A Corp.) )

2 South Avenue  
Fanwood, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-2, issued by the )  
Mayor and Council of the Borough )  
of Fanwood. )

- - - - - )

Michael A. Paticchio, Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe the contents thereof, in violation of Rule 27 of State Regulations No. 20.

On June 27, 1952, an ABC agent examined eighty-two opened bottles of alcoholic beverages on defendant's licensed premises and seized two 4/5 quart bottles labeled "Canadian Club Blended Canadian Whiskey 90.4 Proof" when his field tests indicated a variance between the description on the labels of the bottles and the contents thereof. Subsequent analysis by the Division chemist disclosed that the contents of the seized bottles were not genuine as labeled.

Gene Laurent, President of defendant corporate licensee, disclaimed knowledge of the fact that the contents of the seized bottles had been tampered with. Nevertheless, the licensee is responsible for any "refills" found in its stock of liquor. Re Bertola, Bulletin 921, Item 8.

Defendant has no prior adjudicated record. Under the circumstances, I shall suspend defendant's license for the minimum period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Shinkunas, Bulletin 938, Item 9.

Accordingly, it is, on this 11th day of August, 1952,

ORDERED that Plenary Retail Consumption License C-2, issued by the Mayor and Council of the Borough of Fanwood to Gene Laurent's Maple Tree Inn (A Corp.), 2 South Avenue, Fanwood; be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. August 18, 1952, and terminating at 2:00 a.m. August 28, 1952.

*Dominic A. Cavicchia*  
Dominic A. Cavicchia  
Director.