

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

BULLETIN 548

JANUARY 21, 1943.

1. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - DISCREPANCY IN PROOF AND SOLID CONTENT - PREVIOUS WARNING - 15 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against

JOHN V. SALEK,  
T/a COLUMBIA HOUSE  
262 Passaic Street  
Passaic, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-154, issued by the Board of Commissioners of the City of Passaic.

John V. Salek, Pro Se.  
Abraham Merin, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge alleging that he possessed a quart bottle of "Wilson 'That's All' Blended Whiskey 86.8 Proof" and also a quart bottle of "Three Feathers The Aristocrat Blended Whiskey 86.8 Proof", both of which contained alcoholic beverages which were not genuine as labeled, in violation of R. S. 33:1-50.

The Wilson whiskey, upon analysis, was found to vary in solid content, and the other bottle was over proof. The licensee stated that his mother, who works at the tavern in the mornings, admitted to him that she had emptied the contents of another container into the two bottles in question.

The records of this Department show that no disciplinary proceedings have heretofore been brought against this licensee. However, in March 1937 he was given a warning after Federal agents found four bottles at the tavern which did not test as labeled. In addition, in August 1940 Federal agents seized a bottle of alcoholic beverages from the licensee which was 3.5 under proof. No action was taken as to this latter bottle. In view of the warning and the subsequent seizure, the usual ten-day penalty for the instant violation will be increased to fifteen days. See Re Whoroski, Bulletin 454, Item 6, and cases therein cited.

Accordingly, it is, on this 12th day of January, 1943,

ORDERED, that Plenary Retail Consumption License C-154, heretofore issued by the Board of Commissioners of the City of Passaic to John V. Salek, t/a Columbia House, for premises 262 Passaic Street, Passaic, and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 A.M. on January 18, 1943, and terminating at 3:00 A.M. on February 2, 1943.

ALFRED E. DRISCOLL  
Commissioner.

2. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES FROM DELIVERY TRUCK UPON THE PUBLIC HIGHWAY, IN VIOLATION OF R. S. 33:1-2 - 10 DAYS' SUSPENSION.

SEIZURE - FORFEITURE PROCEEDINGS - FACTS EXAMINED - DEPOSIT COVERING SEIZURE ORDERED RETURNED UPON PAYMENT OF COSTS OF STORAGE.

In the Matter of Disciplinary Proceedings against

NEW JERSEY BOTTLING CO., INC. 112-118 Cass Street Trenton, N. J.,

Holder of Plenary Retail Distribution License D-11 for the current fiscal year, issued by the Board of Commissioners of the City of Trenton.

Case No. 6320 In the Matter of the Seizure on August 14, 1942 of an International truck and a quantity of alcoholic and other beverages contained therein, in the vicinity of 812 South Warren Street, in the City of Trenton, County of Mercer and State of New Jersey.

ON HEARING CONCLUSIONS AND ORDER

Andrew J. Duch, Esq., Attorney for Defendant-Licensee. Abraham Merin, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

These cases involve the same facts, hence may be decided together.

Defendant-licensee, who holds a plenary retail distribution license, has pleaded not guilty to the following charge:

"On or about August 14, 1942, and on divers days prior thereto, you transported, possessed with intent to sell and sold alcoholic beverages in and about the City of Trenton, New Jersey, beyond the terms and scope of your plenary retail distribution license, in that you peddled such beverages from door to door and sold such beverages from an auto truck on the public highway off your licensed premises; such transportation, possession and sale being in violation of R. S. 33:1-2."

The testimony discloses that on August 14, 1942 Abe Silver, an officer and employee of the defendant-licensee, sold six bottles of beer to an ABC agent. The sale in question took place on South Warren Street, Trenton, where Silver had parked licensee's delivery truck, containing the beer which he sold to the ABC agent. Silver, at the time, was engaged in making deliveries for the licensee and was using, for that purpose, the truck in question. Silver apparently made the sale to the ABC agent because he believed that he was a resident of the neighborhood. When the sale was completed, the agent disclosed his identity, arrested Silver, and seized the truck and all the beverages therein.

The defendant-licensee claims that Silver did not peddle alcoholic beverages, but that each of its customers had a "standing order" for a specific quantity of alcoholic beverages, which it delivered weekly; that Silver sold the six bottles of beer to the ABC agent because he mistook him for a customer who had a "standing order" for that amount of beer; that when on his routes, Silver did not first knock on his customers' doors to find out what alcoholic beverages they wanted, but, instead, delivered their "standing orders" without any preliminary inquiry.

However, the licensee's version of the manner in which it conducted this branch of its business is contradicted by customers to whom Silver had delivered alcoholic beverages on the same day. One of the customers, in a written statement, declared that Mr. Silver came to her front door, asked her what she wanted for the week, "like he always does"; that she told him she wanted twelve bottles of beer and twelve bottles of soda; that Silver then called out her order to his helper on the truck, who took the beverages from the truck and delivered them to her home. Another customer, when interviewed by ABC agents, verbally stated that she did not have a "standing order" with the licensee; that Silver would come from time to time and ask what she wanted, then would go back to the truck, get what she wanted, and deliver it.

Furthermore, an investigator of this Department testified that, on the day of the seizure, Mr. Silver informed him that he had a route and "he stopped, and if they (his customers) wanted any, he would take it off the truck and give it to them." It is likewise significant that the licensee had no books or records showing the names, addresses, accounts or "standing orders" of the many customers to whom it made periodic deliveries, although it appears that this has been an extensive part of its licensed business for many years. Silver says that, when loading or delivering alcoholic beverages, he did not have any delivery slips or route books, but carried everything "in his head."

I am therefore convinced, from the evidence presented, that it was the licensee's practice to load its truck with alcoholic beverages to be used by Silver, its employee, with its acquiescence and approval, to fill original orders received by him when he called upon its customers at their homes.

I therefore find that the licensee used its truck to transport alcoholic beverages intended for sale directly from the same, and that, in fact, three sales were actually made from such truck on the date in question.

The sale of alcoholic beverages by a licensee in this manner constitutes a peddling of alcoholic beverages and is prohibited by the Alcoholic Beverage Law. The licensee is guilty as charged.

The case is similar in many aspects to Re Goncharoff, Bulletin 544, Item 1. Hence, the license issued to New Jersey Bottling Co., Inc. will be suspended for ten days.

At the same time that the disciplinary proceedings were instituted, seizure proceedings were brought, pursuant to the provisions of Title 35, Chapter 1 of the Revised Statutes, to determine whether the seized International truck and beverages should be forfeited.

The International truck was returned to its owner, New Jersey Bottling Co., Inc., upon payment, under protest, pursuant to R. S. 33:1-66, of its appraised value of \$500.00. Licensee has stipulated

that the Commissioner should determine, in these proceedings, whether this money should be returned to it. Likewise, the licensee, who is the owner of the alcoholic and other beverages seized, seeks their return.

The transportation of alcoholic beverages, with intent to sell the same upon the public highway, as well as the actual sales found to have taken place, were contrary to the terms of the defendant's license and unlawful. The seized alcoholic beverages are therefore illicit. R. S. 33:1-1(i); R. S. 33:1-2. The law further provides (R. S. 33:1-66) that the vehicle containing the same is subject to forfeiture.

I am authorized to return seized or forfeited property where it appears to my satisfaction that the person seeking its return has unwittingly violated the law while acting in good faith. R. S. 33:1-66(e). Since the cases are similar, I shall give the defendant-licensee the same relief in the seizure proceedings as was granted to the licensee in the Goncharoff case, supra.

Accordingly, the money on deposit covering the value of the truck, after deducting the costs of seizure and storage, and also the alcoholic and other beverages, will be returned to the New Jersey Bottling Co., Inc.

Accordingly, it is, on this 13th day of January, 1943,

DETERMINED AND ORDERED, that there shall be deducted from the \$500.00 paid by New Jersey Bottling Co., Inc. the costs due, paid or incurred in connection with the seizure and storage of the International truck and beverages. The balance of the money deposited, as well as the seized beverages, are to be returned to New Jersey Bottling Co., Inc.; and it is further

ORDERED, that Plenary Retail Distribution License D-11, heretofore issued by the Board of Commissioners of the City of Trenton to New Jersey Bottling Co., Inc. for premises 112-118 Cass Street, Trenton, be and the same is hereby suspended for a period of ten (10) days, commencing January 18, 1943, at 2:00 A.M., and terminating January 28, 1943, at 2:00 A. M.

ALFRED E. DRISCOLL  
Commissioner.

3. DISCIPLINARY PROCEEDINGS - ILLICIT BEVERAGES - ADMITTED REFILLING OF 29 BOTTLES BEARING LABELS OF POPULAR BRANDS - 90 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against )

CARL BELZA )  
T/a BELZA'S INN )  
681-687 Klockner Road )  
Hamilton Township, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-23, issued by the Township Committee of the Township of Hamilton, Mercer County, N. J. )  
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Joseph J. Felcone, Esq., Attorney for Defendant-Licensee.  
Abraham Merin, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant-licensee has entered a plea of guilty to the following charges:

"1. On or about October 31, 1942 you possessed illicit alcoholic beverages at your licensed premises, viz., -- five quart bottles labeled 'Schenley Special Bar Reserve Blended Whiskey 86 Proof', five quart bottles labeled 'Wilson "That's All"-Blended Whiskey 86.8 Proof', one quart and one 4/5th quart bottle labeled 'Calvert Special Blended Whiskey 86.8 Proof', three quart bottles labeled 'Calvert Special Blended Whiskey 90 Proof', ten quart bottles labeled 'Carstairs White Seal Blended Whiskey 86.8 Proof' and four quart bottles labeled 'Three Feathers - The Aristocrat - Blended Whiskey', all of which bottles contained alcoholic beverages which were not genuine as labeled; such possession being in violation of R. S. 33:1-50.

"2. On or about the date aforesaid, and prior thereto, you, not being the holder of any license so to do, bottled alcoholic beverages for sale, in that you refilled all the aforesaid twenty-nine bottles with alcoholic beverages for sale by the drink in your retail licensed premises; said bottling being in violation of R. S. 33:1-78."

On October 31, 1942 agents of the Department of Alcoholic Beverage Control, during the course of a retail inspection of the defendant's licensed premises, seized 29 open bottles discovered by them to contain illicit alcoholic beverages. Subsequent analysis of the contents of the bottles by the Department's chemist definitely established that 26 of the bottles had been refilled.

The defendant-licensee admitted in a signed statement that he had partially refilled all of the 29 bottles referred to in the charges quoted above, with either Harmony or Cream of Baltimore Whiskey. Assuming his statement to be true, it is apparent that, irrespective of what the unfortunate patron in his tavern asked for, he probably received either Harmony or Cream of Baltimore Whiskey.

By his illegal activities, the licensee perpetrated a fraud upon his customers as well as upon the companies whose products were ordered but not served.

The comprehensive legislative restrictions against rectifying, blending and bottling by retail licensees are supported by sound public policy. Customers are entitled to receive the liquor which they order. Manufacturers in turn are entitled to the protection of their products, trade names, and the good will developed by the association of the two in the mind of the purchasing public.

It is essential to effective control that licensees be severely punished where they have been found guilty of extensive "refilling" activities. The defendant has a previous record. In January 1940 his license was suspended by the local issuing authority for three days for permitting a gambling device on his licensed premises. The extent of the licensee's fraud and his previous record warrants a suspension of his license for a period of ninety days.

Accordingly, it is, on this 13th day of January, 1943,

ORDERED, that Plenary Retail Consumption License C-23, heretofore issued to Carl Belza, t/a Belza's Inn, by the Township Committee of the Township of Hamilton, Mercer County, for premises 681-687 Klockner Road, Hamilton Township, be and the same is hereby suspended for a period of ninety (90) days, commencing at 2:00 A.M. January 19, 1943, and terminating at 2:00 A.M. April 19, 1943.

ALFRED E. DRISCOLL  
Commissioner.

4. DISCIPLINARY PROCEEDINGS - EMPLOYMENT OF FEMALE BARTENDERS, IN VIOLATION OF LOCAL REGULATION - FALSE ANSWER IN LICENSE APPLICATION - 20 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against

ROBERT KNIGHT  
27 Paterson Street  
Paterson, New Jersey,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-125, issued by the Board of Alcoholic Beverage Control of the City of Paterson.

Edward P. R. McNamara, Esq., Attorney for Defendant-Licensee.  
Richard C. Gossweiler, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded guilty to the following charges:

- "1. On and about November 7, 1942, and on divers days prior thereto, you had in your employ Anna Cobbs, a female bartender, in violation of Section 7 of a resolution adopted by the Board of Aldermen of the City of Paterson on June 28, 1935, as amended on December 5, 1938.

"2. On November 15, 1942, and on divers days prior thereto, you had in your employ Josephine Hall Marshall, a female bartender, in violation of Section 7 of the aforesaid resolution.

"3. In your license application dated January 21, 1942, filed with the Board of Alcoholic Beverage Control of the City of Paterson, upon which Plenary Retail Consumption License C-125 for the year 1941-42 was transferred from Hugh E. Cox to yourself, you falsely stated 'Yes' in answer to Question 26 in said application, which question asks: 'Have you.....resided in New Jersey continuously during the five (5) years immediately preceding this application?', whereas in truth and fact you were not a resident of New Jersey during the aforesaid period; such false statement being in violation of R. S. 33:1-25."

I shall suspend the license for a period of five days for the violation set forth in charge (1), and for an additional five days for the violation set forth in charge (2). Re Elia, Bulletin 372, Item 10.

As to charge (3): It appears from the investigation in this case that, in May 1937, Robert Knight moved from Philadelphia, Pa. to Paterson, N. J., and that he has resided in the latter city continuously since that time. Thus at present he possesses the necessary residential qualification to hold a retail license. None the less, the answer given by him in the application filed January 21, 1942 was false because at that time he had not resided in this State during the five years immediately preceding the filing of his application. Because of the violation set forth in charge (3), I shall suspend the license for an additional period of ten days, thus making a total suspension of twenty days, from which five days will be remitted because of the guilty plea.

Accordingly, it is, on this 13th day of January, 1943,

ORDERED, that Plenary Retail Consumption License C-125, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Robert Knight, for premises 27 Paterson Street, Paterson, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 A. M. January 18, 1943, and terminating at 3:00 A. M. February 2, 1943.

ALFRED E. DRISCOLL  
Commissioner.

5. RECAPITULATION OF ACTIVITY FOR PERIOD FROM JULY 1, 1942 THROUGH DECEMBER 31, 1942, INCLUSIVE.

To: Alfred E. Driscoll, Commissioner.

<u>ARRESTS:</u>	<u>JULY</u>	<u>AUG.</u>	<u>SEPT.</u>	<u>OCT.</u>	<u>NOV.</u>	<u>DEC.</u>	<u>TOTALS</u>
Licensees and employees	16	14	6	1	2	3	42
Bootleggers	11	6	18	2	2	11	50
Total number of persons arrested	27	20	24	3	4	14	92
<u>SEIZURES:</u>							
<u>Stills</u>							
1 to 50 gals. daily capacity	0	1	1	1	0	4	7
Mash - gallons	10	0	0	200	0	15	225
<u>Motor Vehicles - Trucks</u>	1	2	2	0	0	0	5
Passenger cars	2	0	0	1	0	0	3
Total number of motor vehicles seized	3	2	2	1	0	0	8
<u>Beverage alcohol - gallons</u>	0	0	1.50	0	0	3	4.50
<u>Brewed malt alcoholic beverages (beer, ale, etc.) - gallons</u>	46.38	20.26	36.38	0	0	10.78	113.80
<u>Wine - gallons</u>	80.32	8.89	136.44	202.25	25.20	888.68	1,341.78
<u>Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons</u>	13.43	21.25	25.61	13.05	1,255.69	2.40	1,331.43
<u>RETAIL LICENSEES:</u>							
Number of premises inspected	1,436	1,793	1,268	2,087	1,503	1,783	9,870
Number of bottles gauged	10,394	11,782	8,692	13,783	10,416	12,761	67,828
Number of premises where violations found	128	165	76	128	90	106	693
<u>Number and type of violations found:</u>							
Illicit (bootleg) liquor	2	0	10	2	33	0	47
Gambling devices	15	0	1	0	0	1	17
Prohibited signs	3	3	1	1	0	1	9
Unqualified employees	258	173	69	116	100	119	835
"Fronts" (concealed ownership)	4	6	2	6	1	3	22
Improper Beer Tap markers	2	2	0	0	0	0	4
Stock disposal permits necessary	10	17	6	14	6	14	67
Other types of violations	11	31	2	29	7	15	95
<u>MILITARY AREA PATROL INSPECTIONS:</u>					172	357	529
<u>STATE LICENSEES:</u>							
Premises inspected	19	8	22	39	44	72	204
License applications investigated	16	12	4	7	7	13	59

<u>COMPLAINTS:</u>	<u>JULY</u>	<u>AUG.</u>	<u>SEPT.</u>	<u>OCT.</u>	<u>NOV.</u>	<u>DEC.</u>	<u>TOTALS</u>
Investigated, reviewed and closed	256	249	343	342	273	374	1,837
Investigation assigned, not yet completed	---	---	---	---	---	460	
<u>LABORATORY:</u>							
Analyses made	88	126	116	110	132	121	693
"Shake-up" cases (alcohol, water and artificial coloring)	12	15	14	14	14	15	84
Liquor found to be not genuine as labeled	12	0	0	4	31	0	47
<u>IDENTIFICATION BUREAU:</u>							
Criminal fingerprint identifications made	37	18	29	8	5	14	111
Persons fingerprinted for non-criminal purposes	420	170	96	112	92	67	957
Identification contacts with other enforcement agencies	221	112	77	84	84	42	620
Motor vehicle identifications via N.J.State Police Teletype	4	3	10	0	1	3	21
<u>DISCIPLINARY PROCEEDINGS:</u>							
Cases transmitted to municipalities	26	6	11	14	22	14	93
Cases instituted at Department	20	11	34	27	37	30	159
Cancellation proceedings	2	0	0	0	0	2	4
<u>HEARINGS HELD AT DEPARTMENT:</u>							
Number of hearings held:	71	62	36	71	41	41	322
Appeals	19	13	9	5	4	5	55
Disciplinary proceedings	32	19	15	43	28	30	167
Eligibility	14	12	8	10	7	5	56
Seizures	4	16	4	8	1	1	34
Tax Revocations	0	0	0	5	1	0	6
Application for club license	0	1	0	0	0	0	1
Application for warehouse (Hearing on objections)	1	0	0	0	0	0	1
Investigatory hearing	1	1	0	0	0	0	2
<u>PERMITS ISSUED:</u>							
Number of permits issued	7,209	1,355	1,049	1,782	2,182	1,384	14,941
Unqualified employees	3,964	801	443	415	385	434	6,442
Solicitors	2,212	63	61	63	47	52	2,498
Social affairs	222	235	169	241	187	102	1,156
Home manufacture of wine	75	30	121	798	1,366	601	2,991
Disposal of alcoholic beverages	63	96	84	48	68	45	404
Miscellaneous permits	673	110	171	217	129	150	1,450

Respectfully submitted,

SYDNEY B. WHITE,  
Chief Inspector.

6. APPELLATE DECISIONS. - SCHACHNER v. NEWARK.

HYMAN SCHACHNER, )  
 )  
 Appellant, )  
 )  
 -vs- )  
 )  
 MUNICIPAL BOARD OF ALCOHOLIC )  
 BEVERAGE CONTROL OF THE CITY )  
 OF NEWARK, )  
 )  
 Respondent )  
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ON APPEAL  
ORDER

Maurice Schapira, Esq., Attorney for Appellant.  
Louis A. Fast, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

On January 4, 1943 appellant filed an appeal from a sixty-day suspension of his license C-810 issued for premises at 419 Market Street, Newark.

Respondent imposed said suspension after it had found appellant guilty on charges of permitting a prostitute on his licensed premises in violation of Rule 4 of State Regulations No. 20, and of permitting immoral activities upon his licensed premises in violation of Rule 5 of State Regulations No. 20. In fairness to appellant it may be stated that respondent found that appellant had no personal knowledge of the violations but concluded from the evidence that he was legally responsible for the acts of his bartender, who had permitted the violations to occur on the licensed premises.

On the day upon which the appeal was filed, I entered an order that the appeal should not act as a stay of the suspension pending determination of the appeal. R. S. 33:1-31. Hence, the suspension imposed by respondent is now in effect and has been in effect since January 4, 1943.

Prior to the hearing scheduled to be held herein, appellant, by his attorney, requested leave to withdraw the appeal. The attorney for respondent having consented thereto, and no reason appearing why the request should not be granted,

It is, on this 15th day of January, 1943,

ORDERED, that leave be granted to withdraw the appeal; that the proceedings herein be and the same are hereby discontinued; and that the suspension previously imposed by respondent shall continue in full force and effect.

ALFRED E. DRISCOLL  
Commissioner.

7. DISCIPLINARY PROCEEDINGS - PERMITTING LEWD AND IMMORAL ACTIVITY ON LICENSED PREMISES, IN VIOLATION OF RULE 5 OF STATE REGULATIONS NO. 20 - PERMITTING FEMALES EMPLOYED ON LICENSED PREMISES TO ACCEPT BEVERAGES AT THE EXPENSE OF CUSTOMERS, IN VIOLATION OF RULE 22 OF STATE REGULATIONS NO. 20 - PREVIOUS RECORD - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against )

ANTHONY BUFIS, )  
T/a PARADISE CAFE )  
1299B Paterson Plank Road )  
Secaucus, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-14, issued by the Town Council of the Town of Secaucus. )

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Anthony Bufis, Pro Se.  
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to charges alleging that:

"1. During the evening of November 13, 1942 and the early morning of November 14, 1942 you allowed, permitted and suffered lewdness and immoral activity in and upon the licensed premises, in violation of Rule 5 of State Regulations No. 20.

"2. During the aforesaid time you allowed, permitted and suffered females employed on the 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."

Prior to this hearing defendant had his license suspended by the Town Council of the Town of Secaucus for ten days, effective August 10, 1940, after he had pleaded guilty to charges alleging that he had allowed lewdness and immoral activities upon the licensed premises; that he had sold alcoholic beverages during prohibited hours on Sunday and that, in violation of a local ordinance, he had permitted females to solicit customers to purchase drinks and had served drinks to entertainers at the expense of customers. Thereafter, his license was suspended for a period of ninety days by the Town Council of the Town of Secaucus, effective March 1, 1942, upon being found guilty of refilling whiskey bottles, employing hostesses and selling alcoholic beverages during prohibited hours.

Licensee still persists in flagrantly defying the law and the rules and regulations which this Department has prescribed in the interest of the public. It is quite clear that revocation of his license is the proper penalty in this matter.

Accordingly, it is, on this 18th day of January, 1943,

ORDERED, that Plenary Retail Consumption License C-14, issued by the Town Council of the Town of Secaucus to Anthony Bufis, trading as Paradise Cafe, for the current fiscal year, for premises at 1299B Paterson Plank Road, Secaucus, be and the same is hereby revoked, effective immediately.

ALFRED E. DRISCOLL  
Commissioner.

8. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS; IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - PERMITTING NON-CITIZEN, HOLDER OF EMPLOYMENT PERMIT, TO SELL AND SERVE ALCOHOLIC BEVERAGES, IN VIOLATION OF RULE 3 OF STATE REGULATIONS NO. 11 - 55 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against  
MONMOUTH OLD MILL, INC.  
Old Mill Road  
Spring Lake Heights  
P. O. Box 104  
Spring Lake, N. J.,  
Holder of Plenary Retail Consumption License C-8, issued by the Borough Council of the Borough of Spring Lake Heights.

CONCLUSIONS AND ORDER

Kasen, Schnitzer & Kasen, Esqs., by Daniel G. Kasen, Esq.,  
Attorneys for Defendant-Licensee.  
William F. Wood, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee pleaded guilty to charges alleging that (1) and (2) it sold, and permitted the sale and service of, alcoholic beverages to eight persons, all minors, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20, and (3) it permitted Rose Palmer, holder of an employment permit because disqualified as to citizenship, to sell and serve alcoholic beverages, in violation of Rule 3 of State Regulations No. 11.

It appears that on August 7, 1942, between 11:00 P. M. and 12:00 P.M., agents of this Department observed the waitress, Rose Palmer, serve eight minors seated at various tables throughout the service room of the tavern, with alcoholic beverages. Although two of these minors were seventeen, four were eighteen, one was nineteen and the other twenty, none of them were questioned concerning their ages by the waitress or anyone else.

While these minors were being served, the President and majority stockholder of the corporate licensee was standing at one end of the room directing the service of food from the kitchen and the service of drinks from the bar to the tables. Although the minors were within his plain observation, he did nothing to interfere with the service of alcoholic beverages to them.

The fact that the ABC agents, upon mere observation, had no difficulty in recognizing the minors as such indicates that, had the licensee taken any reasonable precautions to prevent sales to minors, it would have been able to avoid the instant violations. It is apparent that this licensee did not take any precautions to prevent the sale of alcoholic beverages to these eight persons, all of whom were under twenty-one years of age.

The complete failure to observe any of the safeguards set forth in the law and usually employed by the careful licensee is indicative of such a disregard for the salutary provisions of the statute and regulations as to warrant a severe penalty. The usual

suspension imposed for a violation of this kind, in the absence of any aggravating circumstances, is ten days. However, in view of the number and ages of the minors involved herein, and the failure to use any precautionary measures against the sale of liquor to them, I shall penalize the licensee for this violation for a period of forty days.

The waitress, Rose Palmer, being a non-citizen, was prohibited under the terms of her employment permit from selling or serving alcoholic beverages. In this case, not only did she violate such prohibition, but, in addition, she also served alcoholic beverages to minors -- and all this while the guiding spirit of the corporate licensee stood idly by watching the performance! This merits a fifteen-day penalty.

The total penalty imposed herein is thus fifty-five days, with a remission of five days for the guilty plea, or a net penalty of fifty days.

These premises are located in a seashore community. From a recent investigation made by this Department, it appears that the licensed premises are now closed and will not reopen for business until the spring of this year. The effective date of the suspension herein, therefore, will be postponed until April 1, 1943. Cf. Abbott v. South Belmar, Bulletin 432, Item 5; Re Constantino, Bulletin 547, Item 7.

For the proceedings against the permittee, Rose Palmer, see Bulletin 548, Item 9.

Accordingly, it is, on this 15th day of January, 1943,

ORDERED, that Plenary Retail Consumption License C-8, heretofore issued by the Borough Council of the Borough of Spring Lake Heights to Monmouth Old Mill, Inc. for premises on Old Mill Road, Spring Lake Heights, be and the same is hereby suspended for a period of fifty (50) days, commencing at 2:00 A. M. on April 1, 1943 and terminating at 2:00 A. M. on May 21, 1943.

ALFRED E. DRISCOLL  
Commissioner.

- 9. DISCIPLINARY PROCEEDINGS - SALE AND SERVICE BY NON-CITIZEN PERMITTEE, CONTRARY TO CONDITION OF EMPLOYMENT PERMIT, IN VIOLATION OF R. S. 33:1-26 AND RULE 1 OF STATE REGULATIONS NO. 11 - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 - FALSE ANSWER IN APPLICATION FOR EMPLOYMENT PERMIT - PERMIT PRIVILEGE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary Proceedings against )

ROSE PALMER )  
67 Main Avenue )  
Ocean Grove, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Employment Permit No. 4311, issued by the State Commissioner of Alcoholic Beverage Control. )  
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Kasen, Schnitzer & Kasen, Esqs., by Daniel G. Kasen, Esq.,  
Attorneys for Defendant-Permittee.  
William F. Wood, Esq., Attorney for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The defendant-permittee pleaded guilty to charges alleging that (1) she sold alcoholic beverages to minors, in violation of

R. S. 33:1-77, (2) she sold alcoholic beverages contrary to the terms of her non-citizenship employment permit, in violation of R. S. 33:1-26 and Rule 1 of State Regulations No. 11, and (3) she denied in her permit application that she had any interest in any alcoholic beverage license, whereas, in fact, she held one share of stock in Monmouth Old Mill, Inc., a corporation holding a plenary retail consumption license, in violation of R. S. 33:1-25.

This permittee is the waitress referred to in Re Monmouth Old Mill, Inc., Bulletin 548, Item 8. The facts relative to the first two charges against her are reported therein and need not here be repeated.

As to the third charge, it appears that one share of stock of the Monmouth Old Mill, Inc., a corporation which holds a consumption license and employs her as a waitress, was issued to her merely as a qualifying shareholder. Her failure to disclose this interest does not appear to have been motivated by any deliberate desire on her part to withhold such information, but rather because she is somewhat illiterate and did not understand the purport of the question requiring the disclosure of her status as a stockholder, albeit nominal, in the corporate licensee.

The penalty usually meted out for sale of alcoholic beverages by a non-citizen contrary to the provisions of an employment permit is thirty days. See Re Handzel, Bulletin 545, Item 5. In view of the permittee's guilt of the additional charges herein and the seriousness of the violation concerning her serving alcoholic beverages to minors (see Re Monmouth Old Mill, Inc., supra), I shall suspend her permit for the balance of its term, viz., until midnight June 30, 1943.

Accordingly, it is, on this 15th day of January, 1943,

ORDERED, that Employment Permit No. 4311, heretofore issued to Rose Palmer by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for the balance of its term, effective immediately.

ALFRED E. DRISCOLL  
Commissioner.

10. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO PERSONS ACTUALLY OR APPARENTLY INTOXICATED AND PERMITTING THE CONSUMPTION OF SAME ON LICENSED PREMISES, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 20 - 60 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against )

ALBERT S. REIT )  
T/a ESQUIRE BAR & GRILL )  
111 Albany Street )  
New Brunswick, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-91 issued by the Board of Commissioners of the City of New Brunswick. )  
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Philip M. Brenner, Esq., Attorney for Defendant-Licensee.  
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to the following charge:

"On Saturday evening, January 2, 1943, and early on Sunday morning, January 3, 1943, you sold, served and delivered and allowed, permitted and suffered the service of alcoholic beverages to Private Andrew ---, Private Robert ---, Private L. A. --- and Private Lyle ---, persons who were actually or apparently intoxicated, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon the licensed premises, in violation of Rule 1 of State Regulations No. 20."

Our records disclose that investigators of the Department of Alcoholic Beverage Control entered the licensed premises on January 2, 1943, at about 11:20 P. M. At that time they saw approximately twenty-five soldiers at the bar and approximately thirty soldiers and eight women in a rear room. In the opinion of the investigators, at least six of the soldiers who were being served with alcoholic beverages at the bar were apparently intoxicated. The investigators left the premises and summoned the military police. Upon their return with the military police, the four soldiers mentioned in the charge were taken to the office of the Provost Marshal at Camp Kilmer, where medical tests disclosed that all four were then intoxicated.

In mitigation, defendant states that the sales to the intoxicated soldiers were made by one of his bartenders. It appears, however, that defendant was present on the licensed premises when the violation occurred. In any event, the licensee is responsible for the acts of his agents performed in conduct of the licensed business. I note also from the record that defendant obtained his license on November 17, 1942 by transfer from his brother-in-law; that he had previously worked on the licensed premises for a period of four years; and that these premises were frequented by a number of minor girls and a large number of soldiers during the time defendant's predecessor held a license.

In Re Traverso, Bulletin 519, Item 12, I said:

"It is an unpatriotic act for a licensee or anyone else to sell, serve or give alcoholic beverages to a man in the uniform of his country who is at the time actually or apparently intoxicated. I can imagine few more contemptible or dangerous activities. Those who violate the regulation previously cited are a menace to our national security."

Defendant has assured me that in the future he will scrupulously obey the regulations. In addition, he has volunteered not to serve women unless they are accompanied by male escorts, and then only when he has reason to believe that they are persons of unquestionable character.

With respect to their patrons, licensees are frequently called upon to be their "brother's keeper." This is particularly true with respect to men in uniform, many of whom are far from home.

I shall suspend the license for a period of sixty days. Cf. Re Constantino, Bulletin 547, Item 7. Five days of this penalty will be remitted for the guilty plea, leaving a net suspension of fifty-five days. The licensee will be given only one more chance! Any further failure on his part to obey the Control law and the Regulations of the Department of Alcoholic Beverage Control will result in the revocation of his license.

Accordingly, it is, on this 15th day of January, 1943,

ORDERED, that plenary retail consumption license C-91, issued by the Board of Commissioners of the City of New Brunswick to Albert S. Reit, t/a Esquire Bar & Grill, for premises 111 Albany Street, New Brunswick, be and the same is hereby suspended for fifty-five (55) days, commencing at 2:00 A.M. January 20, 1943, and terminating at 2:00 A. M. March 16, 1943.

*Alfred E. Driscoll*  
Commissioner.

CHECKED BY No. 3