

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

BULLETIN 586

SEPTEMBER 24, 1943.

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACT - AIDING AND ABETTING NON-LICENSEE (AT ONE TIME DISQUALIFIED BY CITIZENSHIP) TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - 30 DAYS' SUSPENSION.
2. DISCIPLINARY PROCEEDINGS - CHARGE OF VIOLATING RULE 5 OF STATE REGULATIONS NO. 20 AND SPECIAL CONDITION DISMISSED - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION.
3. APPELLATE DECISIONS - LINDSTROM v. DELAWARE TOWNSHIP.
4. MORAL TURPITUDE - CRIME OF ROBBERY FOUND TO INVOLVE MORAL TURPITUDE.

DISQUALIFICATION - APPLICATION TO LIFT - GOOD CONDUCT FOR FIVE YEARS LAST PAST AND NOT CONTRARY TO PUBLIC INTEREST - APPLICATION TO LIFT GRANTED.
5. DISCIPLINARY PROCEEDINGS - CHARGE OF SELLING ALCOHOLIC BEVERAGES IN OTHER THAN ORIGINAL CONTAINERS FOR OFF-PREMISES CONSUMPTION DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION.
6. DISCIPLINARY PROCEEDINGS - CHARGE OF SELLING ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20, DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.
7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 15 DAYS' SUSPENSION, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACT - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - PERMITTING KNOWN PROSTITUTES AND PERSONS OF ILL REPUTE ON THE LICENSED PREMISES - LICENSE REVOKED.
9. DISCIPLINARY PROCEEDINGS - FRONT - EXERCISING THE RIGHTS AND PRIVILEGES OF A LICENSE FORMERLY HELD BY ANOTHER - ILLEGAL SITUATION CORRECTED - 10 DAYS' SUSPENSION.
10. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 20 DAYS' SUSPENSION, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR PLEA.
12. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS - 15 DAYS' SUSPENSION, LESS 5 FOR PLEA.

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

BULLETIN 586

SEPTEMBER 24, 1943

1. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACT - AIDING AND ABETTING NON-LICENSEE (AT ONE TIME DISQUALIFIED BY CITIZENSHIP) TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - 30 DAYS' SUSPENSION.

In the Matter of Disciplinary)
Proceedings against)

MARCOS BOURPALIS)
T/a ROYAL BAR)
12 South Broad Street)
Penns Grove, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-5, issued by the)
Borough Council of the Borough of)
Penns Grove.)

-----)
Louis F. DiNicola, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to charges alleging that (1) in his 1942-43 application he falsely concealed the interest of Minnie Bourpalis, Administratrix of the Estate of John Bourpalis, in the license and business conducted thereunder, and (2) between December 1933 and September 1942 he permitted John Bourpalis and, upon the latter's death in May 1941, Minnie Bourpalis, his administratrix, to exercise the rights and privileges of his successive licenses.

John Bourpalis, a Greek national and brother of the licensee, owned a half interest in the license and business from the time of the original issuance of a liquor license for these premises in December 1933 until his death in May 1941. His interest was inherited by his widow, who sold her share of the business to the remaining partner, Marcos Bourpalis, in September 1942. Ever since the latter date, therefore, the ownership of the license and business has been in accordance with the law.

The reason that the license was originally taken only in the name of Marcos Bourpalis was that John Bourpalis was disqualified at that time from being a liquor licensee because of his alienage. In October 1937, upon the ratification of the reciprocal trade treaty between this country and Greece, citizens of the latter country became entitled to hold liquor licenses in this State. Despite the fact that John Bourpalis thus became eligible to receive a license, the license in question remained throughout only in the name of Marcos Bourpalis.

The usual penalty for fraudulently concealing the interest of disqualified non-citizens is sixty days. Re Scharnberg, Bulletin 540, Item 4; Re Rodeo, Inc., Bulletin 546, Item 7; Re Katsch & Paulsen, Bulletin 551, Item 9; Re Gebhardt, Bulletin 555, Item 11; Re D'Anna, Bulletin 565, Item 12. Where the undisclosed principal was under a misapprehension regarding his qualification as a licensee and erroneously believed that his non-citizenship barred him from holding a liquor license, I imposed a penalty of twenty days. Re Sparber, Bulletin 563, Item 1.

The facts in the instant case steer a middle course between those in which a sixty-day penalty has been given and that of the Sparber case, supra. Although the alienage disqualification of John Bourpalis terminated in October 1937, the fact nonetheless remains that the unlawful scheme was engineered almost four years before such date, at a time when he was actually disqualified by statute from holding a liquor license.

There is no rule of thumb by which the penalties in these types of cases can be definitively admeasured. Each case must depend upon its own peculiar circumstances. This case, while not deserving a sixty-day suspension, nevertheless warrants the imposition of a greater penalty than that given in the Sparber case, supra.

I shall suspend this license for a period of thirty days.

Accordingly, it is, on this 17th day of September, 1943,

ORDERED, that Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Penns Grove to Marcos Bourpalis, trading as Royal Bar, for premises 12 South Broad Street, Penns Grove, be and the same is hereby suspended for a period of thirty (30) days, commencing at 1:00 A.M. September 21, 1943, and terminating at 1:00 A.M. October 21, 1943.

ALFRED E. DRISCOLL
Commissioner.

2. DISCIPLINARY PROCEEDINGS - CHARGE OF VIOLATING RULE 5 OF STATE REGULATIONS NO. 20 AND SPECIAL CONDITION DISMISSED - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against
BERNARD SOLOMON
T/a HOF BRAU
S/w Cor. Oak and Atlantic Aves.
Wildwood, N. J.,
Holder of Plenary Retail Consumption License C-12, issued by the Board of Commissioners of the City of Wildwood.

CONCLUSIONS
AND ORDER

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

BY THE COMMISSIONER:

Defendant-licensee was charged with:

1. Permitting unnecessary noises on the licensed premises in violation of State Regulations No. 20, Rule 5.
2. Violating a special condition imposed upon the license whereby all transoms on the westerly side of the licensed premises were required to remain closed.
3. Selling alcoholic beverages to a minor in violation of R. S. 33:1-77.

4. Selling alcoholic beverages to a minor and permitting the consumption of such beverages by the minor upon the licensed premises in violation of State Regulations No. 20, Rule 1.

To all of these charges the defendant pleaded not guilty.

Regarding the first charge, the record shows that, between 11:00 P.M. and midnight of June 22, 1943, an investigator from the Department of Alcoholic Beverage Control heard juke-box music emanating from defendant's licensed premises. The investigator testified that he heard the music faintly at some distance from the premises; that the juke box was never loud nor were there other noises heard by him while he remained in the vicinity. Although juke boxes frequently emit raucous noises, and while all licensees are urged to keep them under careful control, the evidence in this case does not warrant a finding of guilt on the first charge.

The basis of the second charge is a resolution apparently adopted August 18, 1942 whereby the Board of Commissioners of the City of Wildwood attempted to impose special conditions on defendant's 1942-43 license. That license, however, had been issued and had become effective July 1, 1942 without special conditions. Except in peculiar circumstances, not here applicable, a local issuing authority may not impose special conditions after the license has been issued. Re Armstrong, Bulletin 196, Item 8; cf. Re Murphy, Bulletin 389, Item 11. See R. S. 33:1-32. The rule is different as to general regulations promulgated by the Commissioner or duly adopted by an ordinance of the local issuing authority after the issuance of the license. Such general regulations are binding on all licensees in the municipality. The second charge will accordingly be dismissed.

The third and fourth charges present an entirely different problem. The evidence shows that James ---, a member of the United States Coast Guard and then nineteen years of age, walked into defendant's premises with two other seamen. He did not go directly to the bar but his two companions did so, ordering three beers, one of which was later passed to the minor and partly consumed by him on the licensed premises. Regardless of whether or not the transpiring events amounted to a sale to the minor, his being permitted to consume the beer on licensed premises sufficiently constitutes a violation of the State Regulations.

In his testimony, the defendant recognized as dangerous the practice of serving three beers to two persons. He testified that he had, in fact, instructed his employees not to make such service. That his bartender failed to follow instructions is the defendant's misfortune. The problem of sale and service of alcoholic beverages to minors is indeed a serious one, calling for a heavy responsibility upon our licensees.

Because this is defendant's first adjudicated offense, and because there appear to be no aggravating circumstances, I shall impose a minimum penalty of ten days' suspension. Cf. Re Abrams, Bulletin 562, Item 8.

The records of this Department indicate that defendant's business is operated on a seasonal basis -- that the premises are customarily closed on the Saturday after Labor Day and remain closed until some time in the spring. Thus, no effective penalty can be imposed at the present time. The starting date of the penalty to be imposed will be postponed until my further order, after the licensed premises shall have been opened for business in the spring of 1944. Cf. Re Congress Hall Hotel Co., Bulletin 371, Item 5.

Accordingly, it is, on this 17th day of September, 1943,

ORDERED, that Plenary Retail Consumption License C-12, issued by the Board of Commissioners of the City of Wildwood to Bernard Solomon, t/a Hof Brau, for premises at the southwest corner of Oak and Atlantic Avenues, Wildwood, be and the same is hereby suspended for ten days, the time to be fixed by subsequent order as aforesaid.

ALFRED E. DRISCOLL
Commissioner.

3. APPELLATE DECISIONS - LINDSTROM v. DELAWARE TOWNSHIP.

JOHN W. LINDSTROM,)
)
 Appellant,)
)
 -vs-)
)
 TOWNSHIP COMMITTEE OF THE)
 TOWNSHIP OF DELAWARE)
 (CAMDEN COUNTY),)
)
 Respondent)

ON APPEAL
CONCLUSIONS AND ORDER

Thomas M. Madden, Esq., Attorney for Appellant.
Bruce A. Wallace, Esq., by William T. Cahill, Esq., Attorney
for Respondent.

BY THE COMMISSIONER:

On June 17, 1943 appellant herein applied to respondent for the transfer of a plenary retail consumption license from Edward B. Schultz to appellant and from premises at Chapel and Kennilworth Avenues to premises at Church Road and Coles Avenue, both in the Township of Delaware. The application for transfer was denied. Hence this appeal.

Although the license sought to be transferred expired by its terms on June 30, 1943, the question to be decided herein did not thereby become moot. Shelby v. Trenton, Bulletin 129, Item 1; Kay v. Linden, Bulletin 525, Item 4.

The case has been submitted upon a stipulation of facts and upon further evidence produced at the hearing herein.

From the stipulation of facts it appears that respondent denied the transfer upon the grounds that the welfare and best interests of the people living in the immediate vicinity of the premises would be better served and protected by the refusal of the transfer and the denial of the application. It further appears from the stipulation that, after the application for transfer had been filed, a written protest, containing 115 signatures, was received by respondent and that, at a hearing held upon said objections, approximately fifty people appeared to protest against the granting of the transfer. It has been further stipulated that the reputation of appellant is not

in question, and that the objections expressed at the hearing were based among other reasons, upon the following grounds:

"a. The neighborhood was a residential community.

"c. The territory was amply supplied with plenary retail consumption licensed establishments, as another licensed premises was within several hundred feet of the contemplated establishment."

From the evidence presented at the hearing it appears that appellant has never held a liquor license. He seeks herein to have the license in question transferred to him and to his home, which is a large two story house with a large front room on the first floor and living quarters above. His home is located 190 feet from a traffic circle. There is some evidence from which it may be inferred that, in the future, the property in the immediate vicinity of the traffic circle may be devoted to business purposes, but at the present time this section of the Township, and particularly the immediate vicinity of appellant's premises, is rural and residential in character. A large percentage of the people residing in the immediate vicinity of appellant's premises have protested against the granting of the transfer. A plenary retail consumption license is already in existence for premises known as "Cottage Cafe", which is located approximately two thousand feet from appellant's premises on the opposite side of the traffic circle. From this evidence it would appear that the objections set forth in paragraphs "a" and "c" above are supported by the testimony.

The transfer to other premises is a privilege not inherent in a license. The issuing authority may grant or deny a transfer in the reasonable exercise of its discretion. VanSchoick v. Howell, Bulletin 120, Item 6.

There has been introduced into evidence a petition containing the names of ninety-one people who did not object to the transfer of the license, which petition was considered by respondent in reaching its conclusion. Aside from this, appellant has produced little, if any, evidence, as to the need for a licensed place at his premises. The weight to be accorded to petitions is entirely within the discretion of the issuing authority. Re Powell, Bulletin 59, Item 15; Dunster v. Bernards, Bulletin 99, Item 1. The fact that, prior to June 30, 1942, a license had been in existence for a building located on the traffic circle is not, standing alone, sufficient to show the need for another licensed premises in this section of the Township. Upon all the evidence, I find that respondent did not abuse its discretion in refusing to transfer the license in question to the appellant. Hence the action of respondent is affirmed.

Accordingly, it is, on this 17th day of September, 1943,

ORDERED, that the appeal herein be and the same is hereby dismissed.

ALFRED E. DRISCOLL
Commissioner.

4. MORAL TURPITUDE - CRIME OF ROBBERY FOUND TO INVOLVE MORAL TURPITUDE.

DISQUALIFICATION - APPLICATION TO LIFT - GOOD CONDUCT FOR FIVE YEARS LAST PAST AND NOT CONTRARY TO PUBLIC INTEREST - APPLICATION TO LIFT GRANTED.

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

CONCLUSIONS
AND ORDER

Case No. 290.
-----)

BY THE COMMISSIONER:

In 1937 petitioner was convicted on a charge of robbery and sentenced to serve three months in a workhouse. He had been accused of forcibly taking a pocketbook containing one dollar. The crime in question involves moral turpitude. Re Case No. 277, Bulletin 572, Item 7.

Petitioner represents that he has been law-abiding for at least five years last past, and hence, pursuant to R. S. 33:1-31.2, seeks removal of his disqualification from working for a liquor licensee or holding a liquor license in this State by reason of his conviction of a crime involving moral turpitude.

Petitioner's previous record discloses that in 1937 he pleaded non vult to a charge of receiving stolen goods (a radio) and was sentenced to serve three months in a workhouse. The sentence was suspended and petitioner was placed on probation for three years.

After his release from the workhouse in 1937, petitioner worked as a longshoreman until 1939, when he was employed by a steel company as a wire drawer and tallyman. In June 1943 he was unable to continue his employment with the steel company because of an injury to his back. He was married in 1940 and is living with his wife.

Petitioner represents that he was wholly innocent of the crime for which he was convicted. However, he may not here collaterally attack the merits of his conviction in the criminal court. Re Case No. 288, Bulletin 582, Item 6.

A pipefitter who has known petitioner for more than eleven years, socially and as a co-worker, testified that petitioner has conducted himself in a law-abiding manner for the last five years and has had a good reputation in the community. Similar testimony was given by a machinist who has known petitioner for over six years and a cab driver who has known him for twelve years.

I find that petitioner has conducted himself in a law-abiding manner during the five years immediately past. I conclude that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 17th day of September, 1943,

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

ALFRED E. DRISCOLL
Commissioner.

5. DISCIPLINARY PROCEEDINGS - CHARGE OF SELLING ALCOHOLIC BEVERAGES IN OTHER THAN ORIGINAL CONTAINERS FOR OFF-PREMISES CONSUMPTION DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against SILVER STAR CAFE, INC. 452 Market Street Paterson, N. J., Holder of Plenary Retail Consumption License C-196, issued by the Board of Alcoholic Beverage Control of the City of Paterson.

CONCLUSIONS AND ORDER

James J. Murner, Esq., Attorney for Defendant-Licensee. Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant was charged with

- 1. Selling alcoholic beverages to two female minors in violation of R. S. 33:1-77.
2. Selling, serving and delivering alcoholic beverages to two female minors in violation of State Regulations No. 20, Rule 1.
3. Selling alcoholic beverages in other than original containers for consumption off the licensed premises, contrary to the terms of the license as set forth in R. S. 33:1-12(1), in violation of R. S. 33:1-2.

Defendant pleaded not guilty to all of the charges. Regarding charges 1 and 2, however, it admitted the sale and service to one of the females (Violet ---), but wished to have her age affirmatively determined at the hearing.

Because of inability to secure the attendance of one of the alleged minors (Rossie ---), due to her absence from the jurisdiction of the State, the Department was unable to substantiate the charges of sale to her.

It was shown by Violet's testimony herein, corroborated by her birth certificate introduced into evidence, that at the time of the sale and delivery she was twenty years and eight months of age. I must, therefore, find the defendant guilty under charges 1 and 2.

Regarding the third charge, the evidence is in serious conflict. Considering all the evidence and the circumstances, I must conclude that the Department has failed to carry the burden of proof necessary. Accordingly, charge 3 shall be dismissed.

I find the defendant guilty under charges 1 and 2. In view of the fact that the defendant's prior record is clear, and in the absence of aggravating circumstances, I shall impose the minimum penalty of ten days' suspension. See Re Modrowski, Bulletin 582, Item 1.

Accordingly, it is, on this 17th day of September, 1943,

ORDERED, that Plenary Retail Consumption License C-196, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Silver Star Cafe, Inc., for premises at 452 Market Street, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 A.M. September 21, 1943, and terminating at 3:00 A. M. October 1, 1943.

ALFRED E. DRISCOLL
Commissioner.

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

In the Matter of Disciplinary Proceedings against)

MARY DAVOLOS)
T/a VICTORIA CAFE)
2512 Federal Street)
Camden, N. J.,)

Holder of Plenary Retail Consumption License C-155 for the fiscal year 1942-43, and C-198 for the fiscal year 1943-44, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden, the latter license having been transferred during the pendency of these proceedings to)

CONCLUSIONS
AND ORDER

DOROTHY DEL DUCA)

for the same premises.)

Frank M. Lario, Esq., Attorney for Defendant-Licensee.
Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant has pleaded not guilty to charges alleging that, on April 23, 1943, she sold alcoholic beverages to, and permitted their consumption by, Albert --- and William ---, minors, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

There is no dispute that both minors visited the licensed premises shortly after midnight of the day in question and remained there until 2:00 A.M. The only substantial conflict in the testimony is whether the beverages served to the minors were alcoholic. On this point, my determination, of necessity, must be based solely on the testimony of the various witnesses. The Department of Alcoholic Beverage Control did not learn of the occurrence in question until after the lapse of several days and, consequently, none of the beverages allegedly served to the minors were available for chemical analysis.

The minors testified that they were each served four glasses of beer at the tavern -- two by the bartender, one by a waitress and another by Frank Davolos, the manager of the licensed premises. Both the bartender and the manager denied that they served anything other than soft drinks to the minors and asserted that they refused to serve them beer when the minors were unable to produce any documentary evidence concerning their ages. The waitress, whose activity was confined to a room in the rear of the barroom, denied that the minors were in the rear room and stated that she did not serve them any drinks at all on the occasion in question.

There is no independent testimony in the record to support that given by the minors. On the other hand, the defendant produced five apparently disinterested witnesses who had patronized the premises on April 23, 1943, all of whom corroborated the stories told by the defendant's employees.

I do not believe it necessary to elaborate any further on the evidence given by the various witnesses. After carefully reviewing the entire record, I have no hesitancy in finding that the greater weight of the evidence is preponderantly in favor of the defendant. I am somewhat influenced in this decision by the fact that several obvious inconsistencies appear in the testimony of the minors. As a glaring instance of this, it appears at one point of their testimony that they were compelled to admit their mistake in placing, with positive assurance, one "Pat"--- at the premises, after it was conclusively established by the defendant that the said "Pat" ---- was not in this State at the time. Furthermore, it cannot be said that the minors had no motive to color their stories and magnify the events which occurred at the licensed premises on the morning in question in view of the fact that the record discloses that, shortly after leaving the premises, the minors were engaged in an altercation with the manager and several of the patrons, as a result of which one of the minors was severely injured, necessitating treatment of his wounds at a hospital.

Since the Department has failed to sustain the burden of proving the truth of the charges herein brought against the defendant, these proceedings must be dismissed.

Accordingly, it is, on this 20th day of September, 1943,

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

ALFRED E. DRISCOLL
Commissioner.

7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 15 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ADOLPH C. STOERRLE)
T/a STOERRLE'S CAFE)
377 Broad Street)
Greenwich Township, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Greenwich.)
-----)

Hendrickson & Wick, Esqs., by John B. Wick, Esq., Attorney for Defendant-Licensee.
Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant-licensee, who apparently bears an excellent reputation in his community, pleads non vult to charges of selling and serving alcoholic beverages to minors in violation of R.S.33:1-77 and Rule 1 of State Regulations No. 20.

On August 7, 1943 Doris K----, fifteen years of age, and Sara D----, seventeen years of age, visited the licensed premises in the company of two adult male friends and were served alcoholic beverages by the defendant's wife. The doctrine of respondeat superior is well established in our Alcoholic Beverage Control Law. Licensees must, of necessity, be held responsible for the acts of their agents and servants.

Because of the youthfulness of the girls in the instant case, a fifteen-day suspension must be imposed. Considering, however, the fact that the defendant has no previous adjudicated record, five days of the suspension will be remitted because of the plea herein.

Accordingly, it is, on this 20th day of September, 1943,

ORDERED, that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Greenwich to Adolph C. Stoerrle, t/a Stoerrle's Cafe, for premises 377 Broad Street, Greenwich Township, be and the same is hereby suspended for ten (10) days, commencing at 12:01 A.M. September 27, 1943, and terminating at 12:01 A.M. October 7, 1943.

ALFRED E. DRISCOLL
Commissioner.

8. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACT - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - PERMITTING KNOWN PROSTITUTES AND PERSONS OF ILL REPUTE ON THE LICENSED PREMISES - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against JOSEPH J. McGUIGAN T/a BLINKER BAR Rowan Way Madison Township P. O. Laurence Harbor, N. J., Holder of Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Madison.

CONCLUSIONS AND ORDER

Joseph J. McGuigan, Defendant-Licensee, Pro Se. Nathan Davis, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant was served with charges alleging that he (1) falsely concealed in his license application that Augusta Titgens is the real and beneficial owner of the license and business conducted thereunder; (2) since May 17, 1943 he permitted the said Augusta Titgens to exercise the privileges of his successive licenses; and (3) since May 17, 1943 he permitted known prostitutes and persons of ill repute on the licensed premises.

Although the nominal licensee, Joseph J. McGuigan, appeared at the hearing, together with the undisclosed principal, Augusta Titgens, he refused to enter any plea to the charges. He admitted, however, that he had acted as a "front" for Augusta Titgens ever since May 17, 1943 at the premises in question.

Augusta Titgens has, to say the least, a particularly unenviable record as a licensee. This record is reported in the case of Titgens and Bock v. Sayreville, Bulletin 572, Item 11, where I affirmed the local issuing authority in refusing to renew the license in which the said Augusta Titgens was a partner for the reasons, among others, that "the licensees are not fit persons to hold a license" and also that "the premises have acquired an unsavory reputation." I there further pointed out:

***In August of 1941, following a hearing before the municipal issuing authority, the appellant, Augusta Titgens, was found guilty of the following: violation of Rule 22 of State Regulations No. 20 - permitting a female employee to accept alcoholic beverages at the expense of patrons; violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20 - sale of alcoholic beverages to a minor; violation of Section 1 of the local ordinance - sale of alcoholic beverages during prohibited hours and failing to close the licensed premises during the same period. The license, at the time the violations were uncovered

in the early part of 1941, was in the name of Augusta Titgens individually. The license for the fiscal year 1941-42 was issued in the names of Augusta Titgens and Paula Bock (partners), subject to a special condition that it should be subject to any order of suspension or revocation which might be made in the then pending disciplinary proceedings. Accordingly, the license held by the appellants was suspended for a period of fifteen days."

* * * *

"In 1935-1936 the appellant, Augusta Titgens, then known as Augusta Norman, held a license for premises located at 328 River Street, Hoboken. This license was revoked by the municipal issuing authority on March 31, 1936 for a violation of R. S. 33:1-34. In April of 1938 she was arrested, charged with being a disorderly person, in violation of R. S. 2:202-4 (permitting known prostitutes to use her telephone and solicit for immoral purposes), found guilty in Police Court, and fined \$50.00. One of these alleged prostitutes subsequently appeared on the scene in Sayreville and was involved in the charges of which appellant Titgens was found guilty.

"In her first application for a license in Sayreville, Augusta Titgens failed to disclose either the revocation of her previous license in Hoboken or her conviction as a disorderly person. In subsequent applications, while she disclosed the revocation and also that on two occasions (1934 and 1936) she had been found guilty of disorderly conduct, she either failed to disclose or to accurately describe her conviction as a disorderly person in 1938."

The same prostitute who "appeared on the scene in Sayreville" continued her association with Augusta Titgens at the licensed premises herein involved and was arrested by the Madison Township Chief of Police because of her illicit relations with men. This forms the basis of the third charge herein.

The mere recital of the aforesaid facts clearly indicates that the license must be revoked outright.

Accordingly, it is, on this 20th day of September, 1943,

ORDERED, that Plenary Retail Consumption License C-3, heretofore issued by the Township Committee of the Township of Madison to Joseph J. McGuigan, t/a Blinker Bar, for premises Rowan Way, Madison Township, be and the same is hereby revoked, effective immediately.

ALFRED E. DRISCOLL
Commissioner.

9. DISCIPLINARY PROCEEDINGS - FRONT - EXERCISING THE RIGHTS AND PRIVILEGES OF A LICENSE FORMERLY HELD BY ANOTHER - ILLEGAL SITUATION CORRECTED - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)

MARY V. BAILEY)
T/a KRESSON LAKE INN)
W/S S-41 Highway)
Kresson, Voorhees Township)
P. O. Marlton, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Voorhees.)
-----)

Mary V. Bailey, Pro Se.
Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult to the following charge:

"From August 18, 1941 until June 30, 1943, you exercised the rights and privileges of the successive plenary retail consumption licenses then being held by Anna Deal for premises located on Route S-41, Kresson, Voorhees Township, P. O. Marlton, Camden County, N. J., in violation of R. S. 33:1-26."

The license was originally issued in the name of Anna Deal as a "front" for her mother, the defendant herein, who was disqualified to hold a license because she had not resided in New Jersey for five years. On March 27, 1943 the five-year residence requirement was removed by an act of the Legislature of the State (P.L. 1943, c. 46), and, on July 1, 1943, the license was issued to the defendant. It appears that the defendant has resided in New Jersey for about two years.

The illegal situation existing at the time of the Department's investigation was corrected before the charges were preferred. This correction, however, does not excuse the violation of the law. I shall impose a penalty of ten days as punishment therefor. Re Bohn, Bulletin 583, Item 4.

Accordingly, it is, on this 21st day of September, 1943,

ORDERED, that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Voorhees, to Mary V. Bailey, t/a Kresson Lake Inn, for premises W/S S-41 Highway, Kresson, Voorhees Township, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 A. M. September 27, 1943, and terminating at 3:00 A. M. October 7, 1943.

ALFRED E. DRISCOLL
Commissioner.

10. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 20 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

WALLY NORMAN)
84 Beechwood Avenue)
Delaware Township)
Camden County, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-18, issued by the Township Committee of Delaware Township (Camden County).)
-----)

Wally Norman, Defendant--Licensee, Pro Se.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant has pleaded non vult to charges alleging that, in March 1943, he sold alcoholic beverages to, and permitted their consumption by, three female minors, in violation of R.S. 33:1-77 and Rule 1 of State Regulations No. 20.

One of the minors is fourteen years old, and the other two are each fifteen years of age. The extreme youthfulness of these minors warrants the imposition of a greater penalty than the usual ten-day suspension given for an unaggravated offense of this kind. While it is true that the youngest of the three minors might reasonably have been taken for sixteen years and one of the other two for eighteen years old, there is no doubt that a normally prudent licensee would have refused to serve any of them.

In a similar case involving sales of alcoholic beverages to three minors, two of whom were sixteen and the third eighteen years old, I suspended the license for twenty days. See Re Powers, Bulletin 572, Item 4. The same suspension will be imposed herein, with remission of five days because of the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 21st day of September, 1943,

ORDERED, that Plenary Retail Consumption License C-18, heretofore issued by the Township Committee of Delaware Township (Camden County) to Wally Norman, for premises 84 Beechwood Avenue, Delaware Township, Camden County, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 A.M. September 24, 1943, and terminating at 2:00 A.M. October 9, 1943.

ALFRED E. DRISCOLL
Commissioner.

11. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LOUIS FOXWELL)
T/a HOLLYWOOD CAFE)
181 S. So. Carolina Avenue)
Atlantic City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-15, issued by the Board of Commissioners of the City of Atlantic City.)
-----)

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

BY THE COMMISSIONER:

Defendant has pleaded non vult to charges alleging that, on July 23, 1943, he sold alcoholic beverages to and permitted the consumption of alcoholic beverages by a minor, in violation of R. S. 33:1-77, Rule 1 of State Regulations No. 20 and a local ordinance of the City of Atlantic City.

The file in this case discloses that James ---, a sailor nineteen years of age, entered defendant's premises at about 10:00 P.M. on July 23, 1943 and was served a glass of whiskey by defendant's bartender. In mitigation, defendant alleges that the sailor appeared to be more than twenty-one years of age. However, as defendant admits, the fact that the minor appeared to him to be of full age does not constitute a defense to the charges herein.

Since this is defendant's first adjudicated offense, I shall, because of the circumstances of this case, impose a minimum penalty of ten days' suspension. Cf. Re Abrams, Bulletin 562, Item 8. Five days of the suspension will be remitted because of the plea herein, making a net suspension of five days.

Accordingly, it is, on this 23rd day of September, 1943,

ORDERED, that Plenary Retail Consumption License C-15, issued by the Board of Commissioners of the City of Atlantic City to Louis Foxwell, t/a Hollywood Cafe, for premises 181 S. So. Carolina Avenue, Atlantic City, be and the same is hereby suspended for five days, commencing at 8:00 A.M. September 27, 1943, and terminating at 8:00 A. M. October 2, 1943.

ALFRED E. DRISCOLL
Commissioner.

12. DISCIPLINARY PROCEEDINGS -- SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS - 15 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against FRANK ADAMSKI SR. & FRANK ADAMSKI JR. T/a FRANKS CAFE Gatzmer Avenue Jamesburg, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Jamesburg.

John E. Toolan, Esq., Attorney for Defendant-Licensees. Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult to the following charge:

"On Sunday morning, August 1, 1943, you sold alcoholic beverages at your licensed premises contrary to referendum held in the Borough of Jamesburg at the general election on November 8, 1938, at which time the question, 'Shall the sale of alcoholic beverages be permitted on Sundays in this municipality'?, was voted in the negative; such sale being in violation of R. S. 33:1-47."

The charge was preferred after two A.B.C. investigators reported that on the day in question they had observed a patron consuming beer on the licensed premises.

This is defendant's first adjudicated offense. In the absence of aggravating circumstances, the usual penalty of a fifteen-day suspension will be imposed. Five days will be remitted for the plea, making a net suspension of ten days. Re Balog, Bulletin 499, Item 3; Re Disbrow, Bulletin 540, Item 3.

Accordingly, it is, on this 22nd day of September, 1943,

ORDERED, that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Jamesburg to Frank Adamski, Sr. and Frank Adamski, Jr., for premises Gatzmer Avenue, Jamesburg, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 A.M. September 27, 1943, and terminating at 2:00 A.M. October 7, 1943.

Alfred E. Duswell Commissioner.