

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

BULLETIN 840

APRIL 18, 1949.

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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 840

APRIL 18, 1949.

1. APPELLATE DECISIONS - PERRY v. PASSAIC AND OLEAR.

JOHN PERRY,)
Appellant,)
-vs-) ON APPEAL
BOARD OF COMMISSIONERS OF THE) CONCLUSIONS AND ORDER
CITY OF PASSAIC, and NICHOLAS)
OLEAR,)
Respondents.)

John Junda, Jr., Esq., Attorney for Appellant.
Oscar R. Wilensky, Esq., Attorney for Respondent Board of
Commissioners.
John Micklus, Jr., Esq., Attorney for Respondent Nicholas Olear.

BY THE DIRECTOR:

Appellant appeals from the action of respondent Board of Commissioners in transferring a plenary retail consumption license held by John Kranyak for premises at 49 Market Street to respondent Nicholas Olear for premises at 127 Third Street, Passaic.

Appellant, who holds a plenary retail consumption license for premises at 128 Third Street, alleges that respondent Board of Commissioners abused its discretionary power in transferring the license because the neighborhood in question is presently overserved with taverns and because the transfer will create new problems for the policing authority of the city.

Four Commissioners voted to grant, and one Commissioner voted to deny, the application of respondent Olear for the transfer of the license.

The evidence shows that petitions, bearing the names of approximately one hundred persons in favor of the transfer and approximately one hundred persons opposed thereto, were presented to respondent Board.

The premises known as 127 Third Street were purchased in July 1948 by Nicholas Olear (or his wife) and another individual. At that time Stanley Tomala was a tenant in said premises and was conducting business under a plenary retail consumption license issued to him. On October 20, 1948, respondent Board of Commissioners transferred the Tomala license from 127 Third Street to 121 Third Street, and on November 30, 1948 it transferred the Kranyak license to respondent Olear for premises at 127 Third Street.

On March 30, 1948, respondent Board denied an application for a place-to-place transfer of a plenary retail consumption license from 155 to 145 Third Street upon the stated ground that the transfer "would aggravate the existing concentration of licenses in that area". On an appeal from the respondent Board's action (Kupay v. Passaic, Bulletin 803, Item 9), I stated:

"Respondent alleges that its action was reasonable because it has already transferred the club license heretofore mentioned from 174 Third Street to 155 Third Street, and hence the transfer sought by appellant will result in the existence of six, instead of five, licensed premises in one block on Third Street between Hudson and Mercer Streets. This reason sounds plausible but an examination of the facts leads to the

conclusion that it is without any weight. The club license was formerly outstanding for premises 174 Third Street, a short distance north of Hudson Street. It has now been transferred to 155 Third Street, which is located on the opposite side of the street a short distance south of Hudson Street. There is absolutely no evidence that the club license has contributed in any way to the alleged unsatisfactory conditions and, under these circumstances, it is immaterial whether the club license is located at 174 Third Street or 155 Third Street. Appellant herein seeks merely to transfer his license to other premises in the same neighborhood in close proximity to the premises for which he now holds a license. The situation in this respect is closely comparable to that in Conn v. Kearny, *supra*; Leonia Liquors, Inc. v. Leonia, Bulletin 768, Item 1; Grower v. Hackensack, Bulletin 789, Item 1, and Costa v. Verona, Bulletin 501, Item 2. In the latter case the Commissioner said:

"Thus, were appellant located in a different section of the municipality and seeking to transfer into the vicinity in question, or if, being within the area (as is the case), he were seeking to transfer to a site that would aggravate to any appreciable degree the existing concentration of licenses in that area, respondent would be justified in denying the transfer and, on appeal, I would sustain such denial. Neither of such situations, however, is present in this case. On the contrary, the facts herein indicate that the applicable ruling is that where no attack is made on the personal fitness of the applicant or the suitability of the premises, a refusal to transfer, whether from person to person or from place to place, cannot, in the absence of good independent cause, be sustained."

In the Kupay case no "good independent cause" was shown, and I concluded:

"The fact that appellant proposes to transfer his licensed premises from one place to another on the same side of Third Street does not increase the number of outlets for the sale of liquor to the general public in that area. A transfer may not be denied merely to decrease the number of licenses. Kirschhoff v. Millville, Bulletin 254, Item 8.

".....I find that respondent's grounds for refusing the transfer are insufficient in that no valid objection to the transfer appears to exist. Consequently the denial of the transfer was unreasonable and the action of respondent must, therefore, be reversed."

Furthermore, I stated in my Conclusions and Order in the Kupay case:

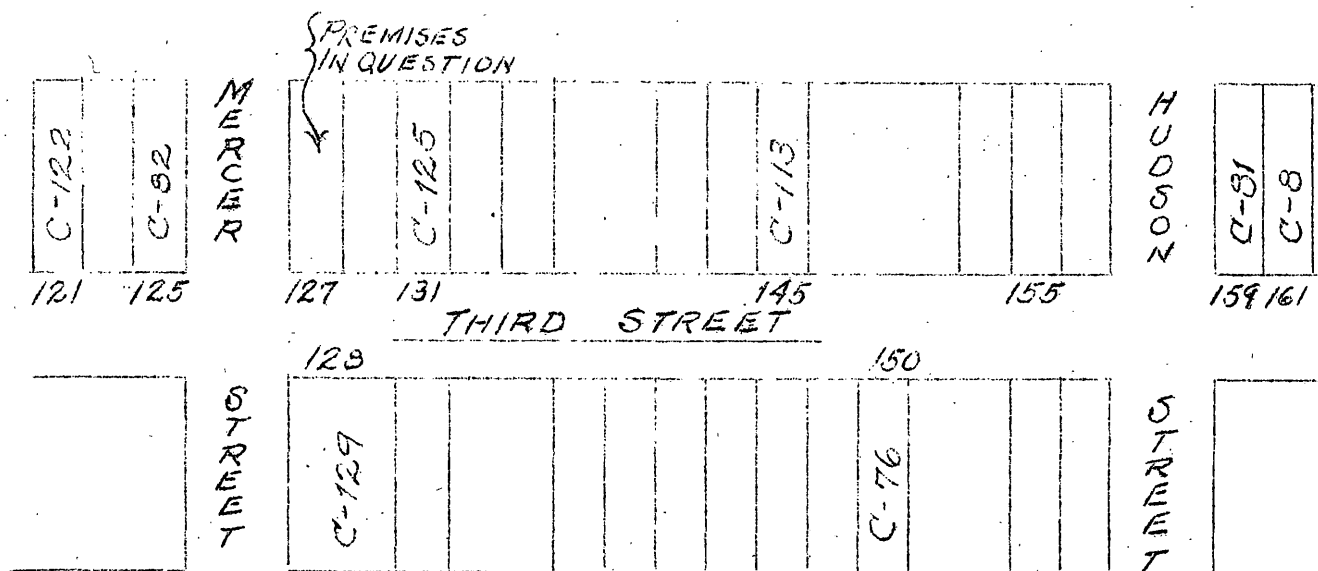
"If conditions (in this Third Street vicinity) are as bad as respondent's witnesses claim, it would seem apparent that there is need for a closer supervision by the local police in this section of the city."

(Two of the Commissioners, who voted "No" on the Kupay application, voted "Yes" on the Olear application for the stated reason that they "did not want to hurt a veteran" - the transferor.)

In the instant case the application was for a transfer from 49 Market Street to 127 Third Street, three and one-half blocks away.

It was stipulated, by opposing counsel, that 49 Market Street is "located in another neighborhood". Despite the stipulation it was contended at the hearing herein that both of these premises are in the east section of Passaic and, hence, in the same neighborhood. I cannot agree with this contention. I am satisfied, from the evidence, that the transfer is sought from one neighborhood to another neighborhood of the city.

The concentration of licenses in the neighborhood to which transfer is sought fully appears from the following diagram, which does not show the club license at 155 Third Street:



The situation in the instant case differs sharply from that in the Kupay case. In the instant case the transfer, as pointed out, was from one neighborhood to another, and would result in an additional license in the latter neighborhood which is so heavily "serviced" with licensed premises. I believe, under the circumstances, that the existence of an additional license in the area in question would aggravate appreciably the concentration of licenses in that area.

In the light of all the evidence before me, I conclude that respondent Board abused its discretionary authority in granting the transfer of the license in question. Hence, I shall reverse the Board's action. The result of the decision will be that John Kranyak will be the holder of a plenary retail consumption license. Of course, he will be unable to operate at the premises at 49 Market Street since he has no possession of said premises. The license, however, may be transferred to other proper premises, or to other proper premises and to another qualified person, in the discretion of respondent Board, on an application duly filed with said Board.

Accordingly, it is, on this 31st day of March, 1949,

ORDERED that the action of respondent Board of Commissioners, in transferring Plenary Retail Consumption License C-32 from John Kranyak for premises at 49 Market Street, to Nicholas Olear for premises at 127 Third Street, Passaic, be and the same is hereby reversed, and respondent Nicholas Olear is hereby ordered to cease all alcoholic beverage activity under said license.

ERWIN B. HOCK
Director.

2. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN LICENSE APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF LICENSE - SIMILAR CHARGE AS TO DEFENDANT'S PREDECESSOR IN INTEREST - ILLEGAL SITUATION APPARENTLY CORRECTED - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary Proceedings against)

JOSEPH CURRAN, SR.)
T/a CORNER TAVERN)
213 Belleville Avenue)
Belleville, N. J.,)

Holder of Plenary Retail Consumption License C-30, issued by the Board of Commissioners of the Town of Belleville, and transferred during the pendency of these proceedings to)

CONCLUSIONS

AND ORDER

MARGARET E. CURRAN)
T/a CORNER TAVERN,)
for the same premises.)

Joseph Curran, Sr., Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded not guilty to charges alleging that (1) in his application dated May 27, 1948 he falsely concealed the fact that Joseph Curran, Jr. was the real and beneficial owner of the licensed business, in violation of R. S. 33:1-25; (2) from October 1942 until the present time, he aided and abetted the said Joseph Curran, Jr. to exercise, contrary to R. S. 33:1-26, the rights and privileges of his successive licenses, in violation of R. S. 33:1-52; and (3) from on or about November 5, 1941 until October 19, 1942, defendant's predecessor in interest, Mortimer Edwin Jonas, knowingly aided and abetted Joseph Curran, Jr. to exercise, contrary to R. S. 33:1-26, the rights and privileges of his successive licenses, in violation of R. S. 33:1-52.

Joseph Curran, Jr. is the son of the defendant. The evidence presented herein indicates that from 1941 to 1942 Joseph Curran, Jr. was an undisclosed partner of one Mortimer Jonas, who then held the license for the premises at 213 Belleville Avenue. During the latter year the partnership arrangement was terminated and Mortimer Jonas sold his interest in the business to Joseph Curran, Jr. Mortimer Jonas testified that at the time the sale was actually consummated, Joseph Curran, Jr. and the defendant herein were present, and that "there was a little discussion there.....It seemed as if Joseph Curran, Jr. had some reason in his mind where he felt he didn't want to take the license in his name. And therefore he felt he was going to put it in his father's name." The license was transferred from Mortimer Jonas to Joseph Curran, Sr., to whom successive licenses were issued until the present time.

Edward Dierickx identified two checks made payable to J. Curran, aggregating \$500.00, and testified that in 1942 he loaned Joseph Curran, Jr. the money in order that he might purchase a licensed premises known as the Corner Tavern in Belleville from Mortimer Jonas.

Joseph Curran, Jr. testified that he caused the license to be put in his father's name because of a criminal record which disqualified him from holding a liquor license in this state. In a written statement signed by him and dated January 10, 1949, Joseph Curran, Jr. claimed that he has always been the true owner of the business in question. This statement was read and witnessed by defendant herein. The defendant, in another written statement given at the same time, admitted that the son was the true and beneficial owner of the business. At the hearing, however, the defendant repudiated the aforementioned statement and contended that in 1942 he purchased the business and assumed the outstanding obligations and debts thereof. The only evidence presented by the defendant indicates that he had loaned his son and Mortimer Jonas \$600.00 sometime previous to the sale, which evidently was never repaid.

After a careful review of all the evidence presented by the witnesses in the within proceeding, I am satisfied that the business belonged to Joseph Curran, Jr. and that the defendant merely acted as a "front" because of the son's criminal record. I therefore find the defendant guilty as charged.

Since the institution of these proceedings, however, pursuant to R. S. 2:192-15, the criminal conviction of Joseph Curran, Jr. has been ordered by a court of competent jurisdiction expunged from the record. (See Case 739, decided simultaneously herewith.) Joseph Curran, Jr. has been relieved of the disability based upon his conviction of a crime involving moral turpitude. It further appears that subsequent to the institution of these proceedings the Board of Commissioners transferred License C-30 from Joseph Curran, Sr. to Margaret E. Curran, wife of Joseph Curran, Jr.

The nature of the violation charged herein calls for a substantial suspension of the license. I shall, therefore, suspend the license for a period of ninety days.

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

ORDERED that Plenary Retail Consumption License C-30, issued by the Board of Commissioners of the Town of Belleville to Joseph E. Curran, Sr., t/a Corner Tavern, for premises 213 Belleville Avenue, Belleville, and transferred during the pendency of these proceedings to Margaret E. Curran, t/a Corner Tavern, for the same premises, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. April 12, 1949, and it is further

ORDERED that if any license is issued to Margaret E. Curran or any other person for the premises in question for the 1949-1950 fiscal year, such license shall be under suspension until 2:00 a.m. July 11, 1949.

ERWIN B. HOCK
Director.

3. DISQUALIFICATION - APPLICATION TO LIFT - CONVICTION EXPUNGED FROM RECORD AND APPLICANT RELIEVED OF DISABILITY BY ORDER OF COURT - ORDER HEREIN NOT REQUIRED.

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

CONCLUSIONS

Case No. 739.
-----)

BY THE DIRECTOR:

On February 19, 1936 petitioner pleaded non vult to the crime of larceny and receiving, as a result of which he was sentenced by a Judge of a Court of Special Sessions to a state reformatory. The operation of the prison sentence was suspended and in its place and stead petitioner was placed on probation for five years with the proviso that he make restitution for the value of the merchandise taken.

Petitioner testified that he made restitution in conformity with the order of the court.

Larceny and receiving is a crime that involves the element of moral turpitude. Since the hearing in this matter petitioner has submitted a true copy of an order, dated February 28, 1949, entered by a County Court, wherein the conviction aforementioned has been ordered expunged from the record and reciting that petitioner has been relieved from such disability as heretofore existed by reason of said conviction. (R. S. 2:192-15.)

In view of said order by a court of competent jurisdiction in a proceeding instituted for that purpose, the disability of petitioner has been removed. Re Case No. 178, Bulletin 206, Item 11. Hence, it is unnecessary to enter any order in this proceeding.

Under the circumstances, petitioner is eligible to be associated with the alcoholic beverage industry despite the conviction disclosed herein, provided, however, that he is otherwise fully qualified.

ERWIN B. HOCK
Director.

Dated: April 4, 1949.

4. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN LICENSE APPLICATION OF WHOLESALE LICENSEE DENYING OWNERSHIP OF PREMISES OCCUPIED BY RETAIL LICENSEE - ILLEGAL SITUATION APPARENTLY CORRECTED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN CATTANI)
T/a JOHN CATTANI & SONS)
603-7 Central Avenue)
Union City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Winery License)
V-7 and Wine Wholesale License)
WW-26, issued by the State)
Commissioner of Alcoholic Beverage)
Control.)
-----)

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

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge that he falsified his applications for his current plenary winery license and wine wholesale license, in violation of R. S. 33:1-25.

John Cattani, t/a John Cattani & Sons, has held a plenary winery license continuously since September 21, 1935, and wine wholesale license since January 11, 1944. On December 31, 1936, the defendant-licensee purchased premises at 601 Central Avenue and 706 - 6th Street, Union City (Hudson County), New Jersey. On or about July 1, 1938, one George Cattani, a son of the defendant, secured a plenary retail distribution license for premises known as 601 Central Avenue, Union City. This license has been renewed annually and in February 1946 was transferred to include 601 Central Avenue and 706 - 6th Street, Union City.

The ownership by the defendant-licensee of the premises licensed by his son George Cattani was obviously contrary to the provisions of R. S. 33:1-43. In his applications for plenary winery and wine wholesale licenses for the current fiscal year the defendant-licensee's answer of "No" to Question 33 thereof, which asks, "Do you or any person mentioned in this application hold any interest, directly or indirectly, acquired after December 6, 1933, in any real estate upon which alcoholic beverages are authorized to be sold at retail?", was false.

Since the institution of the proceedings herein, defendant-licensee has sold the premises occupied by George Cattani as licensed premises under his plenary retail distribution license to the said George Cattani, and apparently no longer has any interest, either directly or indirectly, therein. Thus the illegal situation appears to have been corrected.

Under all the circumstances herein, I shall suspend the plenary winery and wine wholesale licenses of the defendant for a period of ten days, less five days for the plea, leaving a net suspension of five days.

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

ORDERED that Plenary Winery License V-7 and Wine Wholesale License WW-26, issued by the State Commissioner of Alcoholic Beverage Control to John Cattani, t/a John Cattani & Sons, for premises 603-7 Central Avenue, Union City, be and the same are both hereby suspended for a period of five (5) days, commencing at 3:00 a.m. April 18, 1949, and terminating at 3:00 a.m. April 23, 1949.

ERWIN B. HOCK
Director.

5. APPELLATE DECISIONS - JORGENSEN v. WASHINGTON TOWNSHIP, WARREN COUNTY.

T. ARTHUR JORGENSEN,)
Appellant,)
-vs-)
TOWNSHIP COMMITTEE OF THE TOWNSHIP)
OF WASHINGTON (WARREN COUNTY),)
Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

Frank J. Kingfield, Esq., Attorney for Appellant.
Edward E. Stover, Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellant appeals from the action of respondent whereby it denied his application for a plenary retail distribution license for premises located in the northerly half of the building known as "The Village Barn" on Route 30, Washington Township.

The minutes of the Township Committee meeting held on November 9, 1948 disclose that appellant's application was denied at that time "due to the objections offered by interested citizens of the Township". Two of the three Township Committeemen voted to deny the application, the third member of the Township Committee being disqualified from acting upon the application because he is a liquor licensee.

No plenary retail distribution license has been issued in the township and, hence, the issuance of the license in question is not barred by the provisions of the State Limitation Law -- P.L. 1947, c. 94; nor has the township a numerical limitation ordinance prohibiting issuance of a plenary retail distribution license. However, even where a new license is not prohibited, the determination to grant or deny a retail license application rests, in the first instance, with the municipal issuing authority. See Bulletin 762, Item 2.

The evidence herein discloses that a petition containing the names of 85 residents who objected to the issuance of the license, and a petition containing the names of 51 residents who had no objection to the granting of the license, had been presented to respondent and considered at its meeting held on November 9, 1948. The weight to be accorded to petitions for or against issuance of a license is entirely within the discretion of the issuing authority. Re Powell, Bulletin 59, Item 15.

In addition, it appears that five letters objecting to the issuance of the license had been received, and that six residents personally appeared before the Township Committee and stated that in their opinion the township "did not need another liquor outlet".

The evidence further shows that the premises for which the license was sought is located in the north end of a building which is 116 feet long. In the south end of the same building John Woolston conducts a place of business in connection with which he holds a plenary retail consumption license. Apparently Mr. Woolston, who is related to appellant, does not object to the issuance of the license in question and voluntarily refrains from selling alcoholic beverages for off-premises consumption. Nevertheless, his license permits him to sell alcoholic beverages for off-premises consumption in the public barroom of his licensed premises. Six plenary retail consumption licenses have been issued and are outstanding in the township which, according to the 1940 Federal census, had a population of but 1,320.

Appellant introduced into evidence a letter written to him by Township Committeeman Schuler on December 18, 1948, wherein Mr. Schuler says:

"In reply to your inquiry as to why I voted against granting you a Package Store License, it was only because I held the position of County Probation Officer.***"

The intendment of the letter is not clear but, in any event, the mere fact that Mr. Schuler was a County Probation Officer had no legal bearing upon his qualification to act upon appellant's application, and the minutes of the Committee's meeting of November 9, 1948 indicate that he voted to deny the application for the hereinabove indicated reason stated therein.

(Even assuming that Mr. Schuler failed to consider the application on its merits, nothing would be accomplished by my remanding the case. Committeeman Rymon testified at the hearing herein that in his opinion there are "plenty of liquor places in the Township already for the amount of people we have. On Route 30 there are three right there within four miles on Route 30". Since the third Committeeman is disqualified from acting upon the application, it is apparent that, taking the possibility most favorable to appellant (i.e., assuming a change in the Schuler vote), the application, upon remand, would be rejected by a split vote of the two qualified Committeemen.)

On the record and merits, I find that appellant has not sustained the burden of proving respondent's action to have been an unreasonable or abusive exercise of discretion. I shall affirm that action.

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

ORDERED that the action of respondent be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

ERWIN B. HOCK
Director.

April 7, 1949

6. RECAPITULATION OF ACTIVITY FOR QUARTERLY PERIOD FROM JANUARY 1, 1949 THROUGH MARCH 31, 1949

| | JAN. | FEB. | MAR. | TOTAL |
|--|--------|--------|--------|----------|
| ARRESTS: | | | | |
| Licensees and employees | 14 | 45 | 27 | 56 |
| Bootleggers | 4 | 5 | 12 | 21 |
| | 10 | 10 | 15 | 35 |
| SEIZURES: | | | | |
| Motor vehicles - cars | 1 | 0 | 0 | 1 |
| Stills - 50 gallons or under | 2 | 2 | 2 | 6 |
| Mash - gallons | 600.00 | 500.25 | 800.00 | 1,900.25 |
| Distilled alcoholic beverages - gallons | 13.36 | 2.50 | 12.01 | 27.87 |
| Wine - gallons | 326.14 | 150.64 | 12.11 | 488.89 |
| Brewed malt alcoholic beverages - gallons | 3.19 | 18.76 | 14.42 | 36.37 |
| RETAIL LICENSEES: | | | | |
| Premises inspected | 892 | 761 | 862 | 2,515 |
| Premises where alcoholic beverages were gauged | 910 | 838 | 1,039 | 2,837 |
| Bottles gauged | 15,484 | 14,817 | 19,302 | 49,603 |
| Premises where violations were found | 43 | 33 | 41 | 117 |
| Violations found | 46 | 57 | 52 | 155 |
| Type of violations found: | | | | |
| Unqualified employees | 13 | 29 | 25 | 67 |
| Other mercantile business | 11 | 4 | 5 | 20 |
| Probable fronts | 7 | 2 | 1 | 10 |
| Gambling devices | 3 | 3 | 1 | 7 |
| Reg. #38 sign not posted | 3 | 3 | 0 | 6 |
| Prohibited signs | 0 | 0 | 5 | 5 |
| Disposal permit necessary | 0 | 2 | 1 | 3 |
| Other violations | 9 | 14 | 14 | 37 |
| STATE LICENSEES: | | | | |
| Premises inspected | 20 | 32 | 30 | 82 |
| License applications investigated | 10 | 12 | 22 | 44 |
| COMPLAINTS: | | | | |
| Complaints assigned for investigation | 300 | 302 | 343 | 945 |
| Investigations completed | 315 | 275 | 373 | 963 |
| Investigations pending | (107) | (143) | 128 | 128 |
| LABORATORY: | | | | |
| Analyses made | 102 | 126 | 160 | 388 |
| "Shake-up" cases (alcohol, water & artificial color) - bottles | 3 | 7 | 20 | 30 |
| Liquor found to be not genuine as labeled - bottles | 3 | 15 | 26 | 44 |
| IDENTIFICATION BUREAU: | | | | |
| Criminal fingerprint identifications made | 10 | 10 | 33 | 53 |
| Persons fingerprinted for non-criminal purposes | 153 | 154 | 185 | 492 |
| Identification contacts made with other enforcement agencies | 145 | 132 | 157 | 434 |
| Motor vehicle identifications via N.J. State Police Teletype | 6 | 12 | 11 | 29 |
| DISCIPLINARY PROCEEDINGS: | | | | |
| Cases transmitted to municipalities | 12 | 6 | 13 | 31 |
| Violations involved: | | | | |
| Sale during prohibited hours | 3 | 2 | 5 | 10 |
| Sale to minors | 2 | 2 | 5 | 9 |
| Permitting brawls on premises | 2 | 0 | 1 | 3 |
| Permitting bookmaking on premises | 0 | 1 | 1 | 2 |
| Sale to non-members by clubs | 2 | 0 | 2 | 4 |
| Possessing contraceptives on premises | 1 | 0 | 1 | 2 |
| Sale to intoxicated persons | 3 | 0 | 1 | 4 |
| Permitting gambling on premises (prize fight bets) | 0 | 0 | 1 | 1 |
| Failure to afford view into premises during prohibited hours | 1 | 0 | 0 | 1 |
| Licensee working while drunk | 1 | 0 | 0 | 1 |
| Permitting slot machines on premises | 0 | 1 | 0 | 1 |
| Cases instituted at Division (*1 includes cancellation proceedings) 19 | | 8 | 18 | 45 |
| Violations involved: | | | | |
| Possessing illicit liquor | 6 | 2 | 6 | 14 |
| Sale to minors | 0 | 2 | 7 | 9 |
| Fraud and front | 3* | 0 | 2 | 5 |
| Sale during prohibited hours | 4 | 1 | 0 | 5 |
| Sale below Fair Trade price | 3 | 0 | 2 | 5 |
| Delivery without invoice | 0 | 3 | 1 | 4 |
| Permitting immoral activity on premises | 2 | 0 | 0 | 2 |
| Conducting business as a nuisance | 2 | 0 | 0 | 2 |
| Hindering investigation | 1 | 0 | 0 | 1 |
| Permitting hostesses on premises | 1 | 0 | 0 | 1 |
| Sale to intoxicated persons | 1 | 0 | 0 | 1 |
| Unqualified employees | 1 | 0 | 0 | 1 |
| Purchase from improper source | 0 | 0 | 1 | 1 |
| Failure to file notice of change in application | 0 | 0 | 1 | 1 |
| Peddling alcoholic beverages from vehicle | 0 | 0 | 1 | 1 |
| Sale of alcoholic beverages off licensed premises | 0 | 0 | 1 | 1 |

| | Jan. | Feb. | Mar. | Total |
|--|------|------|------|-------|
| DISCIPLINARY PROCEEDINGS (Cont'd): | | | | |
| Cases brought by municipalities on own initiative and reported to Division | 5 | 1 | 9 | 15 |
| Violations involved: | | | | |
| Sale to minors | 2 | 1 | 5 | 8 |
| Permitting brawls on premises | 1 | 0 | 2 | 3 |
| Permitting gambling on premises | 1 | 0 | 1 | 2 |
| Sale during prohibited hours | 1 | 0 | 0 | 1 |
| Sale to intoxicated persons | 1 | 0 | 0 | 1 |
| Conviction of crime involving moral turpitude | 0 | 1 | 0 | 1 |
| Failure to afford view into premises during prohibited hours | 0 | 0 | 1 | 1 |
| HEARINGS HELD AT DIVISION: | | | | |
| Total number of hearings held | 43 | 28 | 28 | 99 |
| Appeals | 7 | 3 | 2 | 12 |
| Disciplinary proceedings | 19 | 13 | 13 | 45 |
| Eligibility | 10 | 6 | 6 | 22 |
| Seizures | 2 | 2 | 4 | 8 |
| Tax revocations | 4 | 2 | 1 | 7 |
| Applications for license | 0 | 2 | 1 | 3 |
| Hearings on petition | 1 | 0 | 1 | 2 |
| PERMITS ISSUED: | | | | |
| Total number of permits issued | 778 | 744 | 714 | 2,236 |
| Employment | 101 | 105 | 112 | 318 |
| Solicitors | 141 | 102 | 124 | 367 |
| Disposal of alcoholic beverages | 122 | 83 | 124 | 329 |
| Social affairs | 285 | 381 | 255 | 921 |
| Special wine | 34 | 8 | 0 | 42 |
| Miscellaneous | 95 | 65 | 99 | 259 |

ERWIN B. HOCK
Director.

7. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PURCHASE OF ALCOHOLIC BEVERAGES BY RETAILER FROM OTHER THAN NEW JERSEY MANUFACTURER OR WHOLESALER - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
KARL BUTTLER)
T/a EMPIRE BEER GARDEN)
122 Hudson Street)
Hoboken, N. J.,)
Holder of Plenary Retail Consumption License C-35, issued by the Board of Commissioners of the City of Hoboken.)

CONCLUSIONS
AND ORDER

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

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging in substance that he (1) possessed illicit alcoholic beverages on his licensed premises, in violation of R. S. 33:1-50; and (2) obtained or purchased alcoholic beverages from someone other than a New Jersey manufacturer or wholesaler, in violation of Rule 15 of State Regulations No.20.

On January 14, 1949 an inspector of the United States Treasury Department, Internal Revenue Service, Alcohol Tax Unit, during an inspection of the defendant's licensed premises, seized five full and one partly filled 4/5 quart bottles labeled "Bacardi Superior Rum" and one pint bottle labeled "Calvert Reserve Blended Whiskey". The "Bacardi" was seized because it did not bear any indicia of payment of the federal tax as required by law. Instead it bore a stamp indicating that said alcoholic beverages had originated in a foreign country, warranting the assumption that said six bottles had been

unlawfully brought into this country without payment of the proper tax thereon. The pint bottle labeled "Calvert Reserve Blended Whiskey" contained a whiskey the characteristics of which varied from those of genuine Calvert Reserve Blended Whiskey in proof, solids, acids and color.

Obviously, the six bottles of "Bacardi" and the pint bottle labeled "Calvert", the contents of which did not conform with the description on the label, are illicit beverages. R. S. 33:1-88.

Defendant alleges that he obtained the "Bacardi" as a gift from a sailor friend and the Calvert from another friend. His claim that he kept the liquor on his licensed premises for his personal use is no excuse. Rule 15 of State Regulations No. 20 provides in its pertinent part, "No retail licensee shall purchase or obtain alcoholic beverages except from the holder of a New Jersey manufacturer's or wholesaler's license or pursuant to a special permit ***".

Defendant has been in the tavern business since Repeal and prior hereto has a clean record. Under all of the circumstances, I shall suspend the license for thirty days, less five for the plea entered herein, making a net suspension of twenty-five days.

Accordingly, it is, on this 6th day of April, 1949,

ORDERED that Plenary Retail Consumption License C-35, issued by the Board of Commissioners of the City of Hoboken to Karl Buttler, t/a Empire Beer Garden, 122 Hudson Street, Hoboken, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. April 18, 1949, and terminating at 2:00 a.m. May 13, 1949.

ERWIN B. HOCK
Director.

8. DISCIPLINARY PROCEEDINGS - UNQUALIFIED EMPLOYEE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

FRANK & STELLA BUZAK
4628 Broadway
Union City, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-220 issued by the Board of Commissioners of the City of Union City.

Samuel Moskowitz, Esq., Attorney for Defendant-licensees.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants entered a technical plea of not guilty to charges alleging that on September 30, 1948, and prior thereto, they knowingly employed at their licensed premises Rudolph Buzak who had been convicted of a crime alleged to involve moral turpitude, such employment being in violation of R. S. 33:1-26 and Rule 1 of State Regulations No. 13.

At the time of entry of the plea, counsel for defendants stated that the defendants did not wish to deny their employment of Rudolph Buzak or the fact of his conviction, and that the purpose of the plea was merely to obtain a determination as to whether the crime mentioned in the charges involves moral turpitude. The plea was accepted on that basis.

Rudolph Buzak is the brother of Frank and husband of Stella Buzak, the defendants herein. On November 5, 1945, Rudolph Buzak pleaded guilty in Federal Court to the crime of possession and transportation of goods stolen from interstate shipments. He was sentenced on January 18, 1946 to one year in a Federal correctional institution where he remained for approximately ten months.

"The crime of possessing stolen goods, by its nature, ordinarily involves the element of moral turpitude. See Re Case No. 424, Bulletin 506, Item 3. However, the background in each case may be considered in determining whether that element is present." Re Case No. 194, Bulletin 577, Item 6.

In the present case, Rudolph Buzak testified that he and a co-worker purchased merchandise without knowledge on his (Buzak's) part that it was stolen property. He further testified that he and his "partner" visited a garage in a neighboring state to examine the merchandise in question. He said, "I just looked at it -- glanced at it. It looked all right to me. It was worth it, but most of the time I relied on him because he is supposed to know the fellows." The same day the goods aforementioned were shipped to Rudolph Buzak's home, where it was found by the Federal agents.

Although Rudolph Buzak disclaimed knowledge of the fact that the merchandise was stolen, I am satisfied, in view of the circumstances surrounding the entire transaction, the plea of guilty entered by him to the crime when he appeared in a Federal Court, and the sentence imposed by the Federal Judge, that Rudolph Buzak was aware that the goods had been stolen. It is my determination that the crime of which he was convicted involves moral turpitude and, thus, I find defendants guilty of the charges preferred herein.

I shall suspend the license for a period of ten days, less five days for the plea hereinabove indicated. Cf. Re Aronow and Rosenberg, Bulletin 741, Item 13.

Accordingly, it is, on this 6th day of April, 1949,

ORDERED that Plenary Retail Consumption License C-220, issued by the Board of Commissioners of the City of Union City to Frank & Stella Buzak, for premises 4628 Broadway, Union City, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. April 18, 1949, and terminating at 3:00 a.m. April 23, 1949.

ERWIN B. HOCK
Director.



9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY A RETAILER TO ANOTHER RETAILER FOR RESALE - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

WILLIAM P. McCrory)
117 South Mississippi Avenue)
Atlantic City, N. J.,)

CONCLUSIONS AND ORDER

Holder of plenary Retail Consumption License C-116, issued by the Board of Commissioners of Atlantic City.)

William P. McCrory, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold alcoholic beverages to another New Jersey retailer for resale, in violation of Rule 15 of State Regulations No. 20.

Defendant attempted to sell and deliver some 35 bottles of whiskey to another retailer, obviously for resale. Cf. Re Gem Liquor Store Corporation, decided herewith. Apparently the illegal sale was attempted because the seller was overstocked.

Defendant has a prior adjudicated record. His license was suspended for the balance of its term, effective April 28, 1944, after he had pleaded non vult to charges alleging sale during prohibited hours and sale to an intoxicated person. Re McCrory, Bulletin 616, Item 3. I shall suspend defendant's license for twenty days because of the violation set forth herein. Remitting five days because of the plea will leave a net suspension of fifteen days.

Accordingly, it is, on this 8th day of April, 1949,

ORDERED that Plenary Retail Consumption License C-116, issued by the Board of Commissioners of Atlantic City to William P. McCrory, 117 South Mississippi Avenue, Atlantic City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 7:00 a.m. April 18, 1949, and terminating at 7:00 a.m. May 3, 1949.

ERWIN B. HOCK
Director.

10. DISCIPLINARY PROCEEDINGS - PURCHASE OF ALCOHOLIC BEVERAGES BY A RETAILER FROM ANOTHER RETAILER FOR RESALE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

GEM LIQUOR STORE CORPORATION)
T/a GEM LIQUOR STORE)
1801 Atlantic Avenue)
Atlantic City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-28, issued by the Board of Commissioners of Atlantic City.)

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Isaac C. Ginsburg, 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 a charge alleging that he purchased alcoholic beverages for resale from another retailer, in violation of Rule 15 of State Regulations No. 20.

Defendant agreed to purchase from another New Jersey retailer some 35 bottles of tax-paid whiskey. During the attempted delivery of said merchandise, the whiskey was seized by State agents. The purchase was made through a salesman for a wholesale licensee, apparently without the knowledge of the wholesale licensee. Cf. Re McCrory and Re Tischler, decided herewith.

In the absence of a prior adjudicated record and aggravating circumstances, I shall suspend the license for fifteen days, less five days because of the plea, leaving a net suspension of ten days. Re Bollinger, Bulletin 641, Item 2.

Accordingly, it is, on this 8th day of April, 1949,

ORDERED that Plenary Retail Distribution License D-28, issued by the Board of Commissioners of Atlantic City to Gem Liquor Store Corporation, t/a Gem Liquor Store, 1801 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. April 18, 1949, and terminating at 9:00 a.m. April 28, 1949.

ERWIN B. HOCK
Director.

11. DISCIPLINARY PROCEEDINGS - HOLDER OF SOLICITOR'S PERMIT AIDING AND ABETTING RETAIL LICENSEES IN UNLAWFUL PURCHASE AND SALE OF ALCOHOLIC BEVERAGES - TRANSPORTING ALCOHOLIC BEVERAGES NOT IN COURSE OF HIS EMPLOYER'S BUSINESS - SOLICITOR'S PERMIT SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against)

MANUEL TISCHLER)
19 N. Clarendon Avenue)
Margate, N. J.,)

CONCLUSIONS AND ORDER.

Holder of Solicitor's Permit No. 1969, issued by the State Commissioner of Alcoholic Beverage Control.)

Frank S. Farley, Esq., Attorney for Defendant-Permittee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that he (1) aided and abetted a holder of a plenary retail consumption license to make an illegal sale of alcoholic beverages, i.e., sale to another retailer for resale, in violation of R. S. 33:1-52; (2) sold alcoholic beverages or solicited the sale thereof on behalf of a person other than the person named in his permit as his employer, in violation of Rule 5 of State Regulations No. 14; (3) aided and abetted the illegal sale of alcoholic beverages, in violation of R. S. 33:1-52; and (4) transported alcoholic beverages, not in the course of his employer's business, in an automobile licensed by a licensee (his employer), in violation of R. S. 33:1-50. See Re Gem Liquor Store and Re McCrory (decided herewith).

The record, consisting of sworn statements by the permittee and other persons involved in the aforesaid illegal activities, and the plea, indicate a disregard for the Alcoholic Beverage Law and the State Regulations, as well as a disregard of the conditions and restrictions of his permit.

Taking into consideration the plea entered herein, I shall suspend defendant's permit for sixty days.

Accordingly, it is, on this 8th day of April, 1949,

ORDERED that Solicitor's Permit No. 1969, issued by the State Commissioner of Alcoholic Beverage Control to Manuel Tischler, now residing at 19 N. Clarendon Avenue, Margate, be and the same is hereby suspended for sixty (60) days, commencing at 9:00 a.m. April 18, 1949, and terminating at 9:00 a.m. June 17, 1949.

ERWIN B. HOCK
Director.

12. DISCIPLINARY PROCEEDINGS - DIVISION FAILED TO SUSTAIN BURDEN OF PROOF IN SHOWING THAT RETAILER AIDED AND ABETTED UNLAWFUL SALE BY WHOLESALER TO CONSUMER - CHARGE DISMISSED.

In the Matter of Disciplinary Proceedings against)

JOHN BUNKS)
1024 Baltic Avenue)
Atlantic City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-38, issued by the Board of Commissioners of Atlantic City.)

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

BY THE DIRECTOR:

Defendant pleaded not guilty to a charge alleging that:

"On or about September 2, 1948, you knowingly aided and abetted the unwitting sale of alcoholic beverages, viz., 1 case Lord Calvert Whiskey, 1 case Four Roses Whiskey, 1 case Black & White Scotch Whisky and 6 bottles Cointreau Anisette in New Jersey by Federal Wine & Liquor Co., the holder of a plenary wholesale license, to Philip Tischler, a person not a licensed retailer or wholesaler, contrary to the terms of its license as defined by R. S. 33:1-11(1), in that you agreed to participate in the transaction as the ostensible purchaser of said alcoholic beverages when in fact you neither ordered nor intended to purchase said beverages; in violation of R. S. 33:1-52."

The overwhelming weight of the evidence before me shows that defendant agreed and intended to participate, as a conduit, in what he understood was to be a "wash" sale of alcoholic beverages from a wholesale licensee to a consumer. However, it appears from the full record and evidence now before me in these proceedings that the devious transaction (in which defendant agreed to participate) was not in fact a sale by a wholesale licensee to a consumer in violation of the Alcoholic Beverage Law. Hence, on the facts, defendant could not be found guilty of aiding or abetting an unlawful sale. I shall, therefore, dismiss the charge.

Accordingly, it is, on this 8th day of April, 1949,

ORDERED that the charge herein be and the same is hereby dismissed.

ERWIN B. HOCK
Director.

13. STATE LICENSES - NEW APPLICATIONS FILED.

Rudolph Invernizzi
T/a Invernizzi Brothers
606-608 Central Ave.
Union City, N. J.

Application for Public Warehouse License filed April 12, 1949.

Heidelberg, Inc.
10 Whyte St.
Jersey City, N. J.

Application filed April 13, 1949 for transfer of Limited Wholesale License WL-69 from L. J. Barry Beverages, Inc., 45 East Bigelow Street, Newark, N. J.

ERWIN B. HOCK
Director.

14. DAYLIGHT SAVING TIME EFFECTIVE THROUGHOUT THE STATE FROM LAST SUNDAY IN APRIL UNTIL LAST SUNDAY IN SEPTEMBER.

April 18, 1949.

Under New Jersey law (R. S. 1:1-2.3) the standard of time in the state is Eastern Standard Time, except from the last Sunday in April until the last Sunday in September, when the standard time is Eastern Daylight Saving Time which is one hour in advance of Eastern Standard Time. This law is state-wide in its application and is binding on all municipalities.

Hence, from midnight Saturday, April 23, 1949 and throughout the five-month daylight saving period, the time will be one hour in advance of the present Eastern Standard Time.

This means that licensees, at midnight Saturday, April 23rd, must immediately turn their clocks forward one hour to 1:00 a.m. and must govern themselves accordingly with respect to permissible hours of sale and closing. For example, if the regulations in the municipality require licensed premises to be closed between 2:00 a.m. and 7:00 a.m., the licensees in that municipality must close when the newly fixed time reaches 2:00 a.m. and must remain closed until the newly fixed time reaches 7:00 a.m.

Licensees should not be confused by the fact that in some other states the change to Daylight Saving Time may take place at 2:00 a.m. Sunday morning, April 24th. Nor should they be confused by the fact that in some New Jersey municipalities there are ordinances or resolutions or executive proclamations which purport to make the change to Daylight Saving Time at 2:00 a.m. on the above Sunday morning. Any such municipal ordinance, resolution or proclamation notwithstanding, the change to Daylight Saving Time will, by reason of the above mentioned law, become effective in all New Jersey municipalities, not at 2:00 a.m. Sunday morning, April 24th, but at midnight Saturday, April 23rd.

Erwin B. Hock
Director.