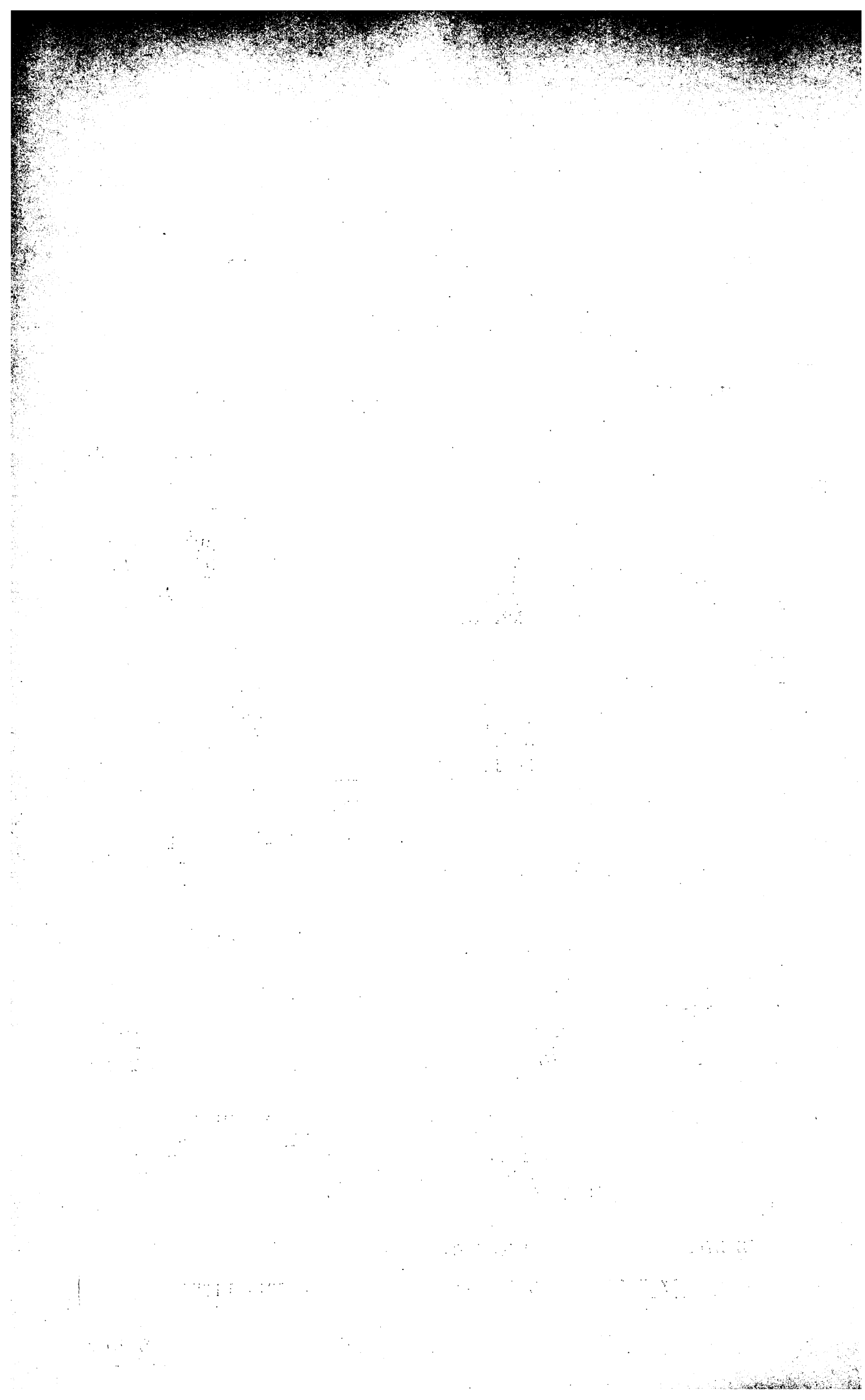


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STATE OF NEW JERSEY
 Department of Law and Public Safety
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL
 1060 Broad Street Newark 2, N. J.

BULLETIN 887

OCTOBER 26, 1950.

I. RECAPITULATION OF ACTIVITY FOR QUARTERLY PERIOD FROM JULY 1, 1950 THROUGH SEPTEMBER 30, 1950

	JULY	AUG.	SEPT.	TOTAL
ARRESTS:				
Total number of persons arrested	31	31	17	79
Licensees and employees	7	11	3	21
Bootleggers	24	19	14	57
ABC agent impersonator	0	1	0	1
SEIZURES:				
Motor vehicles - cars	2	2	5	9
Stills - over 50 gallons	0	1	1	2
- 50 gallons or under	4	2	0	6
Mash - gallons	310.00	2,020.00	1,250.00	3,580.00
Distilled alcoholic beverages - gallons	33.35	18.48	111.82	163.65
Wine - gallons	18.24	30.34	25.76	74.34
Brewed malt alcoholic beverages - gallons	29.53	75.64	41.61	146.78
RETAIL LICENSEES:				
Premises inspected	576	783	728	2,087
Premises where alcoholic beverages were gauged	573	579	704	1,856
Bottles gauged	10,883	11,782	12,599	35,264
Premises where violations were found	15	34	23	72
Violations found	15	59	24	98
Type of violations found:				
Unqualified employees	6	31	9	46
Other mercantile business	4	4	1	9
Reg. #38 sign not posted	1	7	1	9
Disposal permit necessary	1	0	1	2
Gambling devices	0	4	1	5
Probable fronts	0	2	1	3
Improper beer taps	0	2	1	3
Prohibited signs	0	0	1	1
Other violations	3	9	8	20
STATE LICENSEES:				
Premises inspected	4	5	10	19
License applications investigated	19	10	9	38
COMPLAINTS:				
Complaints assigned for investigation	371	396	319	1,086
Investigations completed	302	377	362	1,041
Investigations pending	167	178	106	451
LABORATORY:				
Analyses made	91	167	145	403
"Shake-up" cases (alcohol, water & artificial color) - Bottles	9	14	9	32
Liquor found to be not genuine as labeled - bottles	8	6	6	20
IDENTIFICATION BUREAU:				
Criminal fingerprint identifications made	42	20	15	77
Persons fingerprinted for non-criminal purposes	302	193	176	671
Identification contacts made with other enforcement agencies	266	148	151	565
Motor vehicle identifications via N.J. State Police Teletype	16	8	2	26
DISCIPLINARY PROCEEDINGS:				
Cases transmitted to municipalities	12	15	17	44
Violations involved:				
Sale to minors	6	5	6	17
Sale during prohibited hours	0	7	3	10
Sale outside scope of license	2	1	0	3
Permitting brawls on premises	2	0	3	5
Permitting female to tend bar	1	1	0	2
Sale to intoxicated persons	1	1	0	2
Permitting bookmaking on premises	1	0	1	2
Sale by retailer on credit	1	0	0	1
Permitting gambling on premises (cards)	1	0	0	1
Permitting gambling on premises (dart games)	0	1	0	1
Possessing chilled beer (DL licensee)	0	1	0	1
Sale to non-members by clubs	0	0	4	4
Cases instituted at Division	8	4	15	27
Violations involved:				
Possessing illicit liquor	7	0	3	10
Delivery without bona fide invoices	1	0	2	3
Sale outside scope of license	1	0	1	2
Employee soliciting without permit	1	0	0	1
Wholesaler failing to notify of change of employees	1	0	0	1
Permitting immoral activity on premises	0	1	4	5
Sale during prohibited hours	0	2	1	3
Permitting persons of ill repute on premises	0	1	0	1
Conducting business as a nuisance	0	1	0	1
Sale to minors	0	1	0	1
Sale to non-members by clubs	0	1	0	1
Fraud and front	0	0	4	4
Mislabeling beer taps	0	0	2	2
Possessing contraceptives on premises	0	0	2	2
Permitting hostesses on premises	0	0	1	1
Failure to display license certificate	0	0	1	1
Permitting pin ball machines on premises	0	0	1	1
Peddling alcoholic beverages from vehicle	0	0	1	1

	JULY	AUG.	SEPT.	TOTAL
DISCIPLINARY PROCEEDINGS (Continued)				
Cases brought by municipalities on own initiative & reported	3	7	7	17
Violations involved				
Sale to minors	1	6	1	8
Sale during prohibited hours	1	1	1	3
Permitting gambling on premises (dice)	1	0	0	1
Permitting brawls on premises	0	0	4	4
Hindering investigation	0	0	2	2
Permitting bookmaking on premises	0	0	2	2
HEARINGS HELD AT DIVISION:				
Total number of hearings held	34	31	27	92
Appeals	6	10	4	20
Disciplinary proceedings	13	9	7	29
Eligibility	7	5	5	17
Seizures	5	6	9	20
Tax revocations	0	0	1	1
Applications for special permit	1	1	0	2
Applications for license	1	0	1	2
Order to show cause	1	0	0	1
PERMITS ISSUED:				
Total number of permits issued	5,769	937	961	7,667
Employment	1,747	204	149	2,100
Solicitors	2,785	98	77	2,960
Disposal of alcoholic beverages	104	76	156	336
Social affairs	339	414	372	1,125
Special wine	86	36	77	199
Miscellaneous	708	109	130	947

Dated: October 9, 1950.

ERWIN B. HOCK, DIRECTOR

2. APPELLATE DECISIONS - SHEEHAN'S BEACH PALACE, INC. v. KEANSBURG.

SHEEHAN'S BEACH PALACE, INC.,)
trading as SHEEHAN'S BEACH PALACE,)
Appellant,)
-vs-)
MAYOR AND MUNICIPAL COUNCIL OF THE)
BOROUGH OF KEANSBURG,)
Respondent.)

ON APPEAL
CONCLUSIONS AND ORDERS

J. Stanley Herbert, Esq., by Peter Cooper, Esq., Attorney for Appellant.
Parsons, Labrecque, Canzona & Combs, Esqs., by William R. Blair, Jr., Esq., Attorneys for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby it found appellant guilty on charges of selling alcoholic beverages to minors on two separate occasions and suspended its license for a period of fifteen days effective at 6:00 a.m. June 16, 1950. The premises in question are located at Beachway and Pineview Avenues, Keansburg.

Upon the filing of the appeal an order was entered on June 16, 1950, staying the effect of the order of suspension until further order of the Director. R.S. 33:1-31.

Appellant alleges that respondent's verdict of guilty was not founded on sufficient credible evidence, and that said finding was against the weight of the evidence.

The first charge in the disciplinary proceedings alleged in substance that on Sunday, March 26, 1950, appellant, directly or indirectly, sold alcoholic beverages to persons under the age of twenty-one years, and allowed, permitted and suffered the consumption of

alcoholic beverages by such persons upon its licensed premises, in violation of State Regulations No. 20, Rule 1. At the hearing held herein, Jesse ---- testified that on March 26, 1950, he and two other young men entered appellant's premises at about 1:30 a.m. and remained there for a period of about three hours. Jesse ---- was then eighteen years of age; one of his companions was then eighteen years of age, and his other companion was then seventeen years of age. Jesse ---- testified that there were then seventy to eighty patrons on the licensed premises; that the bar was crowded but that some of the patrons were dancing and some were seated at tables; that he and his two companions sat at the bar; and that he purchased and consumed between twenty and twenty-five glasses of beer during the time he remained on the licensed premises. According to his testimony, the drinks were served by Charles Banzaca and Donald J. Callahan, who were acting as bartenders.

At the hearing the other two young men corroborated Jesse's testimony as to the time they arrived at and departed from appellant's premises on March 26, 1950. The eighteen-year-old youth testified that he purchased two beers and a number of "cokes" from the same two bartenders, and that he consumed these drinks. The seventeen-year-old youth testified that, during the time he was present, he purchased between twenty and thirty glasses of beer from the same bartenders, and that he consumed these drinks.

The second charge in the disciplinary proceedings alleged in substance that on Saturday, April 1, 1950, and Sunday, April 2, 1950, appellant, directly or indirectly, sold alcoholic beverages to persons under the age of twenty-one years, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon its licensed premises, in violation of State Regulations No. 20, Rule 1. At the hearing held herein, George ----, nineteen years of age, testified that he arrived at appellant's premises on Saturday, April 1, at about 11:30 p.m.; that he purchased from Charles Banzaca, a bartender, one glass of beer, which he consumed. This witness further testified that he then left appellant's premises but returned with a companion shortly after midnight, and remained in appellant's premises until some time between 1:00 a.m. and 1:30 a.m. on the morning of Sunday, April 2. George ---- further testified that, on the occasion of his second visit, he purchased and consumed two glasses of beer, but was unable to remember which bartender served him at that time. His companion testified that he entered appellant's premises with George ---- on the morning of April 2, and that he went to the dance floor without stopping at the bar. He said that he saw a glass of beer in front of George, but that he did not see George drink the beer.

On behalf of appellant, Joseph Callahan, who is President of Sheehan's Beach Palace, Inc., and Frank J. Peters, a special officer employed by appellant corporation, testified that they were on the licensed premises on the morning of March 26, 1950, until the premises closed at 5:00 a.m., and that they did not see Jesse ---- or his two companions on the licensed premises at any time during that morning. They also testified that they were on the licensed premises between 11:30 p.m. on Saturday, April 1, 1950, and 5:00 a.m. on Sunday, April 2, 1950, and that they did not see George --- or his companion in appellant's premises during that period of time. Charles Banzaca and Donald J. Callahan admitted that they were tending bar at the times mentioned in the charges, and testified that they did not see any of the young men at any time mentioned in the charges, and that they first saw them at a subsequent time when ABC agents accompanied the young men to the licensed premises for the purpose of identifying the bartenders. A third bartender, William Haynes, testified that he did not see any of the young men mentioned

herein at any time mentioned in the charges, although he also was tending bar on March 26, April 1 and April 2, 1950.

Vigorous cross-examination failed to shake to any appreciable degree the testimony of any of the young men who testified at the hearing. It is true that one of the young men stated on his cross-examination that there was a clock on the licensed premises, whereas, according to appellant's witnesses, there never was a clock on appellant's premises. It also appeared from cross-examination that one of the young men had been arrested on the morning of March 26, 1950, and that the first story he gave to the police at the time of his arrest did not agree with the sworn testimony given by him at the hearing of this appeal. In my opinion, however, these discrepancies are not sufficient to cast doubt upon the truth of their sworn testimony given in this case. I have examined carefully the testimony given on behalf of appellant. I am satisfied that there was a large number of patrons in the licensed premises at the times mentioned in the charges, and it is quite possible that appellant's witnesses did not pay any particular attention to the young men on the licensed premises. However, this negative testimony is clearly insufficient to overcome the positive testimony given by the young men who apparently have no motive for giving false testimony.

After carefully considering all the evidence, I shall affirm the finding of guilt as to both charges.

The suspension to be reimposed herein will operate against the renewed license issued to appellant for the 1950-51 licensing year. See State Regulations No. 16.

Accordingly, it is, on this 10th day of October, 1950,

ORDERED that the action of respondent in finding appellant guilty as to the charges preferred in disciplinary proceedings be and the same is hereby affirmed; and it is further

ORDERED that the fifteen-day suspension by respondent of appellant's plenary retail consumption license for premises at Beachway and Pineview Avenues, Keansburg (which suspension was held in abeyance by my Order dated June 16, 1950) be and the same is hereby restored to commence at 6:00 a.m. October 13, 1950, and to terminate at 6:00 a.m. October 28, 1950.

ERWIN B. HOCK
DIRECTOR.

- 3. DISCIPLINARY PROCEEDINGS - ALLOWING, PERMITTING AND SUFFERING LEWDNESS AND IMMORAL ACTIVITIES (PROCURING PROSTITUTE) ON LICENSED PREMISES - ALLOWING, PERMITTING AND SUFFERING SERVICE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF MUNICIPAL REGULATION - FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS, IN VIOLATION OF MUNICIPAL REGULATION - "ABSENTEE" SUPERVISION OF LICENSED BUSINESS - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary Proceedings against)

GREENBRIER, INC.)
 434 Squankum Road)
 New Shrewsbury Borough (formerly)
 Shrewsbury Township))
 Eatontown, R.F.D. Pine Brook, N.J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-3 for the 1949-50 and 1950-51 licensing periods, issued by the Township Committee of the Township of Shrewsbury.)

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

BY THE DIRECTOR:

The defendant pleaded not guilty to charges alleging that (1) it allowed, permitted and suffered lewdness and immoral activities on its licensed premises, in violation of Rule 5 of State Regulations No. 20, (2) it allowed, permitted and suffered the service of alcoholic beverages on its licensed premises during prohibited hours, in violation of local ordinance, and (3) during such prohibited hours, it failed to have its entire licensed premises closed and permitted persons other than the licensee and its employees to remain thereon, in violation of local ordinance.

The pertinent facts as testified to by the witnesses for the prosecution are not contradicted. It appears that, at about 5:30 a.m. of the morning of April 21, 1950, an ABC agent and a member of the military police drove to the vicinity of the licensed premises. The military policeman entered a house, located some 300 feet from the tavern, and there contacted one William Berry, who is the agent of the owner of the property upon which the tavern is located. Mr. Berry agreed to open the tavern and to procure a prostitute for the ABC agent and the policeman. Several minutes after the policeman rejoined the ABC agent downstairs they observed Berry emerge and enter a house across the road from the tavern. About five minutes later, Berry returned and told them that he had secured the female. Berry then produced a key, unlocked the side door of the tavern and all three entered and proceeded to the bar. It was then about 5:45 a.m. Berry, from behind the bar, served the ABC agent and military policeman with drinks of whiskey, for which the latter paid. A second round of drinks was served by Berry, for which the ABC agent paid. During this time, the three of them engaged in a general conversation about "women, prostitutes and getting fixed up" and Berry reiterated that "he had taken care of us *** and had secured a girl for us and she was coming over". Arrangements were also made for the use of Berry's room at a cost of \$2.50. When the female arrived, Berry said that "This was the girl" and Berry then served the men and the girl with more drinks of whiskey. This last round of drinks was served at about 6:45 a.m.

The local curfew regulation, in addition to prohibiting service of liquor between 3:00 and 7:00 a.m., requires that the entire licensed premises be closed during those hours.

Patsy Giuliano, who is the president and principal stockholder of the corporate defendant, testified that he lived some 40 miles from the licensed premises and visited there only two or three times a week. He employs two bartenders, each of whom resides near the tavern and has a key for the premises. Nevertheless, he entrusted Berry with a third key for the tavern, about "a couple of weeks before this episode", allegedly in order that Berry might repair a sewer on the premises and also paint the tavern. Berry, although present at the hearing, was not called as a witness.

The sole issue in this case is whether the defendant "allowed, permitted or suffered" the recited violations, within the meaning of the State Regulation and the local ordinance.

Rule 31 of State Regulations No. 20 provides:

"In disciplinary proceedings brought pursuant to the Alcoholic Beverage Law, it shall be sufficient, in order to establish the guilt of the licensee, to show that the violation was committed by an agent, servant or employee of the licensee. The fact that the licensee did not participate in the violation or that his agent, servant or employee acted contrary to instructions given to him by the licensee or that the violation did not occur in the licensee's presence shall constitute no defense to the charges preferred in such disciplinary proceedings."

This rule merely sets forth, in codified form, the standards which the courts of this state have always held to be applicable to proceedings brought for violation of liquor regulations. See Galsworthy, Inc. v. Hock, 3 N.J. Super. 127, 131 (App. Div. 1949), where it was stated:

"Our courts have held that the duty to obey the law, and rules and regulations is imposed upon the licensee and may not be evaded by a claim that any such act was not known to the licensee or authority in charge. Cedar Restaurant v. Hock, 135 N.J.L. 156, 157 (Sup. Ct. 1947). In Kravis v. Hock, 135 N.J.L. 259 (Sup. Ct. 1947), it was said 'The whole machinery of the Alcoholic Beverage Control statute is designed to control and keep within limits a traffic which, unless tightly restrained, tends toward abuse and debasement.'"

The verb "permit" is one of several shades and meanings. "It is a word of considerable elasticity. It lacks clear-cut and precise definiteness. It is not a technical word, and in English it has two significations, the first being where the mind consents to the act; the second where the mind does not affirmatively agree to the act, but, having the right and the means to interfere to prevent it from transpiring, fails to do so." 48 C.J. 924.

In the case of In re Thomas, 103 F. 272 (D.C. Pa. 1900), it is said (p.274):

"'To permit' is defined as not to hinder. Webster defines 'permit' as more negative than 'allow'; that it imports only acquiescence or an abstinence from prevention, -- while 'suffer' he defines as having an even stronger passive and negative sense than permit, and as implying

sometimes mere indifference. It would seem, therefore, that to permit or suffer implies no affirmative act, -- involves no intent. It is mere passivity, indifference, abstaining from preventive action."

In police regulations affecting the public health, safety and morals, the word "permit" is universally construed to mean a mere abstinence of action; that is, a passive failure to prevent the prohibited act.

Such is the rule in this state. In the case of Conner v. Fogg, 75 N.J.L. 245 (Sup. Ct. 1907), the court was concerned with a statute prohibiting "any owner *** of any dog to permit such dog to run at large ***". On page 247, the court said:

"To permit is defined as meaning to authorize or to give leave (McHenry v. Winston, 49 S.W. Rep. 4), but the term 'permit' has been often used synonymously with 'suffer,' so that it may be said that one who suffers the doing of a thing which he might have prevented, permits it. 22 Am. & Eng. Encycl. L. (2d ed.) 699, and cases there cited.

"It is in this latter sense that the term is used in the statute under consideration."

See also the case of Feir v. Weil and Whitehead, 92 N.J.L. 610 (E. & A. 1919).

Directly in point is the case of Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup. Ct. 1947). In that case the charge was that the licensee "allowed, permitted and suffered" the consumption of alcoholic beverages by minors on its licensed premises. It was argued that the defendant had no knowledge of the offense and also that its waiters had disregarded its instructions. After holding that knowledge was not an essential element of the offense, the court said, at page 31:

"Although statutes penal in character must be construed strictly, the injunction of the legislature as hereabove indicated enjoins us to the contrary in reference to liquor traffic. Kravis v. Hock, 135 N.J.L. 259. Our courts have held that it 'is a subject by itself, to the treatment of which all the analogies of the law, appropriate to other topics, cannot be applied.' Paul v. Gloucester County, 50 Id. 585; Hudson Bergen County Retail Liquor Stores Association v. Driscoll, Commissioner, et al., 135 Id. 502. Or as was said in Crowley v. Christensen, 137 U.S. 86; 34 L. Ed. 620:

"As it is a business attended with danger to the community it may *** be entirely prohibited, or be permitted under such conditions as will limit to the utmost its evils."

* * * * *

"Although the word 'suffer' may require a different interpretation in the case of a trespasser, it imposes responsibility on a licensee, regardless of knowledge, where there is a failure to prevent the prohibited conduct by those occupying the premises with his authority. Guastamachio v. Brennan, 128 Conn. 356; 23 Atl. Rep. (2d) 140."

The licensee is guilty as charged.

The serious nature of the violations would normally warrant an outright revocation of the license. Considering the somewhat unusual circumstances surrounding the offenses, however, I am of the opinion that a ninety-day penalty will suffice to make the defendant aware that an "absentee" supervision of its licensed business is not compatible with its strict accountability for any violations occurring on its licensed premises. Such will be the order.

Accordingly, it is, on this 16th day of October, 1950,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Shrewsbury for the 1950-51 licensing year to Greenbrier, Inc., for premises 434 Squankum Road, New Shrewsbury Borough (formerly Shrewsbury Township), be and the same is hereby suspended for a period of ninety (90) days, commencing at 7:00 a.m. October 24, 1950, and terminating at 7:00 a.m. January 22, 1951.

ERWIN B. HOCK
Director.

- 4. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF MUNICIPAL REGULATION - FAILING TO KEEP LICENSED PREMISES CLOSED DURING PROHIBITED HOURS, IN VIOLATION OF MUNICIPAL REGULATION - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF REGULATIONS NO. 38 - HINDERING INVESTIGATION - FALSE STATEMENTS IN LICENSE APPLICATION CONCEALING FACT THAT PRESIDENT OF CORPORATION HAD BEEN CONVICTED OF CRIMES NOT INVOLVING MORAL TURPITUDE - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary Proceedings against

JOE-MARIE INC.
T/a BANKER'S CLUB
6220 Park Avenue
West New York, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-79 for the 1949-50 and 1950-51 licensing years, issued by the Board of Commissioners of the Town of West New York.

Meehan Brothers, Esqs., by John J. Meehan, Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging in substance (1) it sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, and allowed the consumption thereof after the hours prescribed, in violation of an ordinance of the local municipality; (2) it failed to keep its licensed premises closed as provided by said ordinance; (3) it sold and delivered a quart bottle of whiskey in its original container for off-premises consumption, in violation of State Regulations No. 38, Rule 1; and (4) it hindered and failed to facilitate the investigation being conducted by agents of this Division, in violation of R.S. 33:1-35. Defendant has also pleaded non vult to an additional charge alleging that (5) it falsified its application by virtue of which it received its current license, in violation of R.S. 33:1-25.

On Saturday morning, June 3, 1950, agents of the State Division of Alcoholic Beverage Control entered the licensed premises prior to 3:00 a.m., the closing hour designated by Section 6 of a Resolution of the Board of Commissioners of the Town of West New York, as amended by Ordinance adopted January 12, 1943. The activity in the tavern continued with the agents and several patrons purchasing drinks of alcoholic beverages after 3:00 a.m. The agents purchased drinks between 3:00 a.m. and 3:30 a.m. At about 3:35 a.m., the agents purchased a quart bottle of Carstairs' whiskey in its original container after telling Joe Maier, the bartender, that they wanted the bottle to "take home". Such sales are prohibited, on week days except between the hours of 9:00 a.m. and 10:00 p.m., by Rule 1 of State Regulations No. 38. During the half-hour the attendance gradually dropped until at 3:30 a.m. some eight customers were still in the licensed premises.

After disclosing their identity, one of the agents, seeking to place his evidence (the last two drinks and the original bottle of whiskey) in a safe place, was physically and verbally assaulted by Joe Maier, apparently in an endeavor to secure or destroy the evidence. Such behavior by licensees or their agents constitutes a hindering of the investigation, in violation of R.S. 33:1-35.

As to charge (5), it appears that the license application was filed on June 3, 1950 and was signed on behalf of the corporate licensee by Joseph B. Maier, President. In said application, Question 33 which asks: "Have you or has any person mentioned in this application, ever been convicted of any crime?" was answered "No." Actually, Joseph B. Maier, mentioned in said application as a stockholder, owning 96% of the outstanding corporate stock of the licensed corporation, director and president of said corporation, had been, on October 11, 1933, convicted, by virtue of a plea of non vult, in a Special Sessions Court in this state on a charge of larceny and receiving. As a result of this conviction sentence was suspended. Maier was placed on probation for three years and to pay a fine of \$1.00 per week during said probation.

It further appears that Question 35 in said application which asks: "Have you or has any person mentioned in this application ever been convicted of a violation of a Federal or State law concerning the manufacture, sale, possession, distribution or transportation of alcoholic beverages?", was answered "No." In fact, Joseph B. Maier was convicted in a Criminal Judicial District Court in this state on January 11, 1943 on a charge of selling alcoholic beverages to a minor by a plea of "guilty". He was fined \$100.00.

Joseph B. Maier was 17 years of age at the time of his conviction of the charge of larceny and receiving. Apparently, the crime was not treated as a serious violation of law by the court. The sentence was suspended and Maier was placed on probation. Under the rulings heretofore made, the age of defendant at the time of the commission of the crime becomes a pertinent factor in determining whether the element of moral turpitude was present. Cf. Re Case No. 261, Bulletin 305, Item 13; Re Case No. 36, Bulletin 149, Item 1; Re Case No. 192, Bulletin 215, Item 3; Re Case No. 13, Bulletin 228, Item 3. Under the circumstances disclosed by the record, I find that the conviction of larceny and receiving above set forth was not the conviction of crime involving moral turpitude within the purview of the statute. R.S. 33:1-25.

The other conviction some ten years after the larceny and receiving conviction, is a conviction which may or may not involve the element of moral turpitude. No aggravating circumstances appearing, I find that said conviction for sale of alcoholic beverages to a minor did not involve moral turpitude. Cf. Re Davis, Bulletin 648, Item 8.

While it appears that defendant is not disqualified by statute from holding his license, his failure to disclose his convictions is a serious violation because the suppression of said facts deprives the local issuing authority of information pertinent to their investigation as to whether or not defendant is a fit person to hold a liquor license.

Under all of the circumstances and considering the plea entered herein, I shall suspend defendant's license for a period of ninety days.

Although this proceeding was instituted during the 1949-50 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1950-51. State Regulations No. 16.

Accordingly, it is, on this 16th day of October, 1950,

ORDERED that Plenary Retail Consumption License C-79 issued for the 1950-51 licensing period to Joe-Marie Inc., t/a Banker's Club, 6220 Park Avenue, West New York, be and the same is hereby suspended for a period of ninety (90) days, commencing at 3:00 a.m. October 24, 1950, and terminating at 3:00 a.m., January 22, 1951.

ERWIN B. HOCK
Director.

- 5. DISCIPLINARY PROCEEDINGS - PIN BALL MACHINE - MECHANICAL DEVICE FOR SALE OF CONTRACEPTIVES - FOURTH VIOLATION (TWO OF WHICH VIOLATIONS OCCURRED MORE THAN SEVEN YEARS AGO) - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against
JOSEPH GOLAK
T/a ROYAL DINER
s/s Route 28, 1 1/2 miles West of North Branch
Branchburg Township
P.O. North Branch, N. J.,

CONCLUSIONS
AND ORDER

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

Leon Gerofsky, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

- "1. On September 5, 1950 and prior thereto, you allowed, permitted and suffered a machine or device commonly known as a bagatelle or pin ball machine in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20.

"2. On the aforesaid occasion you, not operating a bona fide pharmacy, allowed, permitted and suffered a mechanical device for the sale and distribution of prophylactics against venereal disease or contraceptives or contraceptive devices in and upon the licensed premises; in violation of Rule 9 of State Regulations No. 20."

On September 5, 1950, an ABC agent visited defendant's premises and observed a five-ball bagatelle machine in the dining room, and a machine containing prophylactics in the men's toilet connected with the dining room. The agent played the bagatelle machine and found it to be in working order, and obtained a box containing prophylactics after inserting a coin in the machine located in the men's toilet.

Defendant alleges that both machines were placed on the premises without his permission, but apparently with the consent of one John Sholtiss who holds a concession for the purpose of serving food in the dining room. The application for the license discloses that the entire building containing the barroom, dining room, diner with lunch counter, and kitchen, and the adjacent grounds and cabins constitute the licensed premises. Defendant also admits that he and his employees serve alcoholic beverages in the dining room. Under these circumstances it clearly appears that both machines were located upon the licensed premises.

Defendant has a prior record. Effective June 1, 1942, his license was suspended by the local issuing authority for three days for permitting gambling on his licensed premises; effective November 26, 1943, his license was suspended by the State Commissioner for thirteen days for an Election Day violation; effective October 18, 1948, his license was again suspended by the local issuing authority for a period of twenty days for selling alcoholic beverages during prohibited hours, in violation of State Regulations No. 38 and in violation of a municipal regulation. Although two of the violations occurred more than seven years ago, this is the fourth violation in approximately eight years. Under all the circumstances, including a consideration of the plea entered herein, I shall suspend defendant's license for a period of sixty days.

Accordingly, it is, on this 19th day of October, 1950,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Branchburg to Joseph Golak, t/a Royal Diner, for premises on s/s Route 28, 1½ miles West of North Branch, Branchburg Township, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. October 27, 1950, and terminating at 2:00 a.m. December 26, 1950.

ERWIN B. HOCK
Director.

- 6. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - FALSE ANSWER IN APPLICATION CONCEALING FACT THAT LICENSE HAD BEEN "FARMED OUT" TO INDIVIDUAL - FALSE ANSWER IN APPLICATION CONCEALING FACT THAT PERCENTAGE OF PROFITS WAS TO BE PAID TO INDIVIDUAL - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF A LICENSE - FALSE ANSWER IN APPLICATION CONCEALING FACT THAT LICENSE HAD PREVIOUSLY BEEN SUSPENDED - ILLEGAL SITUATION AS TO "FRONT" CORRECTED - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against)

COLUMBUS A.S. & P. ASSOCIATION, INC.)
 621 Valleybrook Avenue)
 Lyndhurst, N. J.,)

CONCLUSIONS AND ORDER

Holder of Club License CB-2, issued by the Board of Commissioners of the Township of Lyndhurst.)

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 Defendant-licensee, by John E. Guidetti, Recording Secretary.
 William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that (1) in its application dated June 1, 1950, it falsely denied that any individual other than the applicant had any interest, directly or indirectly, in the license applied for or in the business to be conducted thereunder, whereas in fact Louis Bonelli had such an interest, such false statement being in violation of R.S. 33:1-25; (2) in the aforesaid application it falsely denied that it had agreed to pay the club steward, club manager, any employee, or other person any percentage of the profits derived from the licensed business, whereas in fact it had agreed to permit Louis Bonelli to retain all the net profits from the licensed business, such false statement being in violation of R. S. 33:1-25; (3) from August 1949 until September 1, 1950, it knowingly aided and abetted Louis Bonelli to exercise, contrary to R.S. 33:1-26, the rights and privileges of its successive club licenses, in violation of R.S. 33:1-52; (4) in its application dated June 1, 1950, it falsely denied that the club ever held an alcoholic beverage license which was suspended, whereas in fact its 1939-40 license had been suspended by the local issuing authority for ten days, effective July 2, 1939, for sale of alcoholic beverages on a special election day and possession of slot machines, said false statement being in violation of R. S. 33:1-25.

Defendant has held a club license continuously since Repeal. The file herein discloses that in August 1949 an agreement was made on behalf of defendant club with Louis Bonelli, a member of the club, whereby Louis Bonelli was privileged to operate the bar in defendant's licensed premises and to retain for himself all of the net profits arising from the operation of the bar upon payment to the club of the sum of \$150.00 a month, for nine months of the year, and \$100.00 a month during the months of June, July and August. It further appears that on September 1, 1950, after the investigation herein had been instituted, the arrangement between defendant club and Louis Bonelli was cancelled and that he has had no interest in the operation of the bar since that time. The Recording Secretary of defendant alleges that the violations involved in Charges 1, 2 and 3 were due solely to his ignorance of the rules and regulations.

The file further discloses that the application dated June 1, 1950 did not set forth the facts concerning the suspension of the

license during the 1939-40 licensing year. The Recording Secretary alleges that failure to disclose this suspension; was due to inadvertence and was not caused by any desire to deceive the local issuing authority.

In the instant case it is clear that the club actually "farmed out" its liquor license. Although the illegal situation has apparently been corrected, defendant is guilty as to Charges 1, 2 and 3. Licensees must answer all questions in license applications frankly and fully. Hence, despite any inadvertence on the part of an officer of the club, defendant is guilty as to Charge 4.

As appears from the facts set forth herein, defendant's license was previously suspended during the 1939-40 licensing year. It has no subsequent adjudicated record. Because of the lapse of time, the prior suspension will not be considered in fixing a period of suspension in this proceeding. I shall suspend defendant's license for a period of twenty days because of the violations set forth in Charges 1, 2 and 3 (see Re Societa Tripoli Italiana, Bulletin 886, Item 6). I shall suspend defendant's license for a period of ten days, less five for the plea, because of the violations set forth in Charge 4. Re Palace Drug Stores, Inc., Bulletin 843, Item 10. The license will, therefore, be suspended for a period of twenty-five days on all charges.

Accordingly, it is, on this 19th day of October, 1950,

ORDERED that Club License CB-2, issued by the Board of Commissioners of the Township of Lyndhurst to Columbus A.S. & P. Association, Inc., for premises 621 Valleybrook Avenue, Lyndhurst, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. October 27, 1950, and terminating at 2:00 a.m. November 21, 1950.

ERWIN B. HOCK
Director.

- 7. DISCIPLINARY PROCEEDINGS - FAILURE TO HAVE LICENSED PREMISES CLOSED DURING PROHIBITED HOURS, IN VIOLATION OF MUNICIPAL REGULATION - ALLOWING, PERMITTING AND SUFFERING FOUL, FILTHY AND OBSCENE LANGUAGE ON LICENSED PREMISES, IN VIOLATION OF RULE 5 OF REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ROBERT J. KLEIN)
219 Ellison Street)
Paterson 1, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-290, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)

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Robert J. Klein, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleads non vult to charges alleging that (1) he failed to have his entire licensed premises closed between the hours of 3:00 a.m. and 1:00 p.m. on Sunday, August 27, 1950, in violation

of a local ordinance; and that (2) he allowed, permitted and suffered foul, filthy and obscene language in and upon his licensed premises, in violation of Rule 5 of State Regulations No. 20.

The file herein discloses that on Sunday, August 27, 1950, at about 3:25 a.m., two ABC agents, while peering through a front window of defendant's licensed premises, observed a man and two women at the bar. The agents proceeded immediately thereafter to the rear door of the premises. While looking through a screen door at the man and one of the women who were seated at the bar, they heard the two women engaged in "conversation". The woman who accompanied the man and the other woman who could not be seen by the ABC agents exchanged indecent remarks. To repeat this obscene and filthy language would serve no useful purpose. The defendant, although present, made no attempt whatsoever to restrain the women from the continuation of such improper conduct.

Defendant has a previous adjudicated record. On March 10, 1944, the Commissioner suspended his license for a net period of twenty-five days after he had pleaded guilty to charges of possessing illicit liquor and hindering an investigation. See Bulletin 610, Item 7. In view of the lapse of time and the dissimilarity of the violations, I shall not consider the previous suspensions in fixing the penalty herein. Under all of the circumstances, I shall suspend defendant's license on Charge 1 for fifteen days (Re Lincoln Bar & Grill, Inc., Bulletin 885, Item 7), and on Charge 2 for ten days (Re Arno, Bulletin 830, Item 1), making a total suspension of twenty-five days. Remitting five days because of the plea entered herein leaves a net suspension of twenty days.

Accordingly, it is, on this 19th day of October, 1950,

ORDERED that Plenary Retail Consumption License C-290, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Robert J. Klein, for premises 219 Ellison Street, Paterson, be and the same is hereby suspended for a period of twenty (20) days, commencing at 3:00 a.m. October 26, 1950, and terminating at 3:00 a.m. November 15, 1950.

ERWIN B. HOCK
Director.

8. STATE LICENSES - NEW APPLICATION FILED.

Stephen E. Somers
1 Exchange Place
Jersey City, N. J.

Application filed October 10, 1950 for transfer of Plenary Wholesale License W-2 from S. E. Somers & Co., Ltd.

ERWIN B. HOCK
Director.

9. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

STANFORD WYLLIE)
T/a GOLDEN'S COCKTAIL BAR)
41 North Kentucky Avenue)
Atlantic City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-171, issued by the Board of Commissioners of the City of Atlantic City.)
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Stanford Wyllie, 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 alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe the contents thereof, in violation of Rule 27 of State Regulations No. 20.

On August 29, 1950 an agent of the State Division of Alcoholic Beverage Control seized in defendant's licensed premises two 4/5 quart bottles labeled "Canadian Club Blended Canadian Whisky" and one 4/5 quart bottle labeled "Imported Seagram's V. O. Canadian Whisky A Blend" when his field tests indicated a variance between the label on each of said bottles and the respective contents thereof. Subsequent analysis by the Division chemist confirmed this variance and established that none of said bottles contained genuine whisky as described on their respective labels. See Rule 27, State Regulations No. 20.

Defendant has no previous adjudicated record. I shall suspend the license for 20 days, the minimum period in three-bottle cases. Re Zeidner & Cohen, Bulletin 680, Item 2. Remitting five days because of the plea will leave a net suspension of fifteen days.

Accordingly, it is, on this 13th day of October, 1950,

ORDERED that Plenary Retail Consumption License C-171, issued by the Board of Commissioners of the City of Atlantic City to Stanford Wyllie, t/a Golden's Cocktail Bar, for premises 41 North Kentucky Avenue, Atlantic City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 7:00 a.m. October 24, 1950, and terminating at 7:00 a.m. November 8, 1950.

ERWIN B. HOCK
Director.

10. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - BOTTLING OF AN ALCOHOLIC BEVERAGE BY RETAILER FOR THE PURPOSE OF SALE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

EDWARD P. GRZEGOWSKI)
95 Pulaski Avenue)
Wallington, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Mayor and Council of the Borough of Wallington.)

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

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On September 7, 1950, you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, an alcoholic beverage in a bottle which bore a label which did not truly describe its contents, viz.,

One pint bottle labeled 'Fleischmann's Distilled Dry Gin';

in violation of Rule 27 of State Regulations No. 20.

"2. On the aforesaid occasion, you, not being the holder of any license so to do, bottled an alcoholic beverage for the purpose of sale, in that you refilled the aforesaid bottle with blended whiskey for such purpose; said bottling being in violation of R.S. 33:1-78."

On September 7, 1950, an ABC agent entered defendant's premises and observed defendant who was apparently trying to hide something beneath the bar. Investigation disclosed that defendant had attempted to hide a pint bottle which bore a "Fleischmann's Distilled Dry Gin" label. When questioned by the agent, defendant admitted that he had filled the empty bottle with Fleischmann's Blended Whiskey. He explained that he had done this because he was "all out of pints" and desired to accommodate a customer, then present, who wished to purchase only a pint of Fleischmann's Blended Whiskey. Later, the customer corroborated defendant's explanation.

Defendant has no prior record. I shall suspend the license for a period of fifteen days, less five days for the plea, making a net suspension of ten days. Cf. Re Kohn, Bulletin 648, Item 14.

Accordingly, it is, on this 13th day of October, 1950,

ORDERED that Plenary Retail Consumption License C-6, issued by the Mayor and Council of the Borough of Wallington to Edward P. Grzegowski, for premises 95 Pulaski Avenue, Wallington, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. October 23, 1950, and terminating at 3:00 a.m. November 2, 1950.

New Jersey State Library

Erwin B. Hoek

Director.