

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

BULLETIN 661

APRIL 6, 1945.

1. DISCIPLINARY PROCEEDINGS - CHARGE OF FALSE ANSWER IN LICENSE APPLICATION, CONCEALING MATERIAL FACT, DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.

In the Matter of Disciplinary Proceedings against

JAMES H. GORHAM
T/a GORHAM'S CAFE
538 Kaighn Avenue
Camden, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-199 issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

Harry M. Mendell, Esq., Attorney for Defendant-licensee.
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded not guilty to the following charge:

"In your application dated May 20, 1943, filed with the Municipal Board of Alcoholic Beverage Control in the City of Camden and upon which you secured a transfer from Gorham's Cafe Inc. to yourself of the plenary retail consumption license for the remainder of the 1942-3 term for the premises at 538 Kaighn Avenue, Camden, N. J., and in your application dated June 10, 1943, filed with the said Board and upon which you secured a plenary retail consumption license for the 1943-4 term for the said premises, and in your application dated June 1, 1944, filed with the said Board and upon which you secured a plenary retail consumption license for the current 1944-5 term for the said premises, you falsely stated, in answer to Question 3 in all such applications, that your residence was at 538 Kaighn Avenue, Camden, N. J., whereas in truth and in fact such was not your residence in that your residence at those times was and still is in Philadelphia, Pennsylvania; such false statements by you being in violation of R. S. 33:1-25."

Defendant also appeared in opposition to an order to show cause why the license which he now holds should not be cancelled and declared null and void because it was issued in violation of R. S. 33:1-25, which provides that no retail license shall be issued to a natural person unless he is a resident of the State of New Jersey at the time of the submission of the application.

It is undisputed that for many years prior to December 1, 1942, defendant and his family resided at 1332 North 22nd Street, Philadelphia, Pa. Defendant contends that, since December 1, 1942, he has been and now is a bona fide resident of New Jersey, residing continuously since that time at 538 Kaighn Avenue, Camden.

The crime of robbery, per se, involves moral turpitude. See Case No. 191, Bulletin 511, Item 5.

Petitioner testified that he was about twenty years of age when he committed the offenses; that, after his release from prison in 1929, in turn he worked as a truck driver, owned a "clam" store, again worked as a truck driver, and thereafter conducted a candy store jointly with two of his brothers. In September 1941 the three brothers acquired a tavern but the license was obtained in William Gironda's name only. This was a violation of the Alcoholic Beverage Law and for this offense the license has been suspended for the balance of its term by an order entered contemporaneously herewith.

The petitioner claims that actually he did not know that he was disqualified until after some trouble at the tavern, at which time he consulted their accountant, who advised him to inquire of this Department as to his eligibility.

There are criminal charges, preferred in 1942, presently pending against his brothers concerning the conduct of the licensed premises. Petitioner does not appear to be implicated therein and no criminal charges have been preferred against him. He says that his activities in the premises were confined to purchasing foodstuffs, tapping beer barrels and like tasks; that he never acted as a bartender; and that, so far as he knows, the charges against his brothers are unfounded.

A city fireman, who has known petitioner for ten years, testified that petitioner is regarded in the community as an honorable, honest man, with a good reputation. A business acquaintance, who has known petitioner for six years, testified that petitioner is of very good character. An insurance agent, who has known petitioner for five years, testified that the sentiment in the community is that "all the credit to those boys"; that the character of all of the brothers is good, and that of the petitioner "tops."

The police records of the municipality in which the petitioner resides show no charges, complaints, investigations or warrants pending against petitioner at the present time and he apparently has not been convicted of any criminal offense since 1929.

Under the circumstances and in view of petitioner's clear record since 1929, I accept his sworn declaration that he had an interest in and worked at the tavern in ignorance of his disqualification and the requirement that his interest in the business be disclosed. Cf. Case No. 163, Bulletin 502, Item 3. Furthermore, so far as appears from the evidence, petitioner was not involved in any alleged misconduct at the tavern.

In view of the above, I conclude that the petitioner has been law-abiding for at least five years last past, and that his continued association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 26th day of March, 1945,

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

ALFRED E. DRISCOLL
Commissioner.

3. 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 - LICENSE SUSPENDED FOR THE BALANCE OF ITS TERM WITH PERMISSION GRANTED TO PETITION TO LIFT UPON THE EXPIRATION OF 15 DAYS! SUSPENSION AND CORRECTION OF ILLEGAL SITUATION.

In the Matter of Disciplinary Proceedings against
 WILLIAM GIRONDA
 T/a MIAMI CLUB
 1066-68 Broadway
 Bayonne, N. J.,

Holder of Plenary Retail Consumption License C-171 for the fiscal year 1942-43 and now, together with James Gironda, holder of Plenary Retail Consumption License C-116 for the current (1944-45) year, both issued by the Board of Commissioners of the City of Bayonne.

CONCLUSIONS AND ORDER

Jesse J. Feinberg, Esq., Attorney for William Gironda, Defendant-licensee.
 William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Charges were preferred against the defendant, William Gironda, alleging that (1) he falsified his license application by failing to reveal that Joseph Gironda and James Gironda had an interest in his license which was issued on July 14, 1942, and the business conducted thereunder; and (2) he permitted the said Joseph Gironda and James Gironda to exercise the privileges of his license.

William, Joseph and James Gironda are brothers. They frankly acknowledge that they are all equally interested in the licensed business. James Gironda is apparently qualified to hold a license. Joseph Gironda was disqualified because he was convicted in 1925 of a crime involving moral turpitude. Joseph's disqualification has been removed by my order entered contemporaneously herewith.

The only question in dispute affecting the penalty to be imposed is whether Joseph Gironda's interest in the business was concealed because of his criminal record. The Gironda brothers claim that this is not the fact. They claim that previously they had been mutually interested in a retail candy store, the nominal owner of which was William Gironda, and that they merely carried over that practice when they went into the liquor business.

The evidence presented strongly indicates that they have always been a close-knit family, for the most part engaging in joint ventures under the guidance of their parents. They acted frankly and honestly throughout the Departmental investigation and subsequent proceedings, and cooperated fully with the ABC agents. They claim that they gave no thought to Joseph Gironda's criminal record because it occurred about seventeen years before William applied for the liquor license.

Even if I accept this explanation, it does not mitigate William Gironda's offense in falsely swearing in his application that no one else had any interest in the licensed business. The question was clear and should have been answered truthfully. His claim that he merely carried over his business practices at their candy store is, therefore, not an excuse. Whatever his reasons were for concealing the truth, its effect was to suppress the interest in the business of a person who was then disqualified from holding such interest by reason of a criminal record.

However, this does not appear to be an aggravated type of case involving a deliberate scheme to permit a disqualified criminal to engage in the liquor business.

The licensed business is presently conducted by the three brothers, although the license was transferred to William Gironda and James Gironda in 1943. The business may not continue to be operated under this unlawful arrangement. The license must, therefore, be suspended for the balance of its term, with leave reserved to apply for lifting of such suspension upon the submission of proper proof that a bona fide correction has been effected, provided that in no event will such petition be granted until at least fifteen days have expired from the effective day of this suspension.

Accordingly, it is, on this 26th day of March, 1945,

ORDERED, that Plenary Retail Consumption License C-116, issued by the Board of Commissioners of the City of Bayonne to William Gironda and James Gironda, t/a Miami Club, for premises 1066-68 Broadway, Bayonne, be and the same is hereby suspended for the balance of its term, effective at 12:01 a.m. April 2, 1945; and it is further

ORDERED, that application may be made to the Commissioner of Alcoholic Beverage Control for a lifting of such suspension upon submission of proper proof of a bona fide correction; provided, however, that in no event will such suspension be lifted prior to the expiration of fifteen (15) days from the effective date of the suspension herein.

ALFRED E. DRISCOLL
Commissioner.

4. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 40 - PERMITTING LICENSED PREMISES TO REMAIN OPEN, IN VIOLATION OF RULE 2 OF STATE REGULATIONS NO. 40 - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against FRANK CANCRO T/a TEANECK TAVERN 827 Teaneck Road Teaneck, N. J., Holder of Plenary Retail Consumption License C-8, issued by the Township Council of the Township of Teaneck.

CONCLUSIONS AND ORDER

Lloyd L. Schroeder, Esq., Attorney for Defendant-licensee. Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads non vult to the following charges:

"1. Between 12 o'clock midnight, Wednesday, March 7, 1945 and 7:00 a.m. Thursday, March 8, 1945, viz., until at least 12:20 a.m. of the latter date, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and permitted the consumption of alcoholic beverages upon the licensed premises, in violation of Rule 1 of State Regulations No. 40.

"2. Between 12 o'clock midnight, Wednesday, March 7, 1945 and 7:00 a.m. Thursday, March 8, 1945, viz., until at least 12:20 a.m. of the latter date, you failed to have your entire premises closed and you permitted persons other than yourself and your bona fide employees to be and remain on the licensed premises, in violation of Rule 2 of State Regulations No. 40."

The departmental file discloses that at 12:22 a.m. on March 8, 1945, two ABC agents observed a man alight from an automobile and enter the defendant's licensed premises. The agents immediately proceeded to the premises and were admitted by an employee of the licensee.

Upon discovery of an empty whiskey glass and a glass partly filled with beer on the bar in front of the person previously referred to, the bartender readily admitted making the service of alcoholic beverages.

Licensee's previous record discloses a one-day suspension in March, 1936 by the local issuing authority on a dissimilar charge. Since no aggravating circumstances appear in this case and defendant's record has been clear for nine years, I shall impose the minimum suspension of fifteen days, less five days for the non vult plea, leaving a net suspension of ten days.

Accordingly, it is, on this 26th day of March, 1945,

ORDERED, that Plenary Retail Consumption License C-8, issued by the Township Council of the Township of Teaneck to Frank Cancro, t/ Teaneck Tavern, for premises 827 Teaneck Road, Teaneck, be and the same is hereby suspended for a period of ten (10) days, commencing at 12:01 a.m. April 2, 1945, and terminating at 12:01 a.m. April 12, 1945.

ALFRED E. DRISCOLL
Commissioner.

- 5. DISCIPLINARY PROCEEDINGS - POSSESSION OF ILLICIT LIQUOR, IN VIOLATION OF R. S. 33:1-50 - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF MUNICIPAL REGULATIONS - FAILURE TO KEEP LICENSED PREMISES OPEN TO PUBLIC VIEW, IN VIOLATION OF MUNICIPAL REGULATIONS - LICENSE SUSPENDED FOR A PERIOD OF 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

FRANK VITRONE)
11. Park Avenue)
Paterson 1, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-25, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)

Frank Vitrone, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant was served with charges alleging that (1) he possessed illicit beverages on his licensed premises, in violation of R. S. 33:1-50, (2) he sold and served alcoholic beverages during prohibited hours on Sunday, in violation of regulations of the City of Paterson and (3) he failed to keep his licensed premises open to public view from the outside thereof, in violation of regulations of the City of Paterson.

Defendant entered pleas of non vult as to charges (1) and (3) and a plea of guilty as to charge (2).

As to charge (1): On February 3, 1945 an inspection of the licensed premises by agents of the Federal Alcohol Tax Unit disclosed several bottles of liquors apparently not genuine as labeled. A report of a subsequent analysis of the seized liquors by the United States Chemist discloses a 4/5 quart bottle labeled "Fleischmann's Preferred Blended Whiskey 90 Proof" and a 4/5 quart bottle labeled "Lord Calvert Blended Whiskey 86.8 Proof" both containing alcoholic beverages not genuine as labeled.

Defendant seeks to excuse the condition of his liquors by charging that the bottles were tampered with by a former employee without the knowledge of defendant. It is well established that a licensee must assume full authority and be strictly accountable for the condition of his liquor and the acts of his employees in respect thereto. Re Kurian, Bulletin 517, Item 2.

As to charge (2): Defendant's plea of guilty to the charge makes a recital of facts unnecessary.

On February 25, 1945 defendant was apparently operating his tavern after the closing hour prescribed by the local ordinance (3:00 a.m.) just the same as he had been operating prior to that time, except for the closing of the Venetian blinds and dimming the lights. Agents of the State Department of Alcoholic Beverage Control observed sales and made purchases in the licensed premises between 3:00 a.m. and 3:40 a.m. It appears that the Venetian blinds were closed at least sufficiently to prevent the public view from the outside of the entire interior of the licensed premises. I find defendant guilty of charge (3).

Defendant seems to have no previous adjudicated record, so I shall impose the minimum penalty for each of the violations herein, to wit, Charge (1) - 10 days (Re Colucci, Bulletin 655, Item 9), Charge (2) - 15 days (Re Carney, Bulletin 640, Item 3), Charge (3) - 5 days (Re Tedesco, Bulletin 434, Item 12), or a total of thirty days, and remit five days from said total in consideration of the plea.

Accordingly, it is, on this 2nd day of April, 1945,

ORDERED, that Plenary Retail Consumption License C-25, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Frank Vitrone for premises 11 Park Avenue, Paterson, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 12:01 a.m. April 9, 1945, and terminating at 12:01 a.m. May 4, 1945.

ALFRED E. DRISCOLL
Commissioner.

6. DISCIPLINARY PROCEEDINGS - PERMITTING THE CONSUMPTION OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 40 - LICENSE SUSPENDED FOR A PERIOD OF 10 DAYS.

DISCIPLINARY PROCEEDINGS - CHARGE OF PERMITTING LICENSED PREMISES TO REMAIN OPEN, IN VIOLATION OF RULE 2 OF STATE REGULATIONS NO. 40, DISMISSED (BONA FIDE RESTAURANT).

In the Matter of Disciplinary Proceedings against)

SALVATORE TOMARCHIO)
T/a WONDER BAR)
Crescent Blvd. and King's Hwy)
Bellmawr)
P.O. Gloucester, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-1 issued by the Mayor and Council of the Borough of Bellmawr.)

Harry M. Mendell, Esq., Attorney for Defendant-licensee.
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded not guilty to the following charges:

"1. Between 12:00 o'clock midnight, Sunday, March 4, 1945 and 7:00 a.m. Monday, March 5, 1945, viz.: until at least

12:10 a.m. of the latter date, you sold and served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and permitted the consumption of alcoholic beverages upon your licensed premises, in violation of Rule 1 of State Regulations No. 40.

"2. Between 12:00 o'clock midnight, Sunday, March 4, 1945 and 7:00 a.m. Monday, March 5, 1945, viz., until at least 12:10 a.m. of the latter date, you failed to have your entire premises closed and you permitted persons other than yourself and your bona fide employees to be and remain on the licensed premises, in violation of Rule 2 of State Regulations No. 40."

On the morning of March 4, 1945, at about 12:08 a.m., two ABC investigators observed from the outside that defendant's premises were lighted and that a number of people were in the premises. They entered and saw three men standing at the bar and twenty-three patrons seated at tables. The three men at the bar were consuming beer from glasses which they held, and a large number of the other patrons were also consuming drinks of alcoholic beverages. There is no evidence that any alcoholic beverages were sold, served or delivered after 12 o'clock midnight. The investigators spoke to the licensee and called his attention to the fact that it was then 12:10 a.m. The licensee explained to the investigators that he was conducting a bona fide restaurant and, referring to the patrons, asked the investigators, "Do you expect me to throw them out bodily?"

At the hearing defendant and his witnesses did not deny any of the above testimony. However, they stated that the sale, service and delivery of alcoholic beverages had stopped at about 11:45 p.m. and that the lights at the bar had been extinguished shortly thereafter. The licensee admitted that the patrons were finishing their drinks when the investigators entered.

After investigation I ruled, on October 2, 1944, that defendant's establishment constitutes a bona fide restaurant within the meaning and intent of the Alcoholic Beverage Law. Irrespective of the question as to whether there was any violation of Director Byrnes' curfew order, I must find that defendant did not violate Rule 2 of State Regulations No. 40 in keeping his restaurant open after midnight and, hence, I shall dismiss charge (2).

Despite the fact that no alcoholic beverages were sold, served or delivered after midnight, the evidence shows that patrons were permitted to consume alcoholic beverages on the licensed premises after midnight and, hence, I find defendant guilty of violating Rule 1 of State Regulations No. 40.

Defendant has no prior record. After considering all the mitigating circumstances of this case, I have decided to suspend the license for a period of ten days, instead of the usual minimum suspension for a period of fifteen days.

Accordingly, it is, on this 2nd day of April, 1945,

ORDERED, that Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Bellmawr to Salvatore Tomarchio, t/a Wonder Bar, for premises at Crescent Boulevard and King's Highway, Bellmawr, be and the same is hereby suspended for ten (10) days, commencing at 12:01 a.m. April 9, 1945 and terminating at 12:01 a.m. April 19, 1945.

ALFRED E. DRISCOLL
Commissioner.

7. 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. 416.
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Petitioner, an Italian national, pursuant to R. S. 33:1-31.2, seeks to have the disqualification removed that exists by reason of his having been convicted of a crime.

Petitioner was ruled ineligible to be associated with the alcoholic beverage industry by the State Commissioner of Alcoholic Beverage Control on September 11, 1939, when his record disclosed that he had been convicted in a Federal court for illegal possession of a large still. See Case No. 291, Bulletin 346, Item 16. As a result of this conviction, petitioner had been sentenced on May 10, 1938 by a Judge of a Federal court to one year and a day in a Federal penitentiary and, in addition thereto, had been ordered to pay a fine of \$800.00 and a penalty of \$500.00. Because of the same offense, petitioner, on being paroled from the Federal prison on February 27, 1939, was thereafter given a suspended sentence by a Judge of a Court of Special Sessions of this State.

Illegal possession of a still used for the purpose of manufacturing alcohol since repeal of national Prohibition is a crime involving moral turpitude within the meaning of the Alcoholic Beverage Law.

Petitioner has no further record since being released from Federal prison because of the aforementioned criminal conviction.

Petitioner produced three character witnesses -- a physician and two business men -- who testified that they have known petitioner twelve years or more and that he bears a good reputation for being a decent and law-abiding citizen in the community in which he lives.

In view of the testimony produced herein, I find that petitioner has conducted himself in a law-abiding manner for the five years immediately past, and am satisfied that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 3rd day of April, 1945,

ORDERED, that petitioner's statutory disqualification, resulting from the conviction of crime described herein, be and the same is hereby removed in accordance with the provisions of R. S. 33:1-31.2. Because he is an Italian national, petitioner is ineligible to hold a liquor license but, if proper application be made, an employment permit to work on licensed premises may issue.

ALFRED E. DRISCOLL
Commissioner.

By: Edward J. Dorton
Deputy Commissioner.

8. ACTIVITY REPORT FOR MARCH, 1945

To: Alfred E. Driscoll, Commissioner

<u>ARRESTS:</u>	Licensees and employees - - - - -	3	Bootleggers - - - - -	13	
	Total number of persons arrested - - - - -				16
<u>SEIZURES:</u>	Stills - 1 to 50 gallons daily capacity - - - - -				0
	50 gallons and more daily capacity - - - - -				0
	Total number of stills seized - - - - -				0
	Mash - gallons - - - - -				0
	Motor vehicles - Trucks - - - - -				0
	Passenger cars - - - - -				0
	Total number of motor vehicles seized - - - - -				0
	Beverage alcohol - gallons - - - - -				15
	Brewed malt alcoholic beverages (beer, ale, etc.) - gallons - - - - -				4.75
	Wine - gallons - - - - -				103
	Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons - - - - -				66.75
<u>RETAIL LICENSEES:</u>					
	Total number of premises inspected - - - - -				1,127
	Total number of bottles gauged - - - - -				8,293
	Total number of premises where violations were found - - - - -				74
	Total number of violations found - - - - -				111
	Type of violations found:				
	Illicit (bootleg) liquor - - - - -	27	Improper beer tap markers - - - - -		0
	Gambling devices - - - - -	1	Stock disposal permits necessary - - - - -		10
	Prohibited signs - - - - -	0	No sign denoting legal sale hours - - - - -		
	Unqualified employees - - - - -	46	off-premises consumption - - - - -		14
	"Fronts" (concealed ownership) - - - - -	1	Other types of violations - - - - -		12
<u>CURFEW VIOLATIONS (REGULATIONS NO. 40):</u> - - - - - 18					
<u>MILITARY AREA PATROL INSPECTIONS:</u> - - - - - 520					
<u>STATE LICENSEES:</u>					
	Premises inspected - - - - -				28
	License applications investigated - - - - -				15
<u>COMPLAINTS:</u>					
	Investigated, reviewed and closed - - - - -				346
	Investigation assigned, not yet completed - - - - -				272
<u>LABORATORY:</u>					
	Analyses made - - - - -				184
	"Shake-up" cases (alcohol, water and artificial coloring) - - - - -				16
	Liquor found to be not genuine as labeled - - - - -				28
<u>IDENTIFICATION BUREAU:</u>					
	Criminal fingerprint identifications made - - - - -				18
	Persons fingerprinted for non-criminal purposes - - - - -				182
	Identification contacts with other enforcement agencies - - - - -				247
	Motor vehicle identifications via N. J. State Police Teletype - - - - -				24
<u>DISCIPLINARY PROCEEDINGS:</u>					
	Cases transmitted to municipalities - - - - -				8
	Cases instituted at Department - - - - -				30
<u>HEARINGS HELD AT DEPARTMENT:</u>					
	Total number of hearings held - - - - -				38
	Appeals - - - - -	3	Seizures - - - - -		1
	Disciplinary proceedings - - - - -	26	Application for license - - - - -		1
	Eligibility - - - - -	7			
<u>PERMITS ISSUED:</u>					
	Total number of permits issued - - - - -				628
	Unqualified employees - - - - -				133
	Solicitors - - - - -				65
	Social affairs - - - - -				109
	Home manufacture of wine - - - - -				1
	Disposal of alcoholic beverages - - - - -				153
	Miscellaneous permits - - - - -				167

Respectfully submitted,
 Erwin B. Hock
 Deputy Commissioner.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR A PERIOD OF 45 DAYS, LESS 5 FOR PLEA.

AUTOMATIC SUSPENSION - R. S. 33:1-31.1 - LICENSEE PAID FINE OF \$100.00 - LICENSE SUSPENDED IN DISCIPLINARY PROCEEDINGS FOR 40 DAYS - APPLICATION TO LIFT GRANTED UPON THE EXPIRATION OF 40 DAYS (SUSPENSION PERIOD) FROM EFFECTIVE DATE OF AUTOMATIC SUSPENSION.

In the Matter of Disciplinary Proceedings against ADA BELL T/a MICKEY MOUSE Route 39 Southampton Township P.O. Vincentown, N. J.,

Holder of Plenary Retail Consumption License C-1 issued by the Township Committee of the Township of Southampton.

In the Matter of Petition by ADA BELL

To Lift the Automatic Suspension of Plenary Retail Consumption License C-1 issued by the Township Committee of the Township of Southampton.

CONCLUSIONS AND ORDER

Herman A. Danetz, Esq., Attorney for Defendant and Petitioner. Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

On March 1, 1945 Ada Bell was fined the sum of \$100.00 in the Court of Special Sessions, Burlington County, after she had pleaded guilty to a charge of selling alcoholic beverages to minors on October 6, 1944, in violation of R. S. 33:1-77. Because of said conviction her license C-1 was automatically suspended for the balance of its term. R. S. 33:1-31.1. On March 1, 1945 her license was picked up by an agent of the Department of Alcoholic Beverage Control and no activities under said license have been conducted since that time.

Thereafter disciplinary proceedings were instituted by this Department against Ada Bell. The charges therein allege that:

"1. On Friday night, October 6, 1944, you sold alcoholic beverages at your licensed premises to Stanley ----, William ----, Raymond ---- and Harold ----, minors, in violation of R. S. 33:1-77.

"2. On Saturday afternoon, December 2 or 9, 1944, you sold alcoholic beverages at your licensed premises to Stanley ----, William ---- and Raymond ----, minors, in violation of R. S. 33:1-77.

"3. On the occasions as aforesaid, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Stanley ----, William ----, Raymond ---- and Harold ----, persons under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon your licensed premises, in violation of Rule 1 of State Regulations No. 20."

Defendant has pleaded non vult in the disciplinary proceedings and has filed a petition to lift the automatic suspension of her license.

An examination of the file in the disciplinary proceedings discloses that the four minors mentioned in charge (1) were sold alcoholic beverages on October 6, 1944, in the licensed premises by the licensee, and that two of these minors showed signs of intoxication when they reached home later on the same day. Three of the minors allege that they were thereafter served alcoholic beverages in the licensed premises on December 2 or 9, 1944.

As to penalty in the disciplinary proceedings: Defendant has no prior adjudicated record. However, because three of the minors were then sixteen and one was seventeen years of age, and because of the other aggravating circumstances, the license will be suspended for forty-five days, less five days for the plea, making a net suspension of forty days. The suspension will be considered as having begun at the time the license was picked up on March 1, 1945, and will continue in effect until 7:00 a.m. April 10, 1945, at which time the forty days' suspension will have expired.

As to the petition: The criminal conviction resulted from one of the sales referred to in the disciplinary proceedings. The relief sought herein will be granted after the automatic suspension has been in effect for forty days. The automatic suspension will, therefore, be lifted when the suspension imposed in the disciplinary proceedings has been served.

Accordingly, it is, on this 3rd day of April, 1945,

ORDERED, that the petition to lift the automatic suspension of License C-1, held by Ada Bell, t/a Mickey Mouse, is granted, effective at 7:00 a.m. April 10, 1945. Until that time the license stands suspended.

ALFRED E. DRISCOLL
Commissioner.

By: Edward J. Dorton
Deputy Commissioner.

10. LICENSED PREMISES - V-E DAY - HEREIN OF TEMPORARY EMERGENCY,
CLOSING BY POLICE ORDER - CLOSING UPON REQUEST OF MUNICIPAL
AUTHORITIES OR PURSUANT TO ORDINANCE.

TO MUNICIPAL GOVERNING BODIES AND POLICE CHIEFS:

The State Department of Alcoholic Beverage Control recognizes that there will be many who will, in a proper manner, want to observe the end of the European part of the conflict. The observance should be so conducted as to assure full production the next day and to avoid any regrets, public or private.

The Commissioner and the Department urge a temperate and prayerful celebration of V-E Day in keeping with the sacrifices in lives that have made the day possible. We hope that the citizens of our State will instinctively want to go to church on that day and thank the God of their Fathers that our country has survived its great test as a free and independent nation of free people. We hope that V-E Day will also be a day of dedication to the tasks that lie ahead, including those of the continuing Asiatic War and the peace to follow.

Our nation, because of its great losses during the past year, is a more sober nation, less likely to indulge in an intemperate celebration. It knows the cost of victory and will, we believe, act accordingly. For the parents, families and friends of those who will not return, the day will offer little cause for hysteric exuberance. Their friends, neighbors and fellow townsmen will likewise not wish to add to their sorrow by their own celebration of the Day.

The Department will not issue any rules or regulations in anticipation of V-E Day for the following reasons:

- (a) Inability to anticipate the day or the hour;
- (b) Inability to anticipate the nature of the day and its celebration;
- (c) Inability to anticipate what steps the Federal government will take, if any;
- (d) Inability to anticipate the form of the announcement.

The problem presented by V-E Day is one largely of control by the local police. The latter may not arbitrarily order licensed premises to close unless they have reasonable cause to believe that riotous conditions are likely to occur, jeopardizing the peace and safety of the citizens. If the police close licensed premises, they must, following our precedents, do so only for a limited time which is clearly defined.

Municipal officials may not order licensed premises to close in the absence of some finding that a riot or serious breach of the peace is imminent. Mere anticipation on their part is not sufficient.

Local police and municipal officials may, of course, request licensees to close on V-E Day and the Department, wherever this occurs, will urge and call upon licensees to cooperate. In other words, we expect licensees to follow the local pattern.

Municipal officials may adopt ordinances on the subject. While I believe the V-E Day problem is quite a difficult one to cover by ordinance, I have changed my position somewhat and am willing liberally to construe and approve such ordinances.

Offices of the Department will be open on V-E Day. The Department will mobilize its men and be prepared to assist municipalities with their individual problems. Inspectors of this Department, after consultation with the Home Office and in cooperation with the local Police Chief, may, wherever necessary to preserve the peace and maintain order, direct licensed places to close for limited and defined periods of time. State Regulations No. 20, prohibiting the sale of alcoholic beverages to persons actually or apparently intoxicated or to minors, will be enforced by local and State authorities.

Alfred E. DiSacco
Commissioner.

Dated: April 4, 1945.