

41 Sheffield St.  
Jersey City, 5, N. J.  
STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 921

DECEMBER 3, 1951.

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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 921

DECEMBER 3, 1951.

1. APPELLATE DECISIONS - CLUB BENMAR v. PATERSON.

CLUB BENMAR, a corp., )  
Appellant, )  
-vs- )  
BOARD OF ALCOHOLIC BEVERAGE )  
CONTROL OF THE CITY OF PATERSON, )  
Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

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Ward and Friedman, Esqs., by Louis C. Friedman, Esq., Attorneys for Appellant.  
Henry Riccobene, Esq., Attorney for Respondent.  
J. Vincent Barnitt, Esq., Attorney for Objectors.

BY THE DIRECTOR:

This is an appeal from respondent's denial of appellant's application for renewal of its plenary retail consumption license for premises at 461 Broadway, Paterson.

Upon the filing of the appeal I entered an order, dated June 30, 1951, extending the term of the license held by appellant for the 1950-51 licensing year until the entry of a further order herein. R. S. 33:1-22.

The petition of appeal alleges that the application was denied because there were "Fraudulent answers in the application". The petition further alleges that the action of respondent was erroneous in that "The answers were not fraudulent; clerical error had been amended."

No answer was filed on behalf of respondent, although an attorney and two members of respondent Board appeared on behalf of respondent at the hearing of the appeal.

Apparently this case arose as a result of differences between James Dodds and Pearl M. Dodds, his wife, who were living together in 1946 but who have been living apart since July 18, 1950. The respective rights of these parties as to the stock of appellant corporation should be settled in a court of competent jurisdiction. In this appeal I am concerned with the sole question as to whether or not, under the circumstances of the case, the license should have been renewed for the present licensing year.

In 1946 James Dodds and Pearl M. Dodds acquired the controlling interest in appellant corporation. At that time forty of the one hundred shares were held (and are now held) as corporate stock and two shares were held (and are now held) by Michael J. DeLuca. On the books of the corporation fifty-seven shares were transferred during the year 1946 from other individuals to James Dodds and one share was transferred from another individual to Pearl M. Dodds. The names of the stockholders were correctly set forth in the application

filed for the renewal of the license for the 1947-48 licensing period.

On June 14, 1948, a reputable attorney (now deceased) who then represented appellant corporation advised the local issuing authority that "The stockholders presently are James Dodds \*\*\* 29 shares, Pearl M. Dodds \*\*\* 29 shares and Michael J. DeLuca \*\*\* 2 shares." Whether or not James Dodds at that time made a valid gift of twenty-eight shares to his wife I am unable to determine from the evidence and need not decide because it is immaterial to the issue in this case. There is a possibility that a gift was made at that time because Pearl M. Dodds testified at the hearing herein that at the time the stock was acquired she invested a sum of money and was told by her husband that they were to be equal partners. Whatever the factual situation, there was no change in 1948 on the books of appellant corporation which continued until June 18, 1951, to show fifty-seven shares in the name of the husband and one share in the name of his wife. The applications for renewal filed for the fiscal years 1948-49, 1949-50 and 1950-51 showed substantially that James Dodds was the holder of twenty-nine shares, and Pearl M. Dodds was the holder of twenty-nine shares, although, as indicated above, this did not conform with the records of appellant corporation.

The above sets forth the history of the license applications prior to the time that Mr. and Mrs. Dodds separated in July 1950.

On June 18, 1951, a certificate for fifty-four shares of stock was issued in the name of James Dodds, and a certificate for two shares of stock was issued in the name of Mamie Zimmerman. Apparently a certificate for one share of stock was also issued in the name of Evelyn Sarson, although this certificate was not presented in evidence. It was represented at the hearing that these certificates were issued on surrender of the certificates representing fifty-seven shares previously standing on the books of the corporation in the name of James Dodds. The evidence shows that, on the same day, a special meeting of the stockholders of appellant corporation was held at the office of appellant's attorney. Those present at the meeting were James Dodds, Mamie Zimmerman and Evelyn Sarson, all of whom were elected members of the Board of Directors. At the same meeting James Dodds was elected as President and Treasurer, and Mamie Zimmerman was elected as Secretary. On the same day an application for renewal of appellant's license for the 1951-52 licensing year, signed by James Dodds, President, and Mamie Zimmerman, Secretary, was filed with respondent. This application correctly set forth the names of the stockholders as they then appeared on the books of the corporation except that James Dodds was named as the holder of fifty-five shares, and the name of Pearl M. Dodds did not appear as a stockholder of record.

After Pearl M. Dodds, by her attorney, had filed an objection to renewal of the license, the matter was laid over by respondent at its regular meeting on June 27, 1951, and considered at a special meeting of the Board held on June 29, 1951. At the special meeting the Board received a letter from Charles S. Joelson, City Counsel, in which he stated, among other things, that the attorney for appellant "has forwarded to me an amended application in which he lists Pearl Dodds as the owner of one share of stock, and in which he lists James Dodds as the owner of fifty-four shares, rather than fifty-five shares as stated in the original application for renewal. Together with this amended application, I enclose a letter in which he stated that his letter of June 18, 1951 was in error, in that James Dodds holds fifty-four shares of stock rather than fifty-five shares of stock. I enclose herewith the amended application and the letter."

At the Special Meeting on June 29, after hearing the argument of the attorney for Pearl M. Dodds, a motion was made to deny the application for renewal of the license "due to faulty and fraudulent answers set forth in the application". Two members of the Board voted in favor of the resolution and one member of the Board voted against the resolution. Hence this appeal.

At the hearing of this appeal Albert Walzak, one of the members of respondent Board, was asked to state the reason why the Board never acted on the amended application which had been enclosed with the letter received from the City Counsel. He replied that no action was taken because it was not a legal application and had not been advertised. It was stipulated that the evidence of John Hamilton, another member of the Board who was present at the hearing, would be the same as Mr. Walzak's testimony. Both of these members had voted to deny the application.

In refusing to consider the amended application because of the failure to advertise it, the respondent fell into error. The amended application was not required to be advertised. R. S. 33:1-25 provides that the form of advertisement shall be prescribed by rules and regulations. Rule 2 of State Regulations No. 2, relating to the advertisement of notices of application for municipal licenses, requires that the names and residences of stockholders holding more than 10% of the corporate stock shall be included in the newspaper advertisement. Those holding less than ten per cent. of the corporate stock need not be named in the notice. Since Mrs. Dodds, according to the corporate records, held less than ten per cent. of the stock of the appellant corporation, there was no necessity for making any reference to her in the notice. The language of the advertisement of the amended application, therefore, would be exactly the same as that of the notice already advertised on the original application, and no useful purpose could be served by requiring a re-advertisement at the time the amended application was submitted.

Under the circumstances, the matter must be remanded to the respondent for consideration of the amended application. It may not be amiss to add that, giving full credit to all of the attendant circumstances disclosed by the record, any misstatements made in the original application do not appear to have been motivated by any desire to mislead the respondent. Indeed, in a letter written by the appellant's attorney to the respondent at the time of the filing of original application on June 18, 1951, Mrs. Dodds was therein listed as a stockholder. It is fairly obvious that the errors were either clerical, as contended by the appellant's attorney, or were actuated by what Mr. Dodds conceived to be the true situation resulting from the separation between himself and his wife. In either event, there is grave question whether the errors, reflected against the evidence presented herein, are sufficiently substantial to warrant a refusal to renew the license. Cf. Sears Roebuck & Co. v. Absecon and Jones, Bulletin 185, Item 10, where errors more serious than those complained of in the instant case were the subject matter of the appeal and where, even after the decision on appeal, the licensee was permitted to file a corrected application.

The Order dated June 30, 1951, extending the term of the 1950-51 license will be vacated, effective at 3:00 a.m. November 28, 1951. In fairness to the appellant, permission is hereby granted to it to apply to me for an ad interim permit to allow uninterrupted operation of the business until such time as the Board shall take action on the amended application.

Accordingly, it is, on this 20th day of November, 1951,

ORDERED that the proceeding herein be and the same is hereby remanded to the respondent for the purpose of taking further action consistent with this opinion; and it is further

ORDERED that the extension of the term of appellant's 1950-51 license, granted by Order dated June 30, 1951, be and the same is hereby terminated, effective at 3:00 a.m. November 28, 1951.

ERWIN B. HOCK  
Director.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE AND LANGUAGE) - SALE TO INTOXICATED PERSON - BRAWLS - PERMITTING INDECENT PRINTING ON LICENSED PREMISES - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary Proceedings against CHARLES GUITTARI T/a CHARLES TAVERN 159 First Street Hoboken, N. J., Holder of Plenary Retail Consumption License C-94, issued by the Board of Commissioners of the City of Hoboken.

CONCLUSIONS AND ORDER

Wall, Walsh, Kelly & Whipple, Esqs., by Robert H. Wall, 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 that he (1) allowed, permitted and suffered lewdness and immoral activities in and upon his licensed premises, in that a female patron danced in a lewd and indecent manner and she and other patrons used foul, filthy and obscene language, in violation of Rule 5 of State Regulations No. 20; (2) sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to a female actually or apparently intoxicated, in violation of Rule 1 of State Regulations No. 20; (3) permitted and suffered brawls in and upon the licensed premises, in violation of Rule 5 of State Regulations No. 20; and (4) permitted upon his licensed premises a card containing indecent, filthy and disgusting printing, in violation of Rule 17 of State Regulations No. 20.

The file in the instant case discloses that at 12:30 a.m. on September 30, 1951, ABC agents visited defendant's licensed premises. A short time after their arrival, the ABC agents' attention was attracted to the far end of the bar where three men and two women were acting in a boisterous manner. A short distance from the group aforementioned there were two women and a man conducting themselves in an orderly manner. One of the men from the boisterous group started to annoy one of the well-behaved women in the company of the man, and the latter requested that the defendant take steps to stop such misconduct. The defendant ignored the request. Suddenly one of the boisterous group got into an argument with a man who had just entered defendant's establishment and both men used filthy language. One of the men challenged the other to go outside and fight it out. The licensee merely said, "Now Chickie be nice", but made no other effort to stop the brawl which ended only when one of the men engaged in the argument left the premises before a fight ensued.

Shortly thereafter the ABC agents observed the defendant serve a drink of whiskey to a woman patron who was apparently intoxicated. The woman began dancing with a male partner but during the dance broke away from her partner and gave an indecent exhibition of dancing, at one time lifting her dress so that her private parts were exposed. When she returned to her seat at the bar she picked up a glass of beer near her. A man grabbed the glass from her and used indecent language. The woman retorted in kind and immediately seized a glass of beer from the bar and threw it in the man's face. More profanity followed and the man struck the woman across the face with his hand. The woman leaped from the stool and began kicking in the direction of her adversary. Finally a male bystander got into the affray and the

fight was stopped by patrons, with one of the participants bleeding profusely from the mouth and nose. At no time did the defendant attempt to stop the fight. The ABC agents then made their identity known to the defendant.

I am constrained to wonder if the defendant-licensee is a fit person to be entrusted with the privilege conferred by a liquor license. The conduct of the defendant in actively participating in some of the violations committed, and his apparent condonation of other practices being carried on at his licensed premises will not be tolerated. Considering the fact, however, that defendant has no previous adjudicated record, I shall suspend defendant's license for a period of ninety days. Cf. Re Raimondi and Capelli, Bulletin 884, Item 8.

Accordingly, it is, on this 20th day of November, 1951,

ORDERED that Plenary Retail Consumption License C-94, issued by the Board of Commissioners of the City of Hoboken to Charles Guittari, t/a Charles Tavern, 159 First Street, Hoboken, be and the same is hereby suspended for a period of ninety (90) days, commencing at 2:00 a.m. November 27, 1951, and terminating at 2:00 a.m. February 25, 1952.

ERWIN B. HOCK  
Director.

- 3. DISCIPLINARY PROCEEDINGS - FAILURE TO KEEP PREMISES CLOSED DURING PROHIBITED HOURS - OBSTRUCTING VIEW OF LICENSED PREMISES DURING HOURS WHEN PREMISES REQUIRED TO BE CLOSED - HINDERING INVESTIGATION - PLEA OF NOT GUILTY CHANGED TO PLEA OF GUILTY AFTER HEARING - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against )

HELEN JABLONSKI, Administratrix )  
Estate of Jess Jablonski )  
T/a CLUB TAVERN )  
363 Grove Street )  
Jersey City 2, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-535, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

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May Gold-Dreznick, Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The following charges were preferred against defendant:

- "1. On Sunday, September 2, 1951, between 2:35 a.m. and 2:45 a.m. you suffered and permitted persons except yourself and your actual employees and agents in and upon your licensed premises; in violation of Section 4 of an ordinance adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950.
- "2. On Sunday, September 2, 1951, between 2:35 a.m. and 2:45 a.m. you failed to remove all shades, screens and other obstacles so as to permit a clear view of the bar inside your licensed premises; in violation of Section 4 of an ordinance adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950.

"3. On Sunday, September 2, 1951, between 2:35 a.m. and 2:45 a.m. while an inspector and an investigator of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety were conducting an investigation at your licensed premises, you hindered and failed to facilitate such investigation; in violation of R. S. 33:1-35."

Defendant pleaded not guilty to said charges and, on September 28, 1951, the matter was heard in its entirety at this Division.

On October 31, 1951, defendant requested that she be permitted to withdraw her plea of not guilty heretofore entered and that in place thereof a plea of non vult be entered to said charges. Her attorney having consented thereto, I have allowed such change of plea to be entered herein.

The file discloses that at 2:35 a.m. on September 2, 1951, ABC agents, while standing in front of defendant's licensed premises, heard men's voices from within. The front door was locked and the blinds were drawn, making it impossible to see into the interior of the premises. The ABC agents knocked on the door and some time thereafter the door of the licensed premises was opened by a man, subsequently identified as a bartender employed by defendant. The ABC agents identified themselves to said employee and entered the premises. Two other men were present, one being the brother of the bartender. The bartender tried to prevent one of the ABC agents from going behind the bar, at which time the brother of said bartender remarked that, if he had a gun, he would shoot the agent. The bartender became infuriated at the ABC agents and referred to them in a foul and derogatory manner.

There is no evidence that defendant was present at the time the violations took place. A licensee is under a duty, however, to exercise close supervision over the licensed premises, and violations occurring there cannot be excused merely because the licensee has no personal knowledge of them. Rule 31 of State Regulations No. 20; Stein v. Passaic, Bulletin 451, Item 5; Essex Holding Corp. v. Hock, 136 N.J.L. 28. As was said in Re Paton, Bulletin 898, Item 3: "He (a licensee) cannot hide behind his employees."

Defendant has no prior adjudicated record. She has advised me that she left the operation of the business to the bartender who committed the violations because her son is in the Army and because she has not been in good health since the sudden death of her husband. She has also advised me that she has voluntarily kept her licensed premises closed since the hearing was held on September 28, and that she deemed it advisable to change her plea in this case to expedite the disposition thereof so that she may sell the business to a person who has offered to purchase it. I am unable to give her credit for the period during which she voluntarily closed the licensed premises but, under all the circumstances, I shall suspend the license for a period of thirty days, effective immediately.

Accordingly, it is, on this 20th day of November, 1951,

ORDERED that Plenary Retail Consumption License C-535, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Helen Jablonski, Administratrix Estate of Jess Jablonski, t/a Club Tavern, for premises 363 Grove Street, Jersey City, be and the same is hereby suspended for a period of thirty (30) days, commencing immediately and terminating at 2:00 a.m. December 20, 1951.

ERWIN B. HOCK  
Director.

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

In the Matter of Disciplinary Proceedings against )

JAMES TERSIGNI )  
T/a WARRENSIDE TAVERN )  
Route 22-28 State Highway )  
Greenwich Township, Warren Co.)  
P. O. Bloomsbury, N. J., )

CONCLUSIONS  
AND ORDER

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

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James Tersigni, 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 their contents, in violation of Rule 27 of State Regulations No. 20.

On September 7, 1951, an ABC agent seized on defendant's licensed premises one 4/5 quart bottle labeled "Martin's V.V.O. Special Liqueur Blended Scotch Whisky"; one 4/5 quart bottle labeled "Wat 69 Blended Scotch Whisky"; one 4/5 quart bottle labeled "Ballantines Liqueur Blended Scotch Whisky", and one 4/5 quart bottle labeled "Johnnie Walker Blended Scotch Whisky", when his field tests indicated that the contents of each of said bottles did not appear to be genuine. A subsequent analysis by the Division's chemist established as a fact that the label on each of the seized bottles did not truly describe the contents thereof.

At the time of the seizure defendant and his bartender denied tampering with the contents of the seized bottles. Nevertheless, the licensee is responsible for any "refills" found upon his licensed premises. Cedar Restaurant and Cafe Co. v. Hock, 135 N.J.L. 156.

Defendant has no prior adjudicated record. I shall impose the minimum suspension of twenty days. Remitting five days because of the plea will leave a net suspension of fifteen days. Re 1025 Cafe, Inc., Bulletin 857, Item 6.

Accordingly, it is, on this 19th day of November, 1951,

ORDERED that Plenary Retail Consumption License C-2, issued by the Greenwich Township Committee to James Tersigni, t/a Warrenside Tavern, Route 22-28 State Highway, Greenwich Township (Warren County), be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. November 26, 1951, and terminating at 2:00 a. m. December 11, 1951.

ERWIN B. HOCK  
Director.

5. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

ISAAC FRIEDMAN and PEARL FRIEDMAN )  
T/a SEASHELL CAFE )  
2100 Pacific Avenue )  
Atlantic City, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-179, issued by the )  
Board of Commissioners of the )  
City of Atlantic City. )

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Defendant-licensees, by Isaac Friedman, Partner.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to the following charge:

"On September 16, 1951, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to S/R Frederick W. ---, U. S. Coast Guard, S/R Fred H. ---, U. S. Coast Guard and S/R Joseph H. ---, U. S. Coast Guard, 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."

On Sunday, September 16, 1951, at approximately 2:00 p.m., two members of the Coast Guard Shore Patrol entered defendants' premises. They observed the three members of the Coast Guard mentioned above, who were then respectively eighteen, nineteen and nineteen years of age, seated at the bar. Each of the minors was consuming the contents of a glass of beer. Subsequently each of the minors gave a statement to ABC agents admitting that they had purchased the beer which had been served to them by a bartender in defendants' premises.

Defendants have a prior record. On April 27, 1950, I suspended their license for a net period of five days after they had pleaded guilty to a charge alleging that they had sold alcoholic beverages to a minor nineteen years of age. Re Friedman, Bulletin 874, Item 11. The usual minimum suspension for sale to minors is ten days. Re Hotel Traymore Co., Bulletin 877, Item 5. Following the usual practice where it appears that defendant has been guilty of a prior similar violation, I shall double the period of suspension and suspend defendants' license for a period of twenty days, less five days for the plea, leaving a net suspension of fifteen days. Cf. Re Casa Blanca, Bulletin 912, Item 3.

Accordingly, it is, on this 19th day of November, 1951,

ORDERED that Plenary Retail Consumption License C-179, issued by the Board of Commissioners of the City of Atlantic City to Isaac Friedman and Pearl Friedman, t/a Seashell Cafe, for premises 2100 Pacific Avenue, Atlantic City, be and the same is hereby suspended for fifteen (15) days, commencing at 7:00 a.m. November 26, 1951, and terminating at 7:00 a.m. December 11, 1951.

ERWIN B. HOCK  
Director.

6. DISCIPLINARY PROCEEDINGS - HOSTESSES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

SALVATORE MANNO & MARY MANNO )  
187 Ellison Street )  
Paterson 1, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-296, issued by the Board of Alcoholic Beverage Control of the City of Paterson. )

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Frank J. Sciro, Esq., Attorney for Defendant-licensees.  
Vincent T. Flanagan, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they allowed, permitted and suffered "hostess" activities on their licensed premises, in violation of Rule 22 of State Regulations No. 20.

During the evening of September 22, 1951, and the early morning of September 23, 1951, agents of the Division of Alcoholic Beverage Control on defendants' licensed premises purchased alcoholic beverages and food for a female employee of the defendant-licensees. During a period including the evening of September 28, 1951 and the early morning hours of September 29, 1951, they again purchased alcoholic beverages for said female employee. This activity was encouraged by Mary Manno, one of the defendants.

Defendants have no prior adjudicated record. Their plea that they did not know of the regulations cannot be accepted in mitigation. It is true that they are new in the business but they should read the law and the regulations. I shall suspend the license for 20 days. Remitting five days for the plea will leave a net suspension of 15 days. Re Grether, Bulletin 571, Item 2.

Accordingly, it is, on this 19th day of November, 1951,

ORDERED that Plenary Retail Consumption License C-296, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Salvatore Manno & Mary Manno, for premises 187 Ellison Street, Paterson, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. November 26, 1951, and terminating at 3:00 a.m. December 11, 1951.

ERWIN B. HOCK  
Director.

7. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - AUTOMATIC SUSPENSION - LOCAL ISSUING AUTHORITY HAVING IMPOSED AN EIGHT-DAY SUSPENSION IN DISCIPLINARY PROCEEDINGS, AUTOMATIC SUSPENSION LIFTED AFTER EXPIRATION OF AN ADDITIONAL 7 DAYS.

In the Matter of a Petition to Lift)
the Statutory Automatic Suspension
of Plenary Retail Consumption )
License C-1, issued by the Borough )
Council of the Borough of Riverdale)
(Morris County) to

ON PETITION
O R D E R

HENRIETTA FAESSLER )
T/a HENRIETTA'S RIVERDALE MANOR )
Hamburg Turnpike )
Riverdale (Morris County), N.J. )

David Young, 3rd, Esq., Attorney for Petitioner.

By Order dated November 2, 1951, the Director stayed the effect of a statutory automatic suspension of the license mentioned above until 7:00 a.m. November 19, 1951, so that the local issuing authority might have an opportunity to hear and decide a disciplinary proceeding it intended to institute. See Re Faessler, Bulletin 920, Item 15.

Our records indicate that the local issuing authority subsequently instituted said disciplinary proceedings and that petitioner herein entered a written plea of guilty to the charges therein, and that the local issuing authority, after considering the fact that her license had previously been suspended for a period of two days under the statutory automatic suspension, suspended her license for an additional period of six days effective from the 13th day of November, 1951, to the 19th day of November, 1951.

Petitioner has filed a supplementary petition to lift the statutory automatic suspension. Such suspensions are lifted when, and only when, the license has been suspended for what appears, in view of all the facts, to be a sufficiently penalizing length of time. Re Panasevitz, Bulletin 485, Item 3.

The file herein discloses that the criminal proceedings and the charges in the disciplinary proceedings were based upon the fact that on March 27, 1951, petitioner sold alcoholic beverages on her licensed premises to two minors, who were respectively eighteen and sixteen years of age, and that on April 10, 1951, she again sold alcoholic beverages on her licensed premises to the sixteen-year-old minor. The minimum penalty which should be imposed in disciplinary proceedings under similar circumstances consists of a suspension of the license for a period of twenty days, less five days for the plea, leaving a net suspension of fifteen days. Re Casa Blanca, Bulletin 890, Item 11. The suspension imposed by the local issuing authority terminating on November 19, 1951, imposed, in effect, an eight-day suspension of the license. The statutory automatic suspension will, therefore, not be lifted until the suspension has been in effect for an additional period of seven days, namely, until 7:00 a.m. November 26, 1951.

Accordingly, it is, on this 16th day of November, 1951,

ORDERED that the statutory automatic suspension herein shall again become effective at 7:00 a.m. November 19, 1951, and continue in effect until 7:00 a.m. November 26, 1951, at which time the suspension will be lifted and the license restored to full force and operation.

ERWIN B. HOCK
Director.

By: Edward J. Dorton
Deputy Director.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

CATHERINE BERTOLA )  
T/a BERGEN BAR )  
28 Bergen Street )  
Garfield, N. J., )

CONCLUSIONS AND ORDER.

Holder of Plenary Retail Consumption License C-57, issued by the Mayor and Council of the City of Garfield. )

-----)  
Sidney Simandl, 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 a charge alleging that she possessed on her licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulations No. 20.

On October 2, 1951, an ABC agent examined thirty-four opened bottles of alcoholic beverages on defendant's licensed premises and seized one 4/5 quart bottle of "Canadian Club Blended Canadian Whisky 90.4 Proof" when his field tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by the Division chemist disclosed that the contents of the seized bottle were not genuine as labeled.

Defendant alleges that neither she nor any of her employees tampered with the contents of the seized bottle. Nevertheless, the licensee is responsible for any "refills" found upon her licensed premises.

Defendant has no prior adjudicated record. Under the circumstances, I shall suspend defendant's license for the minimum period of fifteen days, less five days' remission for the plea, leaving a net suspension of ten days. Re Piasecki, Bulletin 919, Item 7.

Accordingly, it is, on this 19th day of November, 1951,

ORDERED that Plenary Retail Consumption License C-57, issued by the Mayor and Council of the City of Garfield to Catherine Bertola, t/a Bergen Bar, for premises 28 Bergen Street, Garfield, be and the same is hereby suspended for ten (10) days, commencing at 4:00 a.m. November 26, 1951, and terminating at 4:00 a.m. December 6, 1951.

ERWIN B. HOCK  
Director.

9. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

LEWIS RITTENGER and FREDa RITTENGER )  
T/a CLINTON CAFE )  
1218 S. Clinton Ave. )  
Trenton 9, N. J., )

CONCLUSIONS AND ORDER.

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Holders of Plenary Retail Consumption License C-228, issued by the Board of Commissioners of the City of Trenton. )

Lewis Rittenger and Freda Rittenger, Defendant-licensees, Pro Se.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded guilty to a charge alleging that they possessed on their licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulations No. 20.

On September 20, 1951, an ABC agent examined twenty-nine opened bottles of alcoholic beverages on defendants' premises and seized one 4/5 quart bottle labeled "Three Feathers Reserve Blended Whiskey 86 Proof" when his field tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by the Division chemist disclosed that the contents of the seized bottle were not genuine as labeled.

At the time of the seizure both defendants denied that they had tampered with the contents of the seized bottle. Nevertheless, licensees are responsible for any "refills" found upon their licensed premises.

Defendants have no prior adjudicated record. Under the circumstances, I shall suspend defendants' license for the minimum period of fifteen days, less five days' remission for the plea, leaving a net suspension of ten days. Re Piasecki, Bulletin 919, Item 7.

Accordingly, it is, on this 20th day of November, 1951,

ORDERED that Plenary Retail Consumption License C-228, issued by the Board of Commissioners of the City of Trenton to Lewis Rittenger and Freda Rittenger, t/a Clinton Cafe, for premises 1218 S. Clinton Avenue, Trenton, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. November 26, 1951, and terminating at 2:00 a.m. December 6, 1951.

ERWIN B. HOCK  
Director.

10. MORAL TURPITUDE - PROPRIETOR OF DISORDERLY HOUSE (PROSTITUTION).

DISQUALIFICATION - APPLICATION TO LIFT - GOOD CONDUCT DURING PAST TWELVE YEARS - APPLICATION GRANTED.

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

CONCLUSIONS  
AND ORDER

Case No. 929.  
-----)

BY THE DIRECTOR:

In May 1939, petitioner was convicted in a Special Sessions Court of New Jersey on an indictment of being the proprietor of a disorderly house (prostitution). He was fined \$150.00 and placed on probation to pay said fine within one month. The fine was paid and early in June 1939 he was released from probation.

In 1939 petitioner held a plenary retail consumption license in this state. As a result of his alleged activity, resulting in the conviction aforesaid, his license was revoked. Undoubtedly, the conviction of the crime of being a proprietor of a house of prostitution is the conviction of a crime involving moral turpitude. Therefore, the petitioner is disqualified under the statute from holding a liquor license or from being employed by or connected in a business capacity with the holder of such a license.

After the expiration of the two-year statutory disqualification caused by the revocation of his liquor license, R. S. 33:1-31, petitioner sought an employment permit from a local police department. This was denied because of his aforesaid criminal conviction. Thereafter, and until about seven years ago petitioner worked in various industrial plants in the locality. After that he worked for a company furnishing gardening and other services to the large estates on Fisher's Island, N. Y., and about three years ago secured direct employment as caretaker and gardener on one of these estates. During this period he visited his children in Essex County weekly and maintained his contacts with his friends and acquaintances during the entire period. About a year or so ago he was forced to give up his outdoor gardening work because of his health. He then secured a job in a local greenhouse and has lived in New Jersey with a daughter.

Petitioner produced three witnesses; a lawyer, practicing in New Jersey, who has known petitioner well over twenty years; a retired man who has known petitioner as a neighbor about seven years; and the third, a resident in what is now petitioner's home community, who has known him six years. They testified that petitioner bears a good reputation.

Recently petitioner has been employed by the holder of a liquor license in this state as a porter. Petitioner testifies under oath that he did not know that his disqualification because of his conviction of crime included any prohibition against working as a porter, or otherwise, and that he believed it only prevented him from holding a liquor license and from being employed as a bartender. He was not given a written ruling as to the effect of his conviction aforesaid.

Petitioner is 67 years of age. His health and age prevent him from pursuing his customary employment. I shall accept as true his sworn testimony that he lacked any knowledge of his general disqualification. Knowledge of the law is not a necessary ingredient in these rehabilitation proceedings. I shall remove his disqualification.

Petitioner has no record of any other arrests or convictions.

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

Accordingly, it is, on this 5th day of November, 1951,

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

ERWIN B. HOCK  
Director.

- 11. DISQUALIFICATION - APPLICATION TO LIFT - ENGAGING IN ALCOHOLIC BEVERAGE BUSINESS AFTER APPLICANT ADVISED THAT HE WAS INELIGIBLE TO BE SO ENGAGED - APPLICATION DENIED WITH LEAVE TO REAPPLY AFTER ONE YEAR.

In the Matter of an Application to )  
 Remove Disqualification because of )  
 a Conviction, Pursuant to R. S. )  
 33:1-31.2. )  
 Case No. 926. )  
 - - - - - )

CONCLUSIONS  
AND ORDER

BY THE DIRECTOR:

In 1922 petitioner was sentenced to State Prison for from 4 years, 8 months to 7 years, after his conviction for Burglary. He was paroled in 1925. In 1927 he was sentenced to 15 years in a State Prison in a neighboring state after his conviction for a similar crime. In 1932 he was returned to the court and apparently released. In 1933 he was arrested on a charge of Conspiracy to Break and Enter and Possession of Burglar Tools. Before any indictment on this charge he was sentenced to a term of from 2 to 3 years in State Prison after his conviction of Breaking, Entering, Larceny and Receiving, Breaking and Entering, and in 1936 again sentenced on four counts for Burglary to from 7 to 10 years (suspended). Meanwhile he apparently fled the jurisdiction and early in 1936 he was fined for a traffic law violation in Texas, and then arrested in Detroit on a fugitive warrant and returned to New Jersey. On June 6, 1941 he was again sentenced to from 3 to 7 years in State Prison after another conviction for Burglary. This sentence was suspended.

Most, if not all, of the convictions aforesaid are convictions of crime involving moral turpitude. Thus, petitioner is not eligible to hold a liquor license in this state or to be employed by the holder of such a license.

In 1943 petitioner sought a ruling here as to his eligibility to be employed by a liquor licensee. A hearing was held and petitioner's questioning under oath disclosed only two of the convictions above, the one in 1922, the other in 1941.

As a result of the hearing he was advised by letter, which letter he now admits receiving, that "\*\*\*you are ineligible for employment by any liquor licensee in New Jersey because of your conviction of a crime which involved moral turpitude". His disqualification could not then be removed because he did not have the five-year clearance contemplated by the statute, R. S. 33:1-31.2. See

Re Case No. 514, Bulletin 590, Item 4. In total disregard of this advice, petitioner has admittedly been employed as a bartender by at least two different liquor licensees in this state during the current calendar year. It is further noted that in a letter recently received by this Division from petitioner in connection with the removal of his disqualification, he advances as one of the reasons he is seeking the removal that he cannot continue to hold a "job" (for a liquor licensee) after the "bos(s)" hears of his record.

It is true that no evidence appears to the effect that petitioner accepted employment before the expiration of the five-year period from the date of his last conviction. However, a person is not automatically entitled to a removal of his criminal disqualification merely by the passage of time. He must prove to my satisfaction that he has lived a law-abiding life for the five years immediately preceding his application for removal. The Director may then, in the exercise of his proper discretion, enter a necessary order removing the disqualification. R. S. 33:1-31.2; Re Case No. 178, Bulletin 478, Item 12; Re Case No. 172, Bulletin 484, Item 9.

Where a petitioner deliberately disregards a clear ruling of his ineligibility within the five-year probationary period provided by the statute, R. S. 33:1-31.2, I shall not remove the disqualification without a further period of repentance. Re Case No. 799, Bulletin 860, Item 8.

Petitioner alleges that he did not understand that his disqualification existed beyond the five-year period. However, I shall not remove the disqualification at this time. I shall, on the other hand, consider applicant's alleged misunderstanding of the law and permit him to file a new petition after one year from the date of the application filed herein. Meanwhile, petitioner must not in any way accept employment with or by a liquor licensee in this state.

Accordingly, it is, on this 20th day of November, 1951,

ORDERED that the petition herein be and the same is hereby dismissed with leave to file a new petition after September 27, 1952.

ERWIN B. HOCK  
Director.

## 12. STATE LICENSES - NEW APPLICATIONS FILED.

Rand Express Freight Lines, Inc.  
16 Alabama Avenue  
Paterson, N. J.

Application filed November 14, 1951 for Transportation License.

Eastern Motor Express, Inc.  
541 Johnston Ave.  
Jersey City, N. J.

Application filed November 16, 1951 for additional warehouse at  
Route 22, Greenbrook Township, under Transportation License  
T-121.

Vincenzo Costa  
T/a Costa's  
330 - 10th Terrace  
Egg Harbor City, N. J.

Application filed November 19, 1951 for Transportation License.

Long Transportation Company  
1200 Springfield Road  
Union, N. J.

Application filed November 28, 1951 for transfer of premises from  
Foot of Doremus Avenue, Port Newark, New Jersey and transfer of  
warehouse from 400 Grace Street, Secaucus, N. J.

*Lawrence K. Hoek*  
Director.