

STATE OF NEW JERSEY
 Department of Law and Public Safety
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL
 1100 Raymond Blvd. Newark 2, N. J.

December 2, 1963

BULLETIN 1538

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

December 2, 1963

BULLETIN 1538

1. DISCIPLINARY PROCEEDINGS - NUISANCE (APPARENT HOMOSEXUALS) -
FOUL LANGUAGE - SALE TO INTOXICATED PERSONS - INTOXICATED
EMPLOYEE - HOSTESS ACTIVITY - PRIOR SIMILAR RECORD -
LICENSE SUSPENDED FOR 220 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

GERTRUDE MARKOWITZ)
t/a MINDY'S)
340 Federal Street)
Camden 3, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-62, issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Camden.)

Joseph Markowitz, Esq., Attorney for Licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge as follows:

"On June 7, 15, 21-22, 28-29 and July 13, 1963, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance, viz., in that on all said dates you allowed, permitted and suffered persons who appeared to be homosexuals, e.g., males impersonating females, in and upon your licensed premises; allowed, permitted and suffered such persons on all said dates to frequent and congregate in and upon your licensed premises; allowed, permitted and suffered on all said dates in and upon your licensed premises foul, filthy and obscene language by such persons, by other patrons and customers and by persons employed on your licensed premises; allowed, permitted and suffered on June 21-22 and July 13, 1963, the sale and service to and the consumption of alcoholic beverages by persons actually or apparently intoxicated in and upon your licensed premises; allowed, permitted and suffered on June 21-22, 1963, a person actually or apparently intoxicated to work and act as a bartender in and upon your licensed premises; allowed, permitted and suffered on June 21-22, 28-29 and July 13, 1963, a female employed on your licensed premises to accept beverages at the expense of or as a gift from customers and patrons; allowed, permitted and suffered on June 21-22, 28-29 and July 13, 1963, male and female persons employed on your licensed premises to make overtures and to solicit male customers and patrons to purchase numerous drinks of alcoholic beverages for consumption by them and by others; and on all such dates otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulation No. 20."

Reports of investigation disclose that the congregation of apparent homosexuals consisted of a varying relatively small number (no more than six) on each occasion, accompanied by no overt acts of indecency.

Were this a first offense, the license would be suspended with respect to the various components of the charge as follows: (1) for the congregation of apparent homosexuals, forty days (Re Club Delite, Inc., Bulletin 1495, Item 6); (2) for the foul language, ten days (Re Sal-Ruby Corporation, Bulletin 1522, Item 7); (3) for sale to intoxicated persons, twenty days (Re Parnes, Bulletin 1530, Item 2); (4) for intoxicated employee, twenty days (cf. Re B & N Tavern, Inc., Bulletin 1498, Item 3); (5) for hostess activity, twenty days (Re Blue Chateau, Inc., Bulletin 1496, Item 4); or a total of one hundred ten days. However, in view of the licensee's prior record of suspension of license by the Director for one hundred days, effective November 28, 1960, within the past five years for substantially similar, albeit less aggravated, violations (Re Markowitz, Bulletin 1371, Item 5), the minimum penalty will be doubled and the license will be suspended for two hundred twenty days, with remission of five days for the plea entered, leaving a net suspension of two hundred fifteen days.

In addition, the licensee is pointedly warned that future similar violation may well result in outright revocation of the license.

Accordingly, it is, on this 9th day of October, 1963,

ORDERED that Plenary Retail Consumption License C-62, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Gertrude Markowitz, t/a Mindy's, for premises 340 Federal Street, Camden, be and the same is hereby suspended for two hundred fifteen (215) days, commencing at 2:00 a.m. Wednesday, October 16, 1963, and terminating at 2:00 a.m. Monday, May 18, 1964.

EMERSON A. TSCHUPP
ACTING DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - SALE BELOW FILED PRICE - FALSE STATEMENT IN LICENSE APPLICATION - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 50 DAYS - NO REMISSION FOR PLEA ENTERED AFTER PARTIAL HEARING.

In the Matter of Disciplinary Proceedings against)

EDWARD MUELLER & CHARLOTTE MUELLER)
 t/a COLONIAL INN)
 McAfee Road)
 Hardyston Township)
 PO Hamburg, N. J.)

CONCLUSIONS AND ORDER

 Holders of Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Hardyston)

Weitzman, Brady & Weitzman, Esqs., by Martin J. Brady, Esq., Attorneys for Licensees.

Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

After partial hearing, the licensees pleaded non vult to charges alleging that (1) they sold alcoholic beverages to four minors, three age 17 and one age 19, viz., on August 10, 1963, two 6-packs of cans of beer to Robert ---, age 17, on August 20, 1963, eight 6-packs of cans of beer and a pint of whiskey to Leonard ---, age 17, and a pint of wine to Kenneth ---, age 17, and on August 29, 1963, twelve quart bottles of beer to Frederick ---, age 19, in violation of Rule 1 of State Regulation No. 20; (2) on August 10, 1963, they sold two 6-packs of cans of beer below minimum price, in violation of Rule 5 of State Regulation No. 30; and (3) in their application for current license, they failed to disclose record of previous suspension of the license, in violation of R.S. 33:1-25.

The previous record of suspension, the subject of the third charge, is suspension of license by the municipal issuing authority for ten days, effective March 14, 1960, for sale of alcoholic beverages during prohibited hours, in violation of municipal regulation.

The prior record of dissimilar violation occurring during the past five years considered, the license will be suspended on the first charge for thirty days (Re Tom and Jerry's, Inc., Bulletin 1488, Item 2), on the second charge for ten days (Re Garsky, Bulletin 1518, Item 7), and on the third charge for ten days (Re Hala Corporation, Bulletin 1525, Item 4), or a total of fifty days, without remission for the plea untimely entered (Re 315 Halsey, Inc., Bulletin 1495, Item 5).

Accordingly, it is, on this 14th day of October, 1963,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Hardyston to Edward Mueller and Charlotte Mueller, t/a Colonial Inn, for premises on McAfee Road, Hardyston Township, be and the same is hereby suspended for fifty (50) days, commencing at 2:00 a.m. Monday, October 21, 1963, and terminating at 2:00 a.m. Tuesday, December 10, 1963.

EMERSON A. TSCHUPP
 ACTING DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - SALE TO INTOXICATED PERSON - LICENSE SUSPENDED 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

GEORGE KRISS AND CLEO MARY WARD
t/a BISMARCK CAFE
29 East Hanover Street
Trenton 8, N. J.

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-202, issued by the City Council of the City of Trenton

Eugene P. Taylor, Esq., Attorney for Licensees.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensees plead non vult to charges alleging that (1) on September 6-7, 1963, they sold drinks of beer to two minors, age 17 and 19, in violation of Rule 1 of State Regulation No. 20, and (2) on August 31-September 1, 1963, they sold drinks of alcoholic beverages to an intoxicated person, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended on the first charge for twenty days (Re Babe's Bar, Incorporated, Bulletin 1412, Item 8) and on the second charge for twenty days (Re Parnes, Bulletin 1530, Item 2), or a total of forty days, with remission of five days for the plea entered, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 15th day of October, 1963,

ORDERED that Plenary Retail Consumption License C-202, issued by the City Council of the City of Trenton to George Kriss and Cleo Mary Ward, t/a Bismark Cafe, for premises 29 East Hanover Street, Trenton, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. Tuesday, October 22, 1963, and terminating at 2:00 a.m. Tuesday, November 26, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
Labeled - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LYRIC TAVERN, INC.)
t/a LYRIC BAR)
89 Springfield Avenue)
Newark, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-264, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Licensee, by Benjamin Elkes, President, Pro se.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 28, 1963, it possessed alcoholic beverages in nine bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days. Re Triple T, Inc., Bulletin 1427, Item 5.

Accordingly, it is, on this 15th day of October, 1963,

ORDERED that Plenary Retail Consumption License C-264, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Lyric Tavern, Inc., t/a Lyric Bar, for premises 89 Springfield Avenue, Newark, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. Tuesday, October 22, 1963, and terminating at 2:00 a.m. Thursday, November 21, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

5. RECAPITULATION OF ACTIVITY FOR QUARTERLY PERIOD FROM JULY 1, 1963 THROUGH SEPTEMBER 30, 1963

	<u>JULY</u>	<u>AUGUST</u>	<u>SEPTEMBER</u>	<u>TOTAL</u>
ARRESTS:				
Total number of persons arrested	28	18	20	66
Licensees and employees	15	12	10	37
Bootleggers	13	6	10	29
SEIZURES:				
Motor vehicles - cars	1	1	1	3
- fishing boat	-	1	-	1
Stills - 50 gallons or under	-	2	1	3
Mash - gallons	-	655	10	665
Distilled alcoholic beverages - gallons	24,194	1,875	1,760	1,900,954
Wine - gallons	13,659	---	2,939	16,598
Brewed malt alcoholic beverages - gallons	33,292	13,781	31,065	78,138
RETAIL LICENSEES:				
Premises inspected	829	822	878	2,529
Premises where alcoholic beverages were gauged	409	641	419	1,469
Bottles gauged	6,795	9,560	6,394	22,749
Premises where violations were found	106	72	61	239
Violations found	127	100	87	314
Unqualified employees	45	33	21	99
Reg. #38 sign not posted	35	25	15	75
Application copy not available	17	11	13	41
Prohibited signs	4	1	8	13
Disposal permit necessary	2	4	1	7
Other mercantile business	6	7	3	16
Improper beer taps	-	2	2	4
Other violations	18	17	24	59
STATE LICENSEES:				
Premises inspected	26	24	26	76
License applications investigated	9	12	4	25
COMPLAINTS:				
Complaints assigned for investigation	408	355	345	1,108
Investigations completed	348	369	315	1,032
Investigations pending	(164)	(148)	158	158
LABORATORY:				
Analyses made	112	96	116	324
Refills from licensed premises - bottles	34	26	51	111
Bottles from unlicensed premises	23	38	3	64
IDENTIFICATION:				
Criminal fingerprint identifications made	10	7	13	30
Persons fingerprinted for non-criminal purposes	498	310	288	1,096
Identification contacts made with other enforcement agencies	351	170	202	623
Motor vehicle identifications via N.J. State Police teletype	1	1	1	3
DISCIPLINARY PROCEEDINGS:				
Cases transmitted to municipalities	21	13	9	43
Violations involved	23	15	12	50
Sale during prohibited hours	12	11	7	30
Sales to minors	6	-	2	8
Failure to close premises during prohibited hours	3	1	1	5
Failure to afford view into premises during proh. hours	1	1	2	4
Possessing chilled beer (DL licensee)	-	2	-	2
Sale to non-members by club	1	-	-	1
Cases instituted at Division	26	23	19	68
Violations involved	43	32	29	104
Sale during prohibited hours	5	7	6	18
Possessing liquor not truly labeled	5	4	5	14
Sale to minors	10	2	2	14
Sale to intoxicated persons	3	-	2	5
Permitting bookmaking on premises	2	-	2	4
Fraud in application	-	2	2	4
Permitting immoral activity on premises	3	1	-	4
Conducting business as a nuisance	2	1	1	4
Furnishing unlawful inducements to retailers	-	4	-	4
Hindering investigation	1	1	1	3
Permitting lottery activity on premises	2	-	1	3
Sale outside scope of license	1	1	1	3
Failure to close premises during prohibited hours	1	-	2	3
Sale below filed price	-	1	1	2
Permitting hostesses on premises	2	-	-	2
Permitting foul language on premises	1	-	1	2
Solicitor-permittee engaging in conduct proh. to employer	-	2	-	2
Fraud and front	1	1	-	2
Substituting alc. bev. other than ordered	1	1	-	2
Sale to non-members by club	1	-	-	1
Possessing contraceptives on premises	1	-	-	1
Aiding and abetting unlawful transportation	-	1	-	1
Failure to file notice of Default	-	1	-	1
Sale on credit to retailer on Default	-	1	-	1
Rebottling by retailer	-	1	-	1
Furnishing gift with retail sale	-	-	1	1
Permitting gambling on premises	-	-	1	1

	<u>JULY</u>	<u>AUGUST</u>	<u>SEPTEMBER</u>	<u>TOTAL</u>
DISCIPLINARY PROCEEDINGS (Continued)				
Cases brought by municipalities on own initiative and reported to Division	23	26	22	71
Violations involved	32	29	27	88
Sale to minors	14	16	9	39
Sale during prohibited hours	5	6	4	15
Permitting brawl on premises	3	2	3	8
Failure to close premises during prohibited hours	1	2	3	6
Permitting gambling on premises	1	1	2	4
Permitting bookmaking on premises	2	1	1	3
Permitting lottery activity on premises	1	1	1	3
Hindering investigation	1	-	1	2
Permitting gambling paraphernalia on premises	2	-	-	2
Permitting minors on premises unaccomp. by parents or guardians (Local reg.)	-	1	1	2
Conducting business as a nuisance	1	-	-	1
Possessing contraceptives on premises	1	-	-	1
Permitting immoral activity on premises	-	-	1	1
Act of violence	-	-	1	1
HEARINGS HELD AT DIVISION:				
Total number of hearings held	34	39	41	114
Appeals	6	1	5	12
Disciplinary proceedings	20	29	23	72
Eligibility	8	6	9	23
Seizures	-	3	3	6
Application for license	-	-	1	1
STATE LICENSES AND PERMITS ISSUED:				
Total number issued	2,335	1,353	1,322	5,010
Licenses	618	4	2	624
Solicitors' permits	62	57	60	179
Employment permits	512	290	278	1,080
Disposal permits	123	65	80	268
Social affair permits	398	479	443	1,320
Wine permits	-	1	-	1
Miscellaneous permits	302	164	199	665
Transit insignia	313	260	238	811
Transit certificates	7	33	22	62
OFFICE OF AMUSEMENT GAMES CONTROL:				
Licenses issued	12	114	64	190
Premises inspected	56	713	111	880
Premises where violations were found	2	20	-	22
Violations found	2	22	-	24
Enforcement files established	24	35	18	77
Disciplinary proceedings instituted at Division	-	1	-	1
Violations involved	-	2	-	2
Redemption of prize for money	-	1	-	1
Redemption for prize other than merchandise	-	1	-	1

EMERSON A. TSCHUPP
Acting Director of Alcoholic Beverage Control
Acting Commissioner of Amusement Games Control

Dated: October 9, 1963

6. SEIZURE - FORFEITURE PROCEEDINGS - UNLAWFUL TRANSPORTATION AND SALE OF ALCOHOLIC BEVERAGES - ALCOHOLIC BEVERAGES ORDERED FORFEITED - CLAIM OF INNOCENT LIENOR OF MOTOR VEHICLE RECOGNIZED.

In the Matter of the Seizure on August 11, 1963 of a quantity of alcoholic beverages and a Pontiac coupe at 213 Brunswick Avenue, in the City of Trenton, County of Mercer and State of New Jersey.)	Case No. 11,106
)	ON HEARING
)	CONCLUSIONS
)	AND ORDER

Nathan N. Goldberg, Esq., appearing for Fidelity Acceptance Corporation, claimant.

I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

This matter came on for hearing pursuant to the provisions of Title 33, Chapter 1, and State Regulation No. 28, to determine whether 6 pints of wine, one can of beer, \$30.90 in cash and a Pontiac coupe, more particularly described in an inventory hereinafter referred to and marked Schedule "A", seized on August 11, 1963 at 213 Brunswick Avenue, Trenton, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R.S. 33:1-66, no appearance was entered to oppose the forfeiture of the said alcoholic beverages and cash. An appearance was entered on behalf of the Fidelity Acceptance Corporation which sought recognition of its lien upon the said motor vehicle.

The facts delineated from the reports of ABC agents and other documents in the file reflect the following: On Sunday, July 28, 1963 at 10:45 a.m. an ABC agent went to the area pursuant to an assignment to investigate a complaint that alcoholic beverages were being sold without a license. He purchased a bottle of wine from one of a group of men in that area, for which payment was made.

On Sunday, August 11, 1963 ABC agents, fortified with four "marked" \$1.00 bills approached a group of men in the same area and asked one Willie Lee Norwood to sell him a bottle of wine. Norwood removed a bottle of wine from the rear seat of the motor vehicle herein described, handed the same to the agent and received payment therefor with one of the "marked" bills. Thereupon Norwood was apprehended by other ABC agents and local police and was asked to empty his pockets. He produced \$30.90 among which was commingled the said "marked" bill. The motor vehicle was seized together with other alcoholic beverages in the said vehicle and the \$30.90. One of the police officers had a search warrant.

The records of this Division do not disclose that any license or permit authorizing the sale of alcoholic beverages had been issued to Willie L. Norwood. Willie L. Norwood was thereupon arrested, charged with the sale of alcoholic beverages without a license from his vehicle in violation of R.S. 33:1-2 and R.S. 33:1-50(a) and with possession of alcoholic beverages with intent to sell same without a license, contrary to R.S. 33:1-2 and R.S. 33:1-50(b). Norwood was held in bail for arraignment on these charges before the Trenton Municipal Court. He gave a voluntary signed statement in which he admitted the

illegal possession and sale of said alcoholic beverages.

The seized alcoholic beverages are illicit since they were intended for sale without a license; the said beverages, cash and the motor vehicle in which they were transported constitute unlawful property and should be forfeited. R.S. 33:1-1 and R.S. 33:1-2; R.S. 33:1-50(a); R.S. 33:1-66.

Ralph J. Ridge, superintendent of operations of the Fidelity Acceptance Corporation, testified that it holds the contract covering the purchase of the hereinabove described motor vehicle which Willie and Louise Norwood purchased from a dealer and which was thereafter assigned to the corporate lienor. Prior to its purchase of this account it ordered and received a credit report from the Trenton Credit Bureau which indicated that this man had a good work record. The lienor then called General Plating Co. and was informed that Norwood is employed with that company and has been so employed since May 1959. Further investigation by the lienor did not disclose any unfavorable credit or criminal record against Norwood.

I am satisfied from the evidence presented that the claimant acted in good faith and did not know, or have any reason to believe, that Norwood would be involved in the unlawful possession transportation or sale of alcoholic beverages for which this motor vehicle would be used. Seizure Case No. 10,448, Bulletin 1383, Item 5; Seizure Case No. 10,975, Bulletin 1507, Item 3.

I therefore recognize the lien of Fidelity Acceptance Corporation upon the motor vehicle in question to the extent of the payoff amount due as of the date of the hearing on this motor vehicle in the sum of \$608.96. It appears that the appraised value of the said Pontiac coupe would not exceed the amount of the lien claim and costs of seizure and storage. Therefore, said motor vehicle will be returned to the Fidelity Acceptance corporation upon payment by claimant of costs of seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 14th day of October, 1963, Fidelity Acceptance Corporation, a corporation, pays the costs of the seizure and storage of the Pontiac coupe, more fully described in Schedule "A" attached hereto, it will be returned to it; and it is further

DETERMINED and ORDERED that the balance of the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property, and the same be and hereby is forfeited in accordance with State Regulation No. 29, or retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Acting Director of the Division of Alcoholic Beverage Control.

EMERSON A. TSCHUPP
ACTING DIRECTOR

Dated: October 3, 1963

SCHEDULE "A"

- 6 - pints of wine
- 1 - can of beer
- 1 - Pontiac coupe, Engine and Serial No. H3966,
New Jersey Registration GWY 751.
\$30.90 in cash

7. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

FRANK V. PAINI)
 t/a PHILLIPSBURG HOTEL)
 210 So. Main Street)
 Phillipsburg, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-22, issued by the Board of Commissioners of the Town of Phillipsburg)

Herman N. Harms, Esq., Attorney for Licensee.
 Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to charges alleging that on Sunday, September 8, 1963, he (1) sold a drink of beer and four quart bottles of beer to a minor, age 20, in violation of Rule 1 of State Regulation No. 20, and (2) sold the four quart bottles of beer for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license will be suspended on the first charge for ten days (Re Borkowski, Bulletin 1520, Item 9) and on the second charge for fifteen days (Re 677 Ocean Avenue Corporation, Bulletin 1531, Item 5), or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 10th day of October, 1963,

ORDERED that Plenary Retail Consumption License C-22, issued by the Board of Commissioners of the Town of Phillipsburg to Frank V. Paini, t/a Phillipsburg Hotel, for premises 210 So. Main Street, Phillipsburg, be and the same is hereby suspended for twenty (20) days, commencing at 1:00 a.m. Thursday, October 17, 1963, and terminating at 1:00 a.m. Wednesday, November 6, 1963.

EMERSON A. TSCHUPP
 ACTING DIRECTOR

9. DISQUALIFICATION REMOVAL PROCEEDINGS - RAPE - ORDER REMOVING DISQUALIFICATION.

In the Matter of an Application to)	
Remove Disqualification because of)	CONCLUSIONS
a Conviction, Pursuant to R.S. 33:1-31.2.)	AND ORDER
Case No. 1783)	

BY THE ACTING DIRECTOR:

Petitioner's criminal record discloses that on September 17, 1947, following a plea of guilty in the Middlesex County Court to a charge of rape, he was sentenced to serve five to seven years in N.J. State Prison and was paroled on January 7, 1952. Since a conviction of the crime of rape involves the element of moral turpitude (Re Case No. 420, Bulletin 667, Item 8), the petitioner was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this state. R.S. 33:1-25, 26.

At the hearing held herein, petitioner (44 years old) testified that for the past eighteen years he has lived at his present address and that he has been regularly employed as a construction worker for sixteen years.

Petitioner further testified that he is asking for the removal of his disqualification to be free to be engaged in the alcoholic beverage industry in this State and that ever since his parole on January 7, 1952, he has not been convicted of any crime or arrested.

The Police Department of the municipality wherein petitioner resides reports that there are no complaints or investigations presently pending against the petitioner.

The petitioner produced three character witnesses (an owner of a garage, a local police officer and a construction worker) who testified that they have known petitioner for more than five years last past and that in their opinion he is now an honest law-abiding person with a good reputation.

Considering all of the aforesaid facts and circumstances, I am satisfied that petitioner has conducted himself in a law-abiding manner for five years last past, and that his association with the alcoholic beverage industry in this State will not be contrary to the public interest.

Accordingly, it is, on this 10th day of October, 1963

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

EMERSON A. TSCHUPP
ACTING DIRECTOR

10. DISQUALIFICATION REMOVAL PROCEEDINGS - EMBEZZLEMENT - ORDER REMOVING DISQUALIFICATION.

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. 1785

BY THE ACTING DIRECTOR:

Petitioner's criminal record discloses that on February 17, 1954 he was convicted in the Essex County Court on a charge of embezzlement and was placed on probation for five years. Since a conviction of a crime of embezzlement involves the element of moral turpitude (Re Case No. 992, Bulletin 941, Item 8), the petitioner was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

At the hearing held herein, petitioner (37 years old) testified that for the past thirteen years he has lived at his present address; that he is married and living with his wife and seven children; that he has been regularly employed as a stationary engineer for more than twelve years last past and that he is presently employed in such capacity by a brewery with which he filed a questionnaire disclosing his aforesaid conviction.

Petitioner further testified that he is asking for the removal of his disqualification to be free to continue his present employment and that ever since his conviction on February 17, 1954 he has not been convicted of any crime or arrested.

The Police Department of the municipality wherein petitioner resides reports that there are no complaints or investigations presently pending against the petitioner.

The petitioner produced three character witnesses (a jeweler, a retired millwright and a boiler room helper) who testified that they have known petitioner for more than five years last past and that in their opinion he is now an honest law-abiding person with a good reputation.

Considering all of the aforesaid facts and circumstances I am satisfied that petitioner has conducted himself in a law-abiding manner for five years last past, and that his association with the alcoholic beverage industry in this State will not be contrary to the public interest.

Accordingly, it is, on this 11th day of October, 1963,

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

EMERSON A. TSCHUPP ACTING DIRECTOR

11. PLENARY WHOLESALE LICENSE - PETITION TO REMOVE RESTRICTIONS PREVIOUSLY IMPOSED ON LICENSE DENIED.

In the Matter of Objections to a)
 Petition to Remove a Special)
 Condition on Plenary Wholesale) CONCLUSIONS
 License No. W-66 held by)
)
 THE WESTMINSTER CORPORATION)
 45-21 33rd Street)
 Long Island City, New York)

 Petitioner, by Lionel Marks, General Manager
 Milton H. Cooper, Esq., Attorney for N.J. Wine & Spirit
 Wholesalers Association
 Abraham M. Buchman, Esq., Attorney for New Jersey Vintners
 Association

BY THE ACTING DIRECTOR:

Written objections to the petition for removal of a special condition on Plenary Wholesale License W-66, viz., that no sales thereunder shall be made to retailers, having been filed herein, hearing was held at this Division on September 30, 1963.

The petitioner (a New York corporation) originally applied for a plenary wholesale license in February 1963. Written objections were filed by the N.J. Wine & Spirit Wholesalers Association, and an informal hearing on the said petition was held on March 12, 1963. At that time the petitioner (an importer of wines and spirits) stated that it sells its products throughout the United States and has its base of operations in New York City. It also asserted that it sells its products to distributors in the State of New Jersey and desired a license in order to enable it to come into the State by its solicitors and promotional men for the purpose of promoting the sale of its products and in order to permit it to contact wholesalers and distributors within the State. It stated that it did not intend to make any sales directly to retailers, and was willing to accept a conditional license limiting sales to wholesalers, and that it reserved the further right to petition the Director at any time for the removal of such condition.

Objections filed by the N.J. Wine & Spirit Wholesalers Association and the New Jersey Vintners Association were thereupon waived by those organizations with the understanding that the application would be approved, and the license was thereupon granted, subject to special condition that no sales thereunder should be made to retailers.

The substance of the objections to the present petition made by the N.J. Wine & Spirit Wholesalers Association is as follows: (1) the petitioner has shown no public need or necessity for the removal of the condition; (2) there is no public need or necessity for the issuance of an unconditional plenary wholesale license; (3) the petitioner's base of operations is in New York State and would have a competitive advantage over New Jersey plenary wholesale licensees because it would not be required to pay real, personal or inventory taxes in this State; (4) these objections would have been pressed had the application originally been made for an unconditional plenary wholesale license.

At the hearing before this Division Lionel Marks, general manager of the petitioner, testified that the petitioner has two distributors handling its products in New Jersey and finds that these distributors have some of their own products which are competitive. Therefore it seeks an unconditional license because it can then sell to "a few key retailers" to "get a brand started."

Another reason urged for the lifting of the condition is that it is required to pay the same fee for the license and contends that such condition heretofore imposed would be discriminatory. He admitted, however, that he voluntarily accepted the condition at the time of the informal hearing in March and was agreeable at that time to the imposition of said condition.

I have examined the evidence adduced herein, and am of the opinion that the petitioner has not produced any evidence to show that there is a present need or necessity for the lifting of the special condition or that there is any present need or necessity for the granting of an unconditional plenary wholesale license to authorize its sale to retailers of the products which it seeks to distribute in this State. Therefore, since I have concluded that there is no sufficient cause presented to substantiate the rescission of the condition presently on its license, I shall accordingly deny the petition for removal of the condition heretofore imposed. Cf. Re VanVliet, Bulletin 1248, Item 8.

EMERSON A. TSCHUPP
ACTING DIRECTOR

Dated: October 15, 1963

12. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against VICTOR LUDWINSKI t/a SPARKIE V 228 Monticello Avenue Jersey City, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-285, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Licensee, Pro se. Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on September 25, 1963, he sold six cans of beer for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Parnes, Bulletin 1530, Item 2.

Accordingly, it is, on this 14th day of October, 1963,

ORDERED that Plenary Retail Consumption License C-285, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Victor Ludwinski, t/a Sparkie V, for premises 228 Monticello Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, October 21, 1963, and terminating at 2:00 a.m. Thursday, October 31, 1963.

EMERSON A. TSCHUPP ACTING DIRECTOR

13. STATE LICENSES - NEW APPLICATION FILED

Premier Beer Company, Inc. R. D. #1 Allaire Avenue Ocean Township PO Wanamassa, New Jersey

Application filed December 2, 1963 for place-to-place transfer of Limited Wholesale License WL-49 from 809 Second Avenue, Asbury Park, New Jersey

Emerson A. Tschupp Acting Director