

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

BULLETIN 404

MAY 20, 1940.

1. DISCIPLINARY PROCEEDINGS - FRONT - HUSBAND AND WIFE - DISMISSED FOR LACK OF PROOF THAT WIFE IS FRONT FOR HUSBAND.

In the Matter of Disciplinary Proceedings against)

CAROLINE (or Carolina) SZODOWSKI (or Szadowski), Corner of Monmouth Road and West Park Avenue, Oakhurst, Ocean Township, Monmouth County, New Jersey,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License No. C-2, issued by the Township Committee of Ocean Township, Monmouth County.)

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I. George Rabin, Esq., Attorney for Defendant-Licensee.
 Richard E. Silberman, Esq., Attorney for State Department of Alcoholic Beverage Control.

The defendant is charged with (1) violating the Alcoholic Beverage Law by falsely denying in her successive applications for license that her husband is interested in her tavern, and (2) violating that same law by allowing her husband to exercise the rights and privileges of her said licenses. See R. S. 33:1-25, 26, 52.

Both charges are based on the theory that the defendant is acting as a "front" for her husband.

The premises where the tavern is located belong to the defendant, having been purchased by her in 1933. In April 1934 her husband applied for a plenary retail consumption license for those premises. On failure to obtain such license, he applied for and obtained a plenary retail distribution license (which he renewed for 1934-35) for the premises, and there conducted a liquor "package" store. In February 1935, while still operating this store, he once more applied, and again unsuccessfully, for a consumption license for the premises. Thereafter, the defendant applied for and obtained such a license for 1935-36 and each year thereafter. The tavern has been operated under such licenses.

There is nothing to indicate that the defendant's husband is in any way disqualified from himself holding a liquor license. So far as appears, the reason for his failure to obtain a consumption license was that neighbors in the vicinity protested against the establishment of a tavern there. However, no such protests were filed when the defendant applied.

Although the defendant's husband works with her at the tavern, she claims that she is sole owner and her husband merely a manager.

She testified (somewhat at variance with a statement previously given to an attorney of this Department) that a relative of hers, a disabled war veteran, who stayed with her from 1932 until his death in 1934, gave her \$2,000.00 while he was alive and left her almost \$700.00 more on his death; that, with this money, she purchased the premises and financed her husband's venture of the liquor store there, furnishing him in total with \$1,100.00; that, when her husband failed to get a consumption license in 1935, she took over the business for the purpose of seeking such a license and operating a tavern there in her own name.

As to the fact that the tavern's bank account since 1937 has been in her husband's name, the defendant explained that, in that year, she went abroad for several months; that, during that trip, she left her husband in charge of the tavern and, to expedite his management, had a checking account started in his name; that, finding on her return that things had gone well, she permitted the account to continue in his name; that all bills of the business (and also the carrying costs of the premises) are paid from this account; that, of the surplus, she, when she sees fit, has her husband draw various sums of money which she then divides between them, she putting her share in her savings account and he putting his in a similar account of his own.

In view of the evidence, there is strong possibility that the defendant's husband, failing on two occasions to obtain a consumption license for himself, engineered the scheme of having the defendant seek such a license and, if she were successful, to operate under her license.

However, it appears equally plausible, in view of the defendant's ownership of the premises and her having financed her husband's "package" store business there, that, when he was unable in 1935 to obtain a license for a tavern at the premises, he turned everything over to her so that she might seek such a license, and, as actual proprietor, conduct a tavern there.

Hence, in the present state of the record, the Department has not sustained the burden of proving that the defendant was in any wise a "front" for her husband. See Sobocienski et al. v. Newark et al., Bulletin 309, Item 2; Re Silva, Bulletin 390, Item 6.

However, the defendant, to remove suspicion and corroborate her claim that she is sole proprietor, should change the tavern's bank account into her name.

Hence, these proceedings are dismissed on condition that the defendant, within a week from the date hereof, certify that the tavern's bank account is in her name and will remain in her name so long as she is the licensee.

E. W. GARRETT,
Acting Commissioner.

Dated: May 14, 1940.

2. SEIZURES - STILL - PADLOCK VACATED BECAUSE OF UNDUE HARDSHIP.

In the Matter of the Seizure on)	Case 5677
February 6, 1940 of a still in a)	
dwelling occupied by William E.)	ORDER
Kinslow, in the Township of)	
Pemberton, County of Burlington)	
and State of New Jersey.)	
-----)	

On April 16, 1940, Conclusions and Order were entered herein whereby, among other things, it was ordered that premises occupied by William E. Kinslow, located in Pemberton Township, should not be used or occupied for any purpose whatsoever for a period of six months, commencing May 16, 1940.

William E. Kinslow has requested a lifting of the padlock. At the time of his request he was confined in the Mount Holly Jail, because of his conviction in the criminal court of his bootlegging activities in question, and is to be released about the middle of May. He declares that upon his release, he will have no money to pay for either the expense of moving or for any new quarters; that he seldom earns sufficient to pay for food for his wife and six children, who reside on the premises; that his landlord does not charge him any rent; that he is helpless, and unable to find any way out of his predicament.

Independent inquiry made by investigators fully substantiates Kinslow's statements, and if they had been presented at the hearing undoubtedly would have served to relieve him from padlocking. His failure to do so, perhaps because he did not understand the nature of the proceedings, will not bar him from relief. I believe he has learned his lesson, and that padlocking will inflict an undue hardship upon him and his family.

Accordingly, it is, on this 14th day of May, 1940,

ORDERED, that the padlock heretofore imposed be lifted, effective immediately.

E. W. GARRETT,
Acting Commissioner.

3. SEIZURES - CONFISCATION PROCEEDINGS - PADLOCK ORDER MODIFIED -
HEREIN OF THOSE WHO SUFFER INFIRMITIES.

In the Matter of the Seizure on)	Case 5498
July 18, 1939, of a still at)	
167 West Kinney Street, in the)	ON PETITION
City of Newark, County of Essex)	CONCLUSIONS AND ORDER
and State of New Jersey.)	

Chester L. Robak, Esq., Attorney for Adam Gedrowicz.

When this matter was last before the Department, on November 9th, the late Commissioner D. Frederick Burnett said that ordinarily he would be inclined to lift the padlock as to the first floor because it appears that Gedrowicz is an elderly man, totally blind, and that his family is in destitute circumstances. It appeared, however, that this was not his first offense. The padlock, therefore, was continued in full force and effect so far as the first floor was concerned, but in respect to the physical and financial situation of Gedrowicz, time was allowed to him to make other arrangements, and hence the effective date of the padlock order was postponed indefinitely.

Under date of November 18, 1939, a letter was received from his attorney as follows:

"I have been requested by Adam Gedrowicz of 167 West Kinney St., Newark, to apply on his behalf for reconsideration of your order dated November 9, 1939, with reference to the padlocking of the apartment in which Mr. Gedrowicz lives with his family. I believe you are fully aware of the physical handicap of Mr. Gedrowicz - that of total blindness with which he is afflicted. It has taken several years to get himself adjusted to the surroundings so he could move around without assistance, and forcing him now to another surrounding would expose him to a hazard of bodily injury when he is home all alone during the daytime. This is a very pitiful case and I believe that the law had fully exacted from Mr. Gedrowicz the penalty for his transgression. You will agree that he had already been sufficiently punished by our criminal courts; going through the ordeal and indignities of arrest and trial, and the sentence imposed upon him by Judge Brennan will surely serve as deterrent that he will stay away from illicit production of liquor. It is not necessary to rely only on the promise of Mr. Gedrowicz - that he will offend no more, but the probation of three years imposed upon him will give full assurance that he will go straight. Under the present arrangement, the probation officer is visiting Gedrowicz at his home and the probation officer can fully observe whether there is any violation of our laws on the premises.

"It will be very difficult for Mrs. Gedrowicz to find suitable quarters during the winter months. The penalty imposed by you upon Gedrowicz is in fact a penalty on his wife, who has to carry the burden of supporting herself and her husband.

"For these reasons I fully hope that you will give our request your favorable consideration and will rescind the above order, or at least modify it to such an extent that will permit Gedrowicz's to remain on the premises until spring time."

The following letter, dated November 27, 1939, was received by this Department from the Chief Probation Officer of Essex County:

"After receiving your letter of November 21st regarding Adam Gedrowicz, our blind probationer in whose behalf his attorney applied to you for modification of the order padlocking his place of residence, I discussed the situation thoroughly with the probation officer in charge of this man and we agreed to accept the responsibility of supervising this man's activities to the point where he will not re-engage in the manufacture and sale of intoxicating beverages. The probation officer has been instructed upon his visits to the home of Mr. Gedrowicz (which will be made not less than twice monthly at unannounced, irregular intervals), to thoroughly inspect the premises in which the probationer is living. If any indications of violation of the Beverage Law appear during these visits, you will be promptly notified."

Supervision of the unfortunate probationer has now been arranged to effect the ends of justice.

Accordingly, the order entered herein on November 9, 1939 is amended by striking therefrom paragraphs "2" and "3" of said order and in lieu thereof inserting a new paragraph as follows:

"2. It is also vacated so far as concerns the padlocking of any other part of the premises in question, subject, however, to immediate reinstatement if Gedrowicz again violates."

E. W. GARRETT,
Acting Commissioner.

Dated: May 15, 1940.

4. DISCIPLINARY PROCEEDINGS - NEWARK LICENSEE - SALES TO MINOR - 5 DAYS ON GUILTY PLEA.

In the Matter of Disciplinary Proceedings against
 HERMAN KARPF,
 105 So. Orange Ave.,
 Newark, N. J.,
 Holder of Plenary Retail Consumption License C-798, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS AND ORDER

Richard E. Silberman, Esq., Attorney for the Department of Alcoholic Beverage Control.
 Sidney Simandl, Esq., Attorney for Licensee.

The licensee has pleaded guilty to charges that on or about March 21, 1940 he sold alcoholic beverages to a minor, in violation of R. S. 33:1-77 and Rule 1 of State Regulations 20.

The license will therefore be suspended for a period of ten days, less five days for the guilty plea.

Accordingly, it is, on this 15th day of May, 1940,

ORDERED, that Plenary Retail Consumption License C-798, heretofore issued to Herman Karpf by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of five (5) days, effective May 20, 1940, at 3:00 A.M. (D.S.T.)

E. W. GARRETT,
Acting Commissioner.

5. DISCIPLINARY PROCEEDINGS - FRONT FOR PERSON APPARENTLY QUALIFIED - LICENSE SUSPENDED FOR BALANCE OF TERM - LEAVE TO APPLY, AFTER 10 DAYS, FOR LIFTING SUSPENSION IF LICENSE TRANSFERRED.

In the Matter of Disciplinary Proceedings against
 CHARLES KING,
 301 York Street,
 Burlington City, N. J.,
 Holder of Plenary Retail Distribution License D-3, issued by the Common Council of the City of Burlington.

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CONCLUSIONS AND ORDER

Budd M. Rigg, Esq., Attorney for Defendant-Licensee.
 Charles Basile, Esq., Attorney for the State Department of Alcoholic Beverage Control.

The licensee has pleaded guilty to charges of making false statement in his application for license and having knowingly aided and abetted a non-licensee to exercise the rights and privileges of his license.

It appears that the undisclosed principal is Mrs. Eva Frederick, who, because of a judgment obtained against her by creditors, did not apply for the license in her own name. She appears fully qualified to hold a license.

It appears further that steps are being taken to correct the violation. However, for the false statement made in the application the license will be suspended for the balance of the term.

Accordingly, it is, on this 15th day of May, 1940,

ORDERED, that Plenary Retail Distribution License D-3, heretofore issued to Charles King by the Common Council of the City of Burlington, be and the same is hereby suspended for the balance of the term, effective May 20, 1940, at 2:00 A.M. Daylight Saving Time, or Eastern Standard Time, whichever time is effective in said municipality.

It is further ORDERED, that if and when transfer of said license is granted by the local issuing authority to a duly qualified applicant, upon proper proof shown, the suspension herein ordered will be vacated, provided, however, that in no event shall said suspension be vacated prior to the expiration of ten (10) days from the effective date hereof.

E. W. GARRETT,
Acting Commissioner.

6. DISCIPLINARY PROCEEDINGS - FRONT - PROOF INADEQUATE - CHARGE DISMISSED.

In the Matter of Disciplinary)
Proceedings against)

FRANK VASAPOLI,)
501 Richmond Street,)
Plainfield, New Jersey,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Con-)
sumption License No. C-2, issued)
by the Mayor and Common Council)
of the City of Plainfield.)

Joseph Mutnick, Esq., Attorney for Defendant-Licensee.
Edward Sachar, Esq., Attorney for Richmond Realty Company,
Landlord.
Samuel B. Helfand, Esq., Attorney for the Department of
Alcoholic Beverage Control.

The defendant is charged with having knowingly aided and abetted one Gustav Miller to exercise the rights and privileges of the defendant's 1938-9 license, contrary to R. S. 33:1-26, 52.

The case, as presented by the evidence, is not clear. It centers about the question whether the defendant permitted Miller to act as tentative proprietor of the tavern from December 3, 1938 until some time after January 1, 1939.

The story begins with negotiations by Vasapoli, then being hard pressed by debts, to sell his tavern to Augustus Bivona. On November 21, 1938 a formal agreement of such sale was executed and Bivona thereupon, with the defendant's written consent, applied to the Plainfield Mayor and Council for a transfer of the defendant's license to himself. However, on December 1, 1938 the defendant attempted to withdraw his consent, stating that he had obtained financial aid to enable him to carry on. Shortly thereafter, on December 3, Miller, ordinarily a leather goods worker, began what he and the defendant claim was employment as a bartender in the defendant's tavern. However, when the attorney for the landlord of the premises threatened the defendant with distraint for eight months' back rent totaling \$320.00, the attorney, after some dickering, was assured that Miller would stand good for the rent.

Thereafter, on December 19, 1938, the Plainfield Mayor and Council, despite the defendant's attempted withdrawal of his consent and the landlord's objection that Bivona would not be permitted in the premises, nevertheless granted Bivona's application for transfer of the defendant's license to himself. Thereupon, on the next day (December 20), the landlord's attorney again threatened the defendant with distraint, whereupon Gustav Miller paid the back rent of \$320.00 and obtained an assignment of the landlord's claim. At the same time the landlord and Miller executed a three-year lease for the premises, the defendant consenting.

Thereafter, on December 27, 1938, Vasapoli filed an appeal from the transfer of his license, which was heard on January 11, 1939. In that case Bivona contended that the appeal was not in good faith since Miller, and not Vasapoli, was the real party in interest. Bivona and his father testified that on November 28, 1938, Vasapoli, the defendant, told them that Miller was willing to pay \$1,000.00 more than their price for the tavern; that he (the defendant) offered them \$300.00 to withdraw; that they, however, refused. Bivona's father further claims that, when in the office of Vasapoli's then attorney on December 20, 1938, he saw a written agreement of sale of the business from the defendant to Miller with the proviso that, if Bivona got the license, Miller would render an accounting to the defendant and give him \$200.00 in addition.

On March 5, 1939, the transfer was reversed because Bivona never had right to possession of the licensed premises, and it was also directed, in view of the evidence about Miller, that the present proceedings be instituted against Vasapoli, charging that he acted as a "front" for Miller. See Vasapoli v. Plainfield and Bivona, Bulletin 301, Item 7.

The attorney, at whose office the defendant's agreement of sale to Miller was claimed to be, specifically stated, on inquiry by an investigator of this Department, that he knows of no such agreement.

The defendant and Miller similarly deny the existence of any such agreement. They state that Miller was originally a patron at the tavern; that he approached the defendant for a job and was hired, on December 3, 1938, as an ordinary bartender for \$30.00 a week; that Miller, seeing the defendant's acute distress, agreed to help him out by paying the back rentals and going on the lease; that, after said lease, he orally sublet the premises to the defendant with the landlord's consent; that he pays the rentals and

in turn is reimbursed in cash by the defendant. Vasapoli further testified that, despite Miller's inexperience as a bartender, he paid him \$30.00 a week because he believes that a fair wage prevents a bartender from stealing; that around January 1 he let Miller go because business became slow.

Another bartender who has been with the defendant since 1935 testified that he was instructed by the defendant to break Miller in as a bartender; that he (the witness) was in the tavern during the daytime and Miller and the defendant at night.

There is much to support the plausible possibility that Miller was interested in acquiring the defendant's tavern if he, instead of Bivona, could get a transfer of the license and that he was, from December 3, 1938, until at least January 1, 1939, a provisional or tentative proprietor of the tavern using the privileges of the defendant's license. While the story of the Bivonas about the agreement of sale to Miller must be viewed cautiously, since it is testimony by embittered witnesses, nevertheless the lease in Miller's name lends color to their claim. That Miller signed the lease merely as a favor to his employer when the landlord insisted on a responsible person is not a satisfying explanation. It is evident that, if Vasapoli were to continue as owner of the tavern, he normally would also sign the lease.

Furthermore, the fact that the defendant on December 1, 1938 suddenly claimed that he had financial backing and on December 3 hired Miller as a bartender, despite his inexperience, lends additional color to the Bivonas' story.

On the other hand, the attorney in whose office the agreement was alleged to have been seen, denies its existence. Furthermore, it would seem strange that Miller should, on December 20, 1938, the day after granting of the transfer to Bivona, enter a lease for the premises as a step in the purchase of the tavern. Bivona's father states that the agreement between the defendant and Miller was that, if Bivona got the transfer, Miller would then step out of the picture by rendering an accounting to the defendant and a sum of money to boot.

The evidence being at odds, I do not believe that the Department has carried the burden of proof. While I may conjecture as to what occurred, conjecture is not proof. However, it is satisfying to note that Miller ceased connection with the tavern soon after January 1, 1939.

The charge is dismissed.

E. W. GARRETT,
Acting Commissioner.

Dated: May 16, 1940.

7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY HOLDER OF A.R.C. PERMIT - LICENSE SUSPENDED 1 DAY - PERMIT SUSPENDED 15 DAYS.

In the Matter of Disciplinary Proceedings against
 ISADORE KATZ,
 T/a Colony Liquor Store,
 107 Main Street,
 Sayreville, New Jersey,
 Holder of Plenary Retail Distribution License D-1, issued by the Mayor and Borough Council of the Borough of Sayreville, and holder of Special Permit No. ARC 4117, issued by the State Commissioner of Alcoholic Beverage Control.

CONCLUSIONS AND ORDER

Samuel B. Helfand, Esq., Attorney for the State Department of Alcoholic Beverage Control.
 Herman C. Silverstein, Esq., Attorney for the Defendant-Licensee.

Licensee has pleaded guilty to a charge of permitting Isadore Kessler, a citizen of Russia, employed by him pursuant to Special Permit No. ARC 4117, to sell alcoholic beverages on March 20, 1940, contrary to Rule 3 of State Regulations 11. Aliens may not sell, solicit the sale, or participate in the manufacture, of alcoholic beverages unless their mother country has entered into a treaty with the United States affording reciprocal privileges to the citizens of those countries. Rule 1 of State Regulations 11. No such treaty exists between Russia and the United States.

It appears that, on the day in question, the saleslady at the licensed premises received distressing news concerning the illness of her sister, and while she was resting in the rear of the store, a sale of three cans of beer was made by Kessler to investigators of this Department.

In view that there is no evidence that Kessler sold alcoholic beverages on any other occasion, and that the licensee's record is otherwise clear, the license will be suspended for one day, and the permit for fifteen days.

Accordingly, it is, on this 16th day of May, 1940,

ORDERED, that Plenary Retail Distribution License D-1, heretofore issued to Isadore Katz, T/a Colony Liquor Store, by the Mayor and Borough Council of the Borough of Sayreville, be and the same is hereby suspended for a period of one (1) day, effective May 21, 1940, at 3:00 A.M. (D.S.T.); and it is further

ORDERED, that Special Permit No. ARC 4117, heretofore issued to Isadore Katz, T/a Colony Liquor Store, by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for a period of fifteen (15) days, effective May 22, 1940, at 3:00 A. M. (D.S.T.)

E. W. GARRETT,
 Acting Commissioner.

8. DISCIPLINARY PROCEEDINGS - FRONT - PROOF NOT SUFFICIENT TO SHOW PARTNERSHIP EXISTED - CHARGES DISMISSED.

In the Matter of Disciplinary Proceedings against)
)
 STEPHEN JAMES ANDREWS,)
 Bakers Basin Road and)
 Brunswick Pike,)
 Lawrence Township, Mercer)
 County,)
 P.O. R. D. 3, Trenton, N. J.,)
 Holder of Plenary Retail Consump-)
 tion License C-2, issued by the)
 Township Committee of Lawrence)
 Township, Mercer County.)
 - - - - -)

CONCLUSIONS AND ORDER

Stephen James Andrews, Pro Se.
 Charles Basile, Esq., Attorney for Department of Alcoholic Beverage Control.

Licensee pleaded not guilty to charges alleging, in substance, (1) that in his application he falsely stated that no other individual had any interest directly or indirectly in the license applied for or in the business to be conducted under said license, whereas, in fact, one Samuel Herman had such an interest; and (2) that since July 1, 1939 he knowingly aided and abetted Samuel Herman, a non-licensee, to exercise the rights and privileges of his license.

The evidence introduced on behalf of the Department consists of a statement signed by the licensee on September 20, 1939. In said statement the licensee says that, in 1938, he entered into a written agreement with Samuel Herman to take him into a 50-50 partnership; that the written agreement was destroyed when it was discovered that Samuel Herman could not qualify for a license solely because he had not been a resident of the Township for five years, as required by a municipal regulation; that "we have a verbal understanding now, that if and when any profits are made we will divide them between us on equal shares."

Licensee testified at the hearing herein that, in December 1938; he gave Samuel Herman a concession to run the kitchen and dining room on his licensed premises; that he desired to take Herman into the liquor business as a partner and signed the written agreement referred to above; that the agreement never became effective because Herman could not qualify as a licensee in the Township. The licensee further testified that the lease for the premises has always been in his name; that all bills are in his name and that he has received all profits from the liquor business. He also testified that Samuel Herman invested no money, aside from purchasing some kitchen equipment, received no profits from the sale of alcoholic beverages on the licensed premises and surrendered the dining room concession in January 1940.

Since the written agreement has been destroyed, it is impossible to determine its exact provisions. However, the statement given by the licensee on September 20, 1939 is consistent with his sworn testimony that the written agreement was to take effect in the future and then only if the license should be transferred into the name of both parties to the agreement. Licensee now swears that there was never any verbal agreement to create a

partnership. The Department has not established that Samuel Herman received any of the profits or exercised any control over the licensed business. The burden of proof has not been sustained. The case is distinguished from Re Bernstein, Bulletin 388, Item 3, wherein it was found that the written agreement, by its terms, established a partnership which was later dissolved. Here, it has not been shown that a partnership ever existed.

The charges are, therefore, dismissed.

E. W. GARRETT,
Acting Commissioner.

Dated: May 16, 1940.

9. APPELLATE DECISIONS - ALEKSIAK v. PERTH AMBOY.

THEODORE ALEKSIAK and LAURA)	
ALEKSIAK,)	
)	
Appellants,)	ON APPEAL
)	CONCLUSIONS
-vs-)	
)	
BOARD OF COMMISSIONERS OF THE CITY)	
OF PERTH AMBOY,)	
)	
Respondent)	

David I. Stepacoff, Esq., Attorney for Appellants.
Francis M. Seaman, Esq., Attorney for Respondent.

Appellants appealed from the action of respondent in suspending Plenary Retail Consumption License C-107, covering premises at 7-9 Smith Street, Perth Amboy, for a period of thirty days. The suspension was imposed after appellants had been found guilty of permitting the sale of lottery tickets, permitting the playing of skee ball for drinks, and permitting a brawl on the licensed premises.

Appellants failed to appear at the time and place designated for hearing herein and attorneys for both parties advised that appellants did not intend to prosecute the appeal.

Since the date fixed for hearing, respondent, on May 15, 1940, adopted a resolution which recites the thirty-day suspension and appeal and further provides:

"WHEREAS, an application has been made to the Board of Commissioners for the transfer of said license from Theodore and Laura Aleksiak to Michael and Mary Zemba;

"NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED: That the suspension of this body, on January 17, 1940, of Plenary Retail Consumption License No. C-107, issued to Theodore and Laura Aleksiak, be modified so as to suspend the said license for a period of ten (10) days, three (3) days of which has already been enforced.

"BE IT FURTHER RESOLVED: That this modification of the suspension of Plenary Retail Consumption License No. C-107 issued to Theodore and Laura Aleksiak and the transfer of said Plenary Retail Consumption License from Theodore and Laura Aleksiak to Michael and Mary Zemba, shall be of no effect whatsoever unless approved by the Department of Alcoholic Beverage Control."

For the reasons set forth above, the action of respondent in finding the licensees guilty as charged is affirmed. The penalty is hereby modified by reducing the suspension from thirty days to ten days, less three days already served.

So far as this Department is concerned, the transfer of the license is approved, provided such transfer shall not become effective until the expiration date of the suspension herein imposed.

E. W. GARRETT,
Acting Commissioner.

Dated: May 16, 1940.

10. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - 15 DAYS ON CONFESSION OF GUILT.

In the Matter of Disciplinary Proceedings against
FRANK W. WHITE,
T/a 2112 Bar,
2112 Atlantic Avenue,
Atlantic City, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-112, issued by the Board of Commissioners of the City of Atlantic City.

Stanton J. MacIntosh, Esq., Attorney for Department of Alcoholic Beverage Control.
Frank W. White, Pro Se.

Licensee has entered a plea of guilty to charge that on or about September 29, 1939 he possessed illicit alcoholic beverages in that twenty-one (21) quart bottles found in his licensed premises contained beverages which varied from genuine samples used for comparative purposes in color, proof and acid and solid content, in violation of R. S. 33:1-50.

The usual penalty for this violation is thirty (30) days. However, licensee entered his plea in ample time prior to hearing and thereby saved the Department the time and expense incident to proving its case.

The license will be suspended for fifteen (15) days in accordance with Re Olini, Bulletin 389, Item 3.

Accordingly, it is, on this 16th day of May, 1940,

ORDERED, that Plenary Retail Consumption License C-112, heretofore issued to Frank W. White by the Board of Commissioners of the City of Atlantic City, be and the same is hereby suspended for fifteen (15) days, effective May 20, 1940, at 9:00 A.M. (Day-light Saving Time).

E. W. GARRETT,
Acting Commissioner.

11. DISCIPLINARY PROCEEDINGS - WIFE ALLEGED FRONT FOR HUSBAND WHO IS QUALIFIED - LICENSE NOW TRANSFERRED TO BOTH - CHARGES DISMISSED.

In the Matter of Disciplinary Proceedings against FANNIE WALDMAN, 38 Court Street, Newark, N. J., Holder of Plenary Retail Consumption License C-399, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS AND ORDER

Nathaniel J. Klein, Esq., Attorney for the Licensee.
Stanton J. MacIntosh, Esq., Attorney for Department of Alcoholic Beverage Control.

Licensee was charged with fronting for Louis Waldman. Licensee has frankly conceded that although license was issued individually to her, both she and her husband, Louis, have operated the licensed business for their joint benefit and the benefit of their family. It is true that within the purview of the Alcoholic Beverage Law a technical violation existed in that the husband, Louis Waldman, had a limited undisclosed interest in the licensed business.

It appears that the licensee, through her own efforts, secured the money necessary for the initial license. Since that time the licensed business has been the family's source of income. Husband and wife worked side by side for their common welfare.

Under these circumstances, it is easy to understand how a wife might well feel that what was hers was her husband's. Such sentiments are refreshing in these days of feminine independence. Certainly, a family enterprise should not be punished for an inadvertent misunderstanding of the technicalities of the law.

Since the institution of these proceedings, the license held by Fannie Waldman has been transferred to Fannie Waldman and Louis Waldman, as partners. This transfer has corrected the situation.

The ends of justice will be best served by imposing no punishment. I am more interested in corrective procedure than in

punitive measures.

Accordingly, it is, on this 16th day of May, 1940,

ORDERED, that these proceedings be and the same are hereby dismissed.

E. W. GARRETT,
Acting Commissioner.

12. DISQUALIFICATION - APPLICATION TO LIFT - GRANTED.

In the Matter of an Application)
to Remove Disqualification be-)
cause of a conviction, pursuant)
to R. S. 33:1-51.2 (as amended)
by Chapter 350, P.L. 1938).)

CONCLUSIONS
AND ORDER

Case No. 83)
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In 1913 petitioner was convicted in the State of New York of murder in the second degree and sentenced to a term of from twenty years to life. In 1929 he was paroled and was employed for three years thereafter by a contractor in New York City; in 1932 he removed to New Jersey, and for the next few years engaged in business on his own account as the owner of cigarette vending machines. Since 1934 he has been employed in various capacities on licensed premises.

At the hearing herein his parole officer, who is connected with the Department of Institutions and Agencies of the State of New Jersey, testified that petitioner has been under his direct supervision since 1932; that he has known petitioner intimately since that time; that he considers him a very satisfactory parolee; that he has no unsatisfactory reports from any source and believes that parolee has made an excellent adjustment.

An attorney at law of the State of New Jersey, who has known petitioner for about five years, testified that during that time petitioner has never been arrested or convicted of any crime. A report received from the New York State Division of Parole indicates that petitioner's parole record has been satisfactory. The Chief of Police of the municipality where petitioner resides has certified that his Department has no record or pending investigation against or concerning petitioner herein.

This case has caused me some difficulty because of the seriousness of the crime. The result of our investigation shows that the charge of second degree murder arose from a shooting which occurred during a street brawl. This happened twenty-seven years ago. By his conduct during the past eleven years, petitioner has shown himself worthy of a helping hand in his effort to live down the past. Since his release in 1929 he has married and is the father of two children. Before beginning his employment on licensed premises, he revealed his conviction to the Chief of Police and the local issuing authorities in the municipality wherein the licensed premises are located and obtained their consent to such employment. That ruling, apparently, was based upon the mistaken construction of the terms of the Alcoholic Beverage Law but I am satisfied that petitioner acted in good faith.

Under all the circumstances, I am satisfied that petitioner has conducted himself in a law-abiding manner for eleven years last past and that his continued connection with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 17th day of May, 1940,

ORDERED, that petitioner's disqualification from obtaining or holding a license or permit, or being employed by a licensee, because of the conviction set forth herein, be and the same is hereby removed in accordance with the provisions of R. S. 33:1-31.2 (as amended by Chapter 350, P.L. 1938).

E. W. Barrett

Acting Commissioner.