

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

BULLETIN 1203

JANUARY 15, 1958.

TABLE OF CONTENTS

ITEM

1. STATE REGULATIONS - REGULATIONS NOS. 34 AND 39 - ANNOUNCEMENT OF POSSIBLE SUSPENSION AND ABROGATION.
2. DISCIPLINARY PROCEEDINGS (Folsom) - SALES TO MINORS - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
3. DISCIPLINARY PROCEEDINGS (Camden) - SALE DURING PROHIBITED HOURS IN VIOLATION OF A LOCAL REGULATION AND RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Hoboken) - CHARGES ALLEGING FALSE ANSWER IN APPLICATION AND AIDING AND ABETTING NON-LICENSEE TO EXERCISE PRIVILEGES OF LICENSE DISMISSED FOR LACK OF PROOF.
5. SEIZURE - FORFEITURE PROCEEDINGS - INTERSTATE TRANSPORTATION OF TAXPAID ALCOHOLIC BEVERAGES - DELIVERY THEREOF TO DESTINATION LAWFUL - TRANSPORTER ACTED IN GOOD FAITH - MOTOR VEHICLE AND ALCOHOLIC BEVERAGES RETURNED.
6. DISQUALIFICATION REMOVAL PROCEEDINGS - APPLICANT CONNECTED WITH GAMBLING ACTIVITIES - APPLICATION DENIED WITH LEAVE TO REAPPLY AFTER FIVE YEARS.
7. MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.
8. DISQUALIFICATION REMOVAL PROCEEDINGS - CONVICTION FOR VIOLATING ORDINANCE DURING PAST FIVE YEARS - APPLICATION GRANTED.  
  
MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.
9. DISCIPLINARY PROCEEDINGS (Union City) - SALE AND PERMITTING PREMISES TO BE OPEN DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Hopewell Township, Mercer County) - SALE BY RETAILER TO RETAILER - PURCHASE BY RETAILER FROM RETAILER - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS (Hopewell Township, Mercer County) - PURCHASE BY RETAILER FROM OTHER THAN MANUFACTURER OR WHOLE-SALER - SALE BY RETAILER TO RETAILER - TRANSPORTATION WITHOUT TRANSIT INSIGNIA - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

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

BULLETIN 1203

JANUARY 15, 1958.

1. STATE REGULATIONS - REGULATIONS NOS. 34 AND 39 - ANNOUNCEMENT  
OF POSSIBLE SUSPENSION AND ABROGATION.

TO ALL DISTILLERS, WHOLESALERS AND SOLICITORS:

It has been generally and widely asserted and represented by industry members that the New Jersey alcoholic beverage market is in a critical condition and on the brink of becoming completely disrupted by widespread retaliatory price-cutting, kick-backs, deals and other unlawful merchandising promotions of various brands and lines of alcoholic beverages.

If these assertions and representations are founded in fact and not based on mere surmise and inflated by reckless rumor-mongering, it would appear obvious that the supplying industry has little or no regard for the preservation of its own interest and equity in a stable market, which would be preserved by its compliance with State Regulation No. 34, originally promulgated and specifically designed to assure such a market in the public and industry interest.

If, in fact, these disruptive and prohibited practices become so widespread as claimed, I must conclude that the industry is not deserving of the protection afforded by State Regulation No. 34 and that the overall public interest may be better served by its abrogation and resultant freeing of Division administrative and enforcement personnel for use in intensified activity at the retailer-consumer level, which is the prime area of Division responsibility and operation.

Hence, effective February 1, 1958, if by then I am satisfied that the market is not clean, the operative effect of State Regulation No. 34 will be suspended for a minimum period of 90 days, and possibly abrogated thereafter.

I am also giving serious consideration to the suspension of the operative effect of State Regulation No. 39 at the same time, should I find it necessary to suspend the operative effect of State Regulation No. 34.

WILLIAM HOWE DAVIS  
Director.

Dated: December 31, 1957.

2. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE  
SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )  
HURLEY-PATTERSON, INC. )  
T/a WHISPERING PINES )  
Black Horse Pike, South of )  
Twelfth Street ) CONCLUSIONS  
Folsom, PO Hammonton RD, N. J., ) AND ORDER  
Holder of Plenary Retail Consump- )  
tion License C-1, issued by the )  
Mayor and Council of the Borough of )  
Folsom. )  
----- )

McAllister & Hunter, Esqs., by Robert N. McAllister, Esq.,  
Attorneys for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for the Division of  
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages to two minors and permitted said minors to consume said beverages in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that ABC agents, acting on information received from the Pleasantville Police Department, obtained sworn, written statements dated October 3, 1957, from Daniel --- (age 16) and Thomas --- (age 19) wherein they state that on Sunday, September 15, 1957, at about 2:15 a.m., they visited defendant's licensed premises and, without being questioned or required to produce any written proof as to their ages, they each consumed two bottles of beer served to them by the bartender then on duty. After executing their statements the minors directed an ABC agent to the licensed premises where they identified Thomas H. Hurley, president of the corporate licensee, as the bartender who served them aforesaid alcoholic beverages on September 15, 1957. Thomas H. Hurley then admitted that he was tending bar at the time in question but denied he had ever seen the minors before.

By way of mitigation the attorneys for the defendant have submitted a statement, the contents of which I have carefully examined, together with the file in the case and the statements of the minors. I, however, do not find any extenuating circumstances in this case which would impel me to impose less than the established penalties in cases of this kind.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty-five days (the minimum penalty for the sale of alcoholic beverages to a 16-year-old minor). Re Beckas & Bekaez, Bulletin 1194, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 21st day of November, 1957,

ORDERED that Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Folsom to Hurley-Patterson, Inc., t/a Whispering Pines, for premises on Black Horse Pike, South of Twelfth Street, Folsom, be and the same is hereby suspended for twenty (20) days, commencing at 7:00 a.m. December 3, 1957 and terminating at 7:00 a.m. December 23, 1957.

WILLIAM HOWE DAVIS  
Director.

3. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF A LOCAL REGULATION AND RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

TILLIE BADYNA )  
T/a CHESTNUT CAFE )  
828-830 Chestnut Street )  
Camden, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-196, issued by the )  
Municipal Board of Alcoholic Beverage Control of the City of )  
Camden. )  
-----)

Tillie Badyna, Defendant-licensee, Pro se.  
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On Sunday, September 22, 1957, between 9:00 a.m. and 9:20 a.m., you sold, served and delivered and suffered and permitted the sale, service and delivery of alcoholic beverages, directly or indirectly, upon your licensed premises; in violation of Section 5 of an Ordinance adopted by the Board of Commissioners of the City of Camden on December 27, 1934.

"2. On Sunday, September 22, 1957, between 9:00 a.m. and 9:20 a.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages in their original containers for consumption off your licensed premises and allowed, permitted and suffered the removal of such beverages from your licensed premises; in violation of Rule 1 of State Regulation No. 38."

The file herein discloses that at about 9:00 a.m. Sunday, September 22, 1957, ABC agents observed a man enter defendant's licensed premises through a side door and emerge therefrom at 9:20 a.m. carrying a package. The agents identified themselves and questioned the man who turned over to them a 4/5 quart bottle of gin and a 4/5 quart bottle of wine and stated that he had purchased the beverages from Tillie Badyna (the licensee herein). Returning to the premises with the agents, the man identified defendant as the person who made the sale and defendant verbally admitted making the sale.

Defendant has a prior adjudicated record. Effective March 15, 1948, her license was suspended for two days by this Division for using a mislabeled beer tap. Re Badyna, Bulletin 797, Item 5. Since the prior dissimilar violation occurred more than five years ago, it will not be considered in fixing the penalty herein. Re Datti, Bulletin 1128, Item 5. I shall suspend defendant's license for a period of twenty days (Re Gardiano, Bulletin 1133, Item 5) and remit five days for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 2nd day of December, 1957,

ORDERED that Plenary Retail Consumption License C-196, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Tillie Badyna, t/a Chestnut Cafe, for premises 828-830 Chestnut Street, Camden, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. December 9, 1957, and terminating at 2:00 a.m. December 24, 1957.

WILLIAM HOWE DAVIS  
Director.

4. DISCIPLINARY PROCEEDINGS - CHARGES ALLEGING FALSE ANSWER IN APPLICATION AND AIDING AND ABETTING NON-LICENSEE TO EXERCISE PRIVILEGES OF LICENSE DISMISSED FOR LACK OF PROOF.

In the Matter of Disciplinary Proceedings against  
THERESA FINIZIO  
200 River St. & 40-42 Second St.  
Hoboken, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-12 for the 1956-57 licensing year, and now holder of Plenary Retail Consumption License C-78 for the 1957-58 licensing year; both issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.

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Florio and Marciano, Esqs., by Samuel L. Marciano, Esq.,  
Attorneys for Defendant-licensee.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to charges alleging, in effect, that, in her application (dated August 23, 1956) for transfer of the license to her, she falsely denied that any other individual was interested, directly or indirectly, in the license applied for or the business to be conducted thereunder whereas in fact Nicholas Finizio was the real and beneficial owner of the business and that, since September 12, 1956, she knowingly aided and abetted said Nicholas Finizio to exercise the rights and privileges of her license, in violation of R. S. 33:1-25 and R. S. 33:1-52.

"The licensee is the mother of Nicholas Finizio.

"The evidence presented to support the charges consists of written statements given to ABC agents on April 29, 1957, by the licensee and her son and the testimony of the agents as to the circumstances under which the statements were taken. In her statement the licensee said 'It is not my business. I give my son the money and he buy it.' In the son's statement he said that he can't have the license in his name because he owes the government a sum of money for income taxes. One of the ABC agents stated on cross-examination that, when the statements were taken, the licensee was perturbed 'because she was afraid it might affect her union pension.'

"At the hearing herein defendant, her son and her attorney testified as to the events which preceded the filing of the application to transfer the license to defendant. From their

testimony it appears that, some time in 1956, the son called at the attorney's office with reference to the purchase of the business in question which was then being operated by one Joseph Ades. The attorney testified that he had no knowledge that the son owed money for income taxes and that, when the son first visited his office, he had no knowledge that the son intended to borrow money from his mother; that subsequently he was informed by another person that the money to purchase the business was 'coming from the mother;' that since his childhood he has known the mother as a hard worker who saved her money through her own labor; that, as a result of the information he subsequently acquired, he recalled the son to his office and insisted that, if the business were purchased, the license must be placed in the mother's name to protect her interest. Nicholas Finizio testified that he borrowed \$2,500.00 from his mother; that, when the business was purchased, \$1,000.00 cash was paid to Ades and thirty monthly notes for \$50.00 each, signed by his mother and endorsed by him, were given to Ades in payment for the business; that the remainder of the cash received from his mother was used to pay for the stock of liquor on the premises, for one month's rent, for a deposit on a back-bar and for plumbing work on the premises. He said that he invested 'maybe a week's pay or two that I saved' and some money he borrowed. Notes for fixtures installed after the license was transferred are signed by Theresa Finizio, Nick Finizio, Atty. Nicholas Finizio. further testified that he is employed as bartender by his mother at a weekly salary of \$50.00 or \$60.00 per week; that the notes mentioned above are paid from the proceeds of the business and that there have been no profits from the operation of the business. The proceeds from the operation of the business are deposited in a bank account in the mother's name, and the mother has given her son a power of attorney to sign checks in her name. The licensee, who is over seventy years of age, testified that she loaned her son \$2,500.00 'to put on the business.' There is nothing in the record to show that the son is disqualified from holding a license or working on licensed premises.

"Like all 'front' cases involving persons who are closely related, this case has presented great difficulty. Re Kush, Bulletin 559, Item 2. What impresses me in this case is that practically all the money invested in the business came from the mother's bank account. The son apparently had little money to put in the business. The burden of establishing guilt is upon the Division. After reviewing all the evidence, I conclude that the Division has not sustained the burden of proof by a fair preponderance of the evidence and recommend that an order be entered dismissing the charges herein. Re Kush, supra; Re Davalos, Bulletin 563, Item 2; Re Kelly, Bulletin 627, Item 2; Re Strittmatter, Bulletin 780, Item 3."

After the Hearer submitted his report, the Division's attorney filed written exceptions and argument thereto pursuant to Rule 6 of State Regulation No. 16. After carefully considering the testimony herein and the written argument of the Division's attorney, I have decided to adopt the conclusions of the Hearer as my conclusions herein and, hence, I shall enter an order dismissing the charges.

Accordingly, it is, on this 21st day of November, 1957,

ORDERED that the charges herein be and the same are hereby dismissed.

WILLIAM HOWE DAVIS  
Director.

5. SEIZURE - FORFEITURE PROCEEDINGS - INTERSTATE TRANSPORTATION OF TAXPAID ALCOHOLIC BEVERAGES - DELIVERY THEREOF TO DESTINATION LAWFUL - TRANSPORTER ACTED IN GOOD FAITH - MOTOR VEHICLE AND ALCOHOLIC BEVERAGES RETURNED.

In the Matter of the Seizure on )  
October 13, 1957 of a quantity of )  
whiskey and a Lincoln sedan on the )  
New Jersey Turnpike at the 34 Mile )  
Post, in the Township of Mount )  
Laurel, County of Burlington and )  
State of New Jersey. )

Case No. 9592

ON HEARING  
CONCLUSIONS AND ORDER

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Saul Schutzman, Esq., Attorney for Rosa A. Jones.

Walter Price, Pro se.

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

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether a quantity of taxpaid alcoholic beverages, and a Lincoln sedan, described in a schedule attached hereto, seized on October 13, 1957 on the New Jersey Turnpike, at the 34 Mile Post, Mount Laurel Township, New Jersey, constitute unlawful property and should be forfeited.

The evidence presented establishes that a New Jersey State Trooper halted the motor vehicle on the above date and location during his routine patrol of traffic on the highway. He ascertained that the motor vehicle was being operated by James Brown with Walter Price and Christine Flowers as passengers, all of whom reside in New York City. When the trooper discovered that 113 pint bottles, 48 four-fifth quart bottles, two half-gallons, and a half pint bottle of various brands of taxpaid whiskey were being transported in the vehicle without a transportation license or permit issued by this Division authorizing the transportation of such whiskey in New Jersey, he detained the three persons, the motor vehicle, and whiskey pending determination of the source and destination of such whiskey. Thereafter the motor vehicle and whiskey were turned over to ABC agents.

When the matter came on for hearing pursuant to R. S. 33:1-66, Rosa A. Jones appeared and sought return of the motor vehicle, and Walter Price appeared and sought return of the whiskey.

Walter Price told the troopers that he purchased the whiskey from a licensed retailer located in Washington, D. C. and was transporting it to New York, and made some vague reference that four or five other persons were interested in the whiskey, to be used at a party. At the magistrate's hearing in the case his lawyer represented that Walter Price was the only person who had any interest in the whiskey, and at the seizure hearing Walter Price testified to the same effect.

Transportation of alcoholic beverages through this state is governed by Rule 2 of State Regulation No. 18, which requires the transporter to have a New Jersey transportation license and insignia on the vehicle, or a special permit issued by this Division, or a waybill or other document containing pertinent information, and further, requires the transporter to establish that the alcoholic beverages may be lawfully delivered to their destination.

As previously stated, none of the persons in the case had any such license or permit and, while Price had bills covering purchase of the whiskey, they were defective in essential details required by the Rule.

Failure to comply with our regulation subjects the vehicle and alcoholic beverages to forfeiture. Relief from forfeiture is discretionary with the Director. R. S. 33:1-66(e) and (f). If the alcoholic beverages, even if intended for personal consumption, may not be brought into the neighboring state, such alcoholic beverages are not returned. If the owner of the car did not know or have any reason to suspect that alcoholic beverages would be transported in such vehicle in violation of the law, the motor vehicle is returned.

Under the law of the State of New York, apparently a person may bring alcoholic beverages into the state, provided he accompanies the vehicle in which they are transported and the alcoholic beverages are intended for personal consumption only and not for resale.

Rosa A. Jones testified that she is unmarried and was formerly employed in Alabama as a waitress; that for the past eleven years she has been steadily employed by one employer as a domestic, at a salary of \$45.00 per week, and room and board. She presented two passbooks from a savings and loan association one of which evidences regular monthly deposits of \$50.00 a month since 1950 and the other deposits and withdrawals for the same period, which account she used for day to day expenditures and deposits of additional funds saved by her. Both accounts show substantial balances, with a large recent withdrawal to pay for the car. She explains that in recent years she has purchased three cars, one used and two new, and while she does not drive, and depends upon others to do so, purchase of such cars represented her one extravagance, to satisfy her pride of ownership of a car.

She testified further that Walter Price is her boy friend; with whom she has been acquainted for a number of years and who, to her knowledge, was gainfully employed as a truck driver; that they had planned to drive south to visit his uncle, who was seriously ill, but at the last moment she could not get leave from her employer and persuaded Price to go alone to visit his sick uncle, and such was the manner in which it came about that Price had the use of her car.

Neither Price nor Brown appear to have any previous criminal record for violating any liquor laws; and the alcoholic beverages appear to have been purchased in good faith for personal consumption and not for resale. Rosa A. Jones appears to have a legitimate and bona fide background and her account of her financial status and loan of the car seems logical, albeit it appears unusual for her to own an expensive car merely to gratify her vanity. The Lincoln sedan will therefore be returned to her upon payment of the costs of its seizure and storage.

Walter Price testified that he is single, and has been steadily employed as a truck driver, except when disabled by an old back injury, and had received notice of trial on November 1, 1957 of a compensation claim filed by him against one of his employers; that he had a substantial balance on his person when he went to visit his sick uncle, available for such uncle, but it developed that the uncle had no need for the money; that consequently he purchased the alcoholic beverages while passing through Washington because they appeared to be cheap.

In view of his clean background and economic circumstances, and the absence of any positive evidence that the whiskey was intended for resale, I am inclined to give him the benefit of the doubt, and find that he acted in good faith and actually intended the whiskey for what may be termed personal use. Hence the whiskey will be returned to Walter Price, upon payment of the cost of its seizure and storage. However, to insure that he reports the importation of the whiskey into New York to the appropriate liquor enforcement agency of that state, a copy of these Conclusions will be forwarded to such agency.

Accordingly, it is DETERMINED and ORDERED that if on or before the 16th day of December, 1957 Rosa A. Jones pays the costs incurred in the seizure and storage of the Lincoln sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to her; and it is further

DETERMINED and ORDERED that if on or before the 16th day of December, 1957 Walter Price pays the costs incurred in the seizure and storage of the whiskey, described in Schedule "A", such whiskey will be returned to Walter Price.

WILLIAM HOWE DAVIS  
Director.

Dated: December 4, 1957.

SCHEDULE "A"

- 113 - pint bottles of whiskey
- 48 - 4/5 quart bottles of whiskey
- 1 - 1-gallon of whiskey
- 1 - 1/2 gallon of whiskey
- 1 - 1/2 pint bottle of whiskey
- 1 - Lincoln sedan, Serial and Engine  
No. 57WA-7886L, New York  
Registration 4U8989

6. DISQUALIFICATION REMOVAL PROCEEDINGS - APPLICANT CONNECTED WITH GAMBLING ACTIVITIES - APPLICATION DENIED WITH LEAVE TO REAPPLY AFTER FIVE YEARS.

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. 1386 )  
----- )

BY THE DIRECTOR:

Applicant's criminal record discloses that on September 19, 1932 he was fined \$50.00 on a charge of possessing lottery slips; that on August 20, 1933 he was arrested on a charge of extortion which was dismissed on September 21, 1933; that on March 20, 1934 he was held for investigation and discharged; that on April 10, 1934 he was fined \$100.00 on a charge of conspiring to conduct a lottery; that on September 13, 1934 he was arrested on a charge of aiding and abetting a lottery (dismissed on September 16, 1934); that on June 24, 1935 he was found not guilty on a charge of aiding and abetting a lottery; that on November 7, 1950 he was arrested for maintaining a gambling house which resulted in his conviction on June 21,

1951 on a charge of conspiring to make book and fined \$1,000.00 and sentenced to jail for six months. It appears that he served about five months of his sentence.

Commercialized gambling may or may not involve moral turpitude. Re Case No. 1018, Bulletin 956, Item 7. Where one is a principal or a "lieutenant" in commercialized gambling, particularly where the gambling is conducted on a large scale, it has been held that such gambling involves moral turpitude. Since applicant was convicted on June 21, 1951 as a principal, said conviction involves moral turpitude and he is 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 applicant (51 years old) testified that for the past fifteen years he has resided with his parents at his present address; that he was married at the age of twenty-one and thirteen years later was divorced; that from April 1943 to December 1944 he served in the armed forces of the United States from which he was honorably discharged; that he has been unemployed for the past four or five months; that following his release from prison in November 1951, he did nothing for about one year; that for a period of one year thereafter until he sustained an injury to his back, he sold fruits and vegetables from his truck; that for the past three years he held odd jobs for short durations in restaurants; worked for his brother in the dry-cleaning business and also sold toys and socks. Applicant further testified that he has not participated in any commercialized gambling since June 1951; that until recently he has been going to the race track on the average of five or six days a month; that he has been employed in Florida for about four or five months in the past year; that he is asking for the removal of his disqualification to accept employment on a licensed premises and that since his aforesaid release from prison he has not been convicted of any crime or arrested.

Applicant produced three character witnesses (a waitress, a cook and an employee in a paper mill) who testified they have known applicant from 7 to 35 years; that in their opinion he is now an honest, law-abiding citizen with a good reputation and that it would not be against the public interest if he were permitted to become engaged in the liquor industry. Because of applicant's periodic absences from the State, I do not believe these witnesses have had ample opportunity to form their aforesaid opinions.

The records of this Division disclose that the applicant held a liquor license on November 7, 1950 when his licensed premises were raided and considerable gambling evidence was found on the premises; that effective January 15, 1951 his license was suspended for fifteen days for permitting bookmaking and gambling on his licensed premises. Based on aforesaid evidence, defendant was convicted on June 21, 1951 as aforesaid and sentenced to jail for six months and fined \$1,000.00. The records of this Division further disclose that following an eligibility hearing held on November 7, 1940, it was ruled that applicant had not been convicted of a crime involving moral turpitude prior to that date. It is now apparent that the applicant abused the privilege of holding a liquor license. It further appears that on July 17, 1952 the then Director advised applicant that he was ineligible to be associated in any capacity with the alcoholic beverage industry because of his conviction on June 21, 1951.

Applicant testified that during the past five years he was unemployed for about two years; that he was unable to find steady employment for about three years, and that he found it "tough" to earn a living. Nevertheless, it appears from his testimony that he attended various race tracks on the average of about five or six times a month and procured the necessary funds to indulge in this pastime. It is obvious that the applicant has not forsaken any of his gambling propensities. In view of the same and all of the other facts and circumstances, I am not convinced at this time that applicant's association with the alcoholic beverage industry would not be contrary to the public interest. I shall deny the present application, but shall give the applicant leave to file a new application after the expiration of five years from the date hereof. If such application is filed, the conduct of the applicant during the five years will be considered in determining whether relief should then be granted.

Accordingly, it is, on this 9th day of December, 1957,

ORDERED that the application be denied, with leave to reapply as aforesaid.

WILLIAM HOWE DAVIS  
Director.

7. MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.

December 9, 1957

Re: Eligibility No. 676

Applicant seeks a determination as to whether or not he is eligible for employment by the holder of a liquor license in New Jersey, by reason of his conviction of crime.

Applicant's fingerprint returns disclose that in 1952 he was indicted on a charge of bookmaking, in violation of R. S. 2A:112-3, and having been found guilty thereof by a jury he was, on April 23, 1954, sentenced to a term of two to three years in State Prison. He was paroled therefrom on September 15, 1955.

In an affidavit filed herein, applicant stated that he is 59 years of age and has resided in the same community for the past forty years; that in 1952 he was apprehended by the police after telephoning to a bookmaker horse race bets for some friends, and that he received no compensation for his services. However, facsimile copies of the report of the county detective who investigated applicant's activities and the voluntary statement of applicant, both of which are part of the file herein, do not substantiate applicant's version of his participation in the crime. Rather, they confirm the fact that he was not merely a runner for a bookmaker but a principal and was prosecuted as such.

The crime of bookmaking may or may not involve moral turpitude, depending on the circumstances. Re Case No. 651, Bulletin 1020, Item 9. When one is a principal or a "lieutenant" in commercialized gambling, it has been ruled that the crime involves moral turpitude. Re Case No. 635, Bulletin 946, Item 10; Re Case No. 641, Bulletin 963, Item 5. Since, as appears herein, applicant participated in bookmaking as a principal, I conclude that he was convicted of a crime involving moral turpitude.

It is recommended that applicant be advised that, in the opinion of the Director, he is disqualified by statute because of said conviction from being associated with the alcoholic beverage industry in this State and that any licensee who employs him or permits him to be connected in any business capacity with his licensed premises will subject his license to suspension or revocation. R.S. 33:1-25, 26. It is further recommended that applicant be advised that his conviction precludes relief by way of disqualification removal proceedings until September 15, 1960 since the statute appertaining thereto (R. S. 33:1-31.2) requires satisfactory proof that he has conducted himself in a law-abiding manner for at least five years last past.

Respectfully advised,  
Joseph A. Burns  
Attorney.

APPROVED:  
WILLIAM HOWE DAVIS  
Director.

8. DISQUALIFICATION REMOVAL PROCEEDINGS - CONVICTION FOR VIOLATING ORDINANCE DURING PAST FIVE YEARS - APPLICATION GRANTED.

MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.

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. 1385  
-----)

BY THE DIRECTOR:

Applicant's fingerprint returns disclose that in 1929 he received a suspended sentence on a charge of loitering while under the influence of liquor; that in 1934 he pleaded non vult to an indictment charging him with operating a gambling house and was placed on probation for two years and fined \$50.00; that in 1952 he was arrested on a charge of gambling (dice) in violation of a city ordinance and was fined \$10.00 and that on June 25, 1957, he was fined \$50.00 on a similar charge. The crime of operating a gambling house involves the element of moral turpitude and precludes applicant from engaging in the alcoholic beverage industry in this State until his disqualification is removed.

At the hearing herein applicant testified that he is forty-nine years of age and unmarried; that in 1934 "I had just a little candy store, maybe around fifteen feet deep during the depression and nobody had anything. They were all hanging in there so they wind up playing a ten cent game of cards. Believe me, that's the truth and that's how I got that;" that in 1957 he was arrested with twelve others for shooting dice in an empty lot; that he worked as a bartender for about two years not knowing that he was ineligible to be so employed, and that he wants to continue in his employment because "I am getting old" and that he has never been convicted of any other crimes. The Police Department of the city wherein applicant resides reports no complaints or investigations presently pending against him.

Three witnesses (a barber, an electrician and a superintendent of an industry) appeared on applicant's behalf and testified that they have known him for more than seventeen years and that he has a good reputation in the community wherein he and they reside.

To afford applicant the relief requested it is necessary that I find that he has been conducting himself in a law-abiding manner for five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest. See R. S. 33:1-31.2. Although the aforesaid convictions for violating a city ordinance do not constitute convictions of "crime" (Re Case No. 451, Bulletin 525, Item 3), they are, nevertheless, pertinent circumstances to be considered in determining whether applicant has successfully rehabilitated himself and has been living in a law-abiding manner during the requisite period. Since the playing of dice is not a crime which indicates a criminal bent of mind or an attitude prejudicial to the alcoholic beverage industry, I believe that applicant's convictions on those charges should not militate against his otherwise clear record of over twenty years, more particularly in view of the favorable testimony of his character witnesses. See Re Case No. 1211, Bulletin 1057, Item 7. Although while disqualified applicant was engaged in the alcoholic beverage industry in this State, after carefully considering his testimony I am of the belief that he was unaware of the legal requirements and that he acted in good faith. In view of the fact that knowledge of the law is not an essential prerequisite in rehabilitation proceedings (Re Case No. 996, Bulletin 943, Item 8) and considering all of the circumstances herein, I conclude that applicant should be granted the relief sought.

Accordingly, it is, on this 20th day of November, 1957,

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

WILLIAM HOWE DAVIS  
Director.

9. DISCIPLINARY PROCEEDINGS - SALE AND PERMITTING PREMISES TO BE OPEN DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

EDWARD J. CALLAHAN )  
802 - 14th Street )  
Union City, N.J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Board of Commissioners of the City of Union City. )  
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Meehan Brothers, Esqs., by John J. Meehan, Esq., Attorneys for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) on Sunday, August 25, 1957, between 3:00 a.m. and 4:40 a.m., he sold and served alcoholic beverages at his licensed premises, in violation of a local ordinance; (2) during the same period of time his licensed premises were

open, in violation of a local ordinance, and (3) on Sunday, August 25, 1957, between 4:40 a.m. and 5:15 a.m., he failed to facilitate and hindered and delayed an investigation by agents of the Division of Alcoholic Beverage Control.

The local ordinance prohibits the sale and service of alcoholic beverages on Sundays between 3:00 a.m. and noon, and provides that licensed premises (with certain exceptions not here material) must be closed during the hours when sales are prohibited.

The file herein discloses that two ABC agents who were in the vicinity of defendant's premises on the morning of Sunday, August 25, 1957, observed eight persons as they entered the premises at various times between 3:25 a.m. and 4:30 a.m. At 4:45 a.m. the agents entered the premises and observed therein ten patrons with drinks on the bar in front of them. They identified themselves to the licensee and the patrons. One of the agents picked up several glasses of beer and highballs from the bar and placed them on a table. The other agent then went outside to get some sample bottles and, when he returned, the glasses which had been on the table had disappeared. The licensee, his wife and the bartender (who, except for the agents, were then the only persons on the premises) denied that any of them had disposed of the glasses.

Defendant has no prior record. The minimum penalty for an "hours" violation is fifteen days. I shall, therefore, suspend defendant's license for a period of fifteen days on Charges 1 and 2. Re Romeo, Bulletin 1146, Item 11. The facts of this case are not sufficient to establish that the licensee or his agents actually hindered the investigation but are sufficient to establish that they failed to facilitate the investigation and, hence, I shall suspend defendant's license for an additional period of ten days on Charge 3. Cf. Re Lorenzo, Bulletin 1132, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 17th day of December, 1957,

ORDERED that Plenary Retail Consumption License C-7, issued by the Board of Commissioners of the City of Union City to Edward J. Callahan, for premises 802 - 14th Street, Union City, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. January 2, 1958, and terminating at 3:00 a.m. January 22, 1958.

WILLIAM HOWE DAVIS  
Director.

10. DISCIPLINARY PROCEEDINGS - SALE BY RETAILER TO RETAILER - PURCHASE BY RETAILER FROM RETAILER - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

CHARLES M. MARTINETTE and )  
RICHARD H. MANTEL )  
T/a HIOHELA SPORTLAND )  
Route #69, Hopewell Township )  
PO RD Pennington, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-8, issued by the Township Committee of the Township of Hopewell. )  
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Defendant-licensees, by Richard H. Mantel, Partner.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

"1. On or about February 23, 1957, you, holders as partners, of a New Jersey plenary retail consumption license, without authority of special permit first obtained from the Division of Alcoholic Beverage Control, sold an order of alcoholic beverages to Charles A. DeFilippis, t/a Brookside Inn, holder of a plenary retail consumption license for premises on Route #69, Hopewell Township, New Jersey; in violation of Rule 15 of State Regulation No. 20.

"2. On or about March 2, 1957, you, holders as partners, of a New Jersey plenary retail consumption license, without authority of special permit first obtained from the Division of Alcoholic Beverage Control purchased or obtained an order of alcoholic beverages from Charles A. DeFilippis, t/a Brookside Inn, holder of a plenary retail consumption license for premises on Route #69, Hopewell Township, New Jersey; in violation of Rule 15 of State Regulation No. 20."

The file herein disclosed that on February 23, 1957, defendants loaned four 4/5 quart bottles of alcoholic beverages to another retailer and on March 2, 1957, said retailer returned four bottles of similar brands and size to the defendants, in violation of Rule 15 of State Regulation No. 20 which provides as follows:

"No retail licensee shall purchase or obtain any alcoholic beverages except from the holder of a New Jersey manufacturer's or wholesaler's license or pursuant to a special permit first obtained from the Director of the Division of Alcoholic Beverage Control. Purchase of alcoholic beverage by one retailer from another and sale of alcoholic beverage by one retailer to another are prohibited."

Defendants have a prior adjudicated record. Effective June 6, 1955, defendants' license was suspended by the Director for five days for possession of bagatelle machines on their licensed premises. See Bulletin 1068, Item 8.

The usual penalty for multiple violations as charged herein is fifteen days. Re Ginsberg, Bulletin 1099, Item 10. However, considering all the circumstances in the instant case, plus the fact it involves a single transaction, I shall suspend defendants' license for ten days and for an additional five days because of the prior dissimilar violation within a five-year period (Re DeFreitas, Bulletin 1139, Item 1), making a total suspension of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 18th day of December, 1957,

ORDERED that Plenary Retail Consumption License C-8, issued by the Township Committee of the Township of Hopewell to Charles M. Martinette and Richard H. Mantel, t/a Hiohela Sportland, for premises on Route #69, Hopewell Township, be and the same is hereby suspended for ten (10) days, commencing at 2:30 a.m. January 3, 1958, and terminating at 2:30 a.m. January 13, 1958.

WILLIAM HOWE DAVIS  
Director.

- 11. DISCIPLINARY PROCEEDINGS - PURCHASE BY RETAILER FROM OTHER THAN MANUFACTURER OR WHOLESALER - SALE BY RETAILER TO RETAILER - TRANSPORTATION WITHOUT TRANSIT INSIGNIA - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

CHARLES A. DeFILIPPIS )  
T/a BROOKSIDE INN )  
Route #69 )  
Hopewell Township )  
R.D. Hopewell, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-4, issued by the Township Committee of Hopewell Township. )  
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Charles A. DeFilippis, Defendant-licensee, Pro se.  
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded non vult to the following charges:

"1. During the month of December 1955 and on or about February 21 and 23, 1957, you, a New Jersey retail liquor licensee, without authority of special permit first obtained from the Director of the Division of Alcoholic Beverage Control, purchased or obtained various alcoholic beverages from sources other than the holders of New Jersey manufacturers' or wholesalers' licenses; in violation of Rule 15 of State Regulation No. 20.

"2. On or about March 2, 1957, you, a New Jersey retail liquor licensee, without authority of special permit first obtained from the Director of the Division of Alcoholic Beverage Control sold an order of alcoholic beverages to Charles M. Martinette and Richard H. Mantel,

t/a Hiohela Sportland, holders, as partners, of a New Jersey retail liquor license for premises on Route #69, Hopewell Township, N. J.; in violation of Rule 15 of State Regulation No. 20.

"3. On or about February 23, 1957 and on or about March 2, 1957, you transported alcoholic beverages in vehicles having no transit insignia affixed thereto or inscription painted thereon as provided by Rule 12 of State Regulation No. 17; in violation of Rule 2 of State Regulation No. 17."

The file herein discloses that during the month of December 1955 and on or about February 23, 1957, and March 2, 1957, the licensee engaged in the practice of purchasing from, selling to or exchanging with other retailers various alcoholic beverages and transported part of said alcoholic beverages from the licensed premises of one of the retailers to his licensed premises in a vehicle which did not bear a transit insignia.

The file further discloses that on February 21, 1957, the licensee bought eleven bottles of alcoholic beverages of the private stock of a liquor salesman.

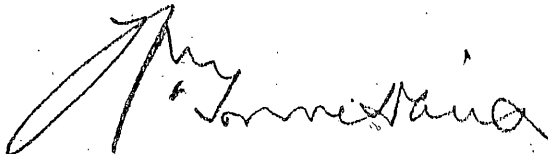
Rule 15 of State Regulation No. 20 provides:

"No retail licensee shall purchase or obtain any alcoholic beverage except from the holder of a New Jersey manufacturer's or wholesaler's license or pursuant to a special permit first obtained from the Director of the Division of Alcoholic Beverage Control. Purchase of alcoholic beverage by one retailer from another and sale of alcoholic beverage by one retailer to another are prohibited."

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days. Re Colonna Park, Inc., Bulletin 875, Item 4.

Accordingly, it is, on this 18th day of December, 1957,

ORDERED that Plenary Retail Consumption License C-4, issued by the Township Committee of Hopewell Township to Charles A. DeFilippis, t/a Brookside Inn, for premises on Route #69, Hopewell Township, be and the same is hereby suspended for fifteen (15) days, commencing at 2:30 a.m. January 2, 1958 and terminating at 2:30 a.m. January 17, 1958.



William Howe Davis  
Director.