

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

BULLETIN 553

FEBRUARY 11, 1943.

1. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWERS IN LICENSE APPLICATION CONCEALING MATERIAL FACTS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - ILLEGAL SITUATION CORRECTED - PREVIOUS RECORD - 60 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against )

FRANCIS J. ORLANDO )  
T/a SAM'S CAFE )  
500 Paul Street )  
Gloucester City, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Common Council of the City of Gloucester City. )  
- - - - - )

Bartholomew Sheehan, Esq., Attorney for Defendant-Licensee.  
Richard C. Gossweiler, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

There was served upon the licensee copy of the following charges:

"1. In your license application filed with the Common Council of the City of Gloucester City, and upon which you obtained your current plenary retail consumption license, you falsely stated 'No' in answer to Question 30, which question asks: 'Has any individual,....other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?', whereas in truth and in fact Sam Orlando was so interested in that he was the real and beneficial owner of the licensed business; such false statement being in violation of R.S. 33:1-25.

"2. From July 1, 1939, and until the present time, you knowingly aided and abetted Sam Orlando to exercise, contrary to R. S. 33:1-26, the rights and privileges of your plenary retail consumption license in the City of Gloucester City, thereby yourself violating R. S. 33:1-52.

"3. In your aforesaid license application you falsely stated 'No' in answer to Question 41, which question asks: 'Have you....ever had any interest, directly or indirectly, in any alcoholic beverage license in New Jersey which was.....suspended...?', whereas in truth and in fact your plenary retail consumption license for the 1939-40 period was suspended for ten days, effective July 1, 1939, and also for five days, effective June 17, 1940, and your plenary retail consumption license for the 1941-42 period was suspended for twenty days, effective April 17, 1942; such false statement being in violation of R. S. 33:1-25."

The defendant pleaded guilty to charges (1) and (2), and non vult to charge (3).

As to charges (1) and (2): From May 1936 to July 1939, Sam Orlando, the father of the licensee, held the license for the premises in question. Sam Orlando, an alien and an Italian national, became ineligible to obtain a license after July 1, 1939. Re Woertendyke, Bulletin 304, Item 8; Re Aliens, Bulletin 491, Item 8.

On July 1, 1939 Francis J. Orlando obtained the license and has renewed it from year to year since that time. In 1939 the business was purportedly sold by the father to the son for \$1.00. This was evidenced by an agreement drawn on a piece of paper by the son, which merely stated that for \$1.00 Sam Orlando sold the business to Francis J. Orlando. Actually, this was a gift and there was no consideration for the sale. I am satisfied that for some time thereafter the father participated in the profits of the licensed business.

As to charge (3): It appears from our file that, although the licensee answered "No" to Question 41 in his application, he nevertheless revealed, in answering Question 24, that two suspensions had been imposed against his license.

As to penalty: The "front" has been corrected. On August 1, 1942 definite steps were taken by the licensee to rectify the situation. A bill of sale was drawn conveying the business from father to son, and the licensee entered into a lease with his father, renting the premises in which the tavern is located for a period of five years at a stipulated yearly rent. This lease is on file with this Department. At least since August 1, 1942, I believe that the father has had no connection with the licensed business. He now operates a grocery store.

The licensee has a prior record. In June 1940 his license was suspended for five days by the local issuing authorities because he had poured whiskey from an original container to an open bottle and sold the same for off-premises consumption. On April 13, 1942 I suspended his license for twenty days for a similar violation. Considering his prior record and all the circumstances of this case, I shall suspend the license for a period of sixty days on charges (1) and (2). Cf. Re Scharmberg, Bulletin 540, Item 4.

As to charge (3): Although the licensee is technically guilty as charged, I do not feel that there is any manifestation of his intent to answer falsely Question 41 because, in answering Question 24 in the same application, he disclosed his two prior suspensions. For that reason I shall not impose a penalty for this violation.

Accordingly, it is, on this 2nd day of February, 1943,

ORDERED, that Plenary Retail Consumption License C-6, issued by the Common Council of the City of Gloucester City to Francis J. Orlando, t/a Sam's Cafe, for premises 500 Paul Street, Gloucester City, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 A. M. February 8, 1943, and terminating at 2:00 A.M. April 9, 1943.

ALFRED E. DRISCOLL  
Commissioner.

2. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACTS - PERMITTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - 20 DAYS' SUSPENSION.

CANCELLATION PROCEEDINGS - LICENSED PREMISES OPERATED IN VIOLATION OF R. S. 33:1-12(1) - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO PETITION TO LIFT AFTER EXPIRATION OF 20 DAYS AND CORRECTION OF ILLEGAL SITUATION.

In the Matter of Disciplinary and Cancellation Proceedings against )

DEMOSTHENES E. & GEORGE E. GEVAS )  
567 Broad Street )  
Newark, N. J., )

Holder of Plenary Retail Consumption License C-824 for the licensing year expiring June 30, 1942, and holders of Plenary Retail Consumption License C-571 for the current (1942-43) licensing year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark, and transferred during the pendency of these proceedings to )

CONCLUSIONS AND ORDER

DEMOSTHENES E., GEORGE E. and THAMESTOCLES E. GEVAS )

for the same premises. )

Harrison & Roche, Esqs., by John J. McDonough, Esq., Attorneys for Defendant-Licensees.  
William F. Wood, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensees were served with charges alleging that (1) in their license application, dated June 12, 1941, they falsely concealed the fact that Thamestocles E. Gevas was a partner in the licensed business, and (2) between January 1934 and June 1937 Demosthenes E. Gevas permitted George E. Gevas and Thamestocles E. Gevas to exercise the rights and privileges of his license, and between July 1939 and June 1942 Demosthenes E. Gevas and George E. Gevas permitted Thamestocles E. Gevas to exercise the rights and privileges of their license, and (3) between January 1934 and June 1937 George E. Gevas exercised the rights and privileges of the plenary retail consumption license issued to Demosthenes E. Gevas.

Proceedings to cancel the license were also instituted since, as alleged, the licensees conducted a candy, ice cream and soda fountain business on their licensed premises, in violation of R. S. 33:1-12(1).

The licensees frankly admit the truth of all the charges served upon them. It does not appear, however, that any of the three partners are now, or have ever been, disqualified from holding a liquor license. While Thamestocles E. Gevas was convicted in January 1937 of possession of lottery slips, such conviction, under the facts presented, does not involve the element of moral turpitude.

Cf. Re Case No. 344, Bulletin 425, Item 8. I am also satisfied from the evidence that the omission of Thamestocles E. Gevas' name from the licenses issued for the three fiscal years commencing with July 1, 1939 was not motivated because of his conviction, since for two years after such conviction Thamestocles E. Gevas was disclosed as a member of the partnership in the applications filed with the local issuing authority.

In July 1942 the license was placed in the names of all three partners, thus correcting the prior unlawful issuance of the license in the names of only two of such partners.

It is apparent that these licensees have, ever since January 1934, been extremely negligent in the manner in which they have applied for their licenses. Even though they must have known that all persons interested in their licensed business must be disclosed (as evidenced by the applications filed for the fiscal years 1939-40 and 1940-41), they failed to include all three partners in the license issued for the fiscal year 1941-42. Considering all the circumstances of this case, a twenty-day suspension of the license is merited on the "front" charges.

With reference to the cancellation proceedings, it appears that the defendants conduct on their licensed premises a candy, ice cream and soda fountain business contrary to the Alcoholic Beverage Law (R. S. 33:1-12(1)), which prohibits the issuance of a plenary retail consumption license for premises upon which any other mercantile business (with certain exceptions not here material) is carried on. The licensees have submitted to me a satisfactory plan for separation of their premises so that all alcoholic beverage activity will be confined to the rear of the premises where no other prohibited mercantile business will be conducted. The proposed alterations, however, have not yet been completed. Since the licensed business, as presently operated, cannot be permitted to continue, I have no alternative other than to suspend the license for the balance of the term. If, however, the proposed alterations are satisfactorily completed so as to accord with the law, and the license application is amended so as to delimit the licensed premises (see Re Daly, Bulletin 171, Item 3), application may be made to me to lift such suspension, provided, however, that in no event will the suspension be lifted until the expiration of twenty days from the effective date of the suspension imposed herein. In the interim, determination of the cancellation proceedings will be held in abeyance.

Although this case was instituted during the last licensing term (which expired June 30, 1942), it does not abate but remains fully effective against the renewal license for the current (1942-43) term. State Regulations No. 15.

Accordingly, it is, on this 2nd day of February, 1943,

ORDERED, that Plenary Retail Consumption License C-571, issued for the current licensing year to Demosthenes E. & George E. Gevas by the Municipal Board of Alcoholic Beverage Control of the City of Newark for premises 567 Broad Street, Newark, and transferred during the pendency of these proceedings to Demosthenes E., George E. and Thamestocles E. Gevas for the same premises, be and the same is hereby suspended for the balance of the term, effective at 2:00 A.M. on February 8, 1943; and it is further

ORDERED, that when the licensed premises have been satisfactorily altered so that the operation of the business conducted thereon is in accord with the Alcoholic Beverage Law, and the license

application filed with the local issuing authority is amended so as to properly describe the licensed premises, application may be made to me to lift the suspension, provided, however, that such suspension will not be lifted until at least twenty (20) days have expired from the effective day of the suspension herein.

ALFRED E. DRISCOLL  
Commissioner.

3. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACTS - DISQUALIFIED STOCKHOLDER - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO PETITION TO LIFT UPON EXPIRATION OF 30 DAYS AND CORRECTION OF ILLEGAL SITUATION.

DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN APPLICATION FOR EMPLOYMENT PERMIT CONCEALING MATERIAL FACTS - PREPARATION AND EXECUTION OF APPLICATION FOR LICENSE CONTAINING FALSE ANSWERS - PERMIT PRIVILEGE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary Proceedings against  
CALDWELL WINE & LIQUOR CO., INC.,  
471 Bloomfield Avenue  
Caldwell, N. J.,

Holder of Plenary Retail Distribution License D-7, issued by the Mayor and Council of the Borough of Caldwell.

In the Matter of Disciplinary Proceedings against  
FRANK R. RICHARD  
57 Park Avenue  
Caldwell, N. J.,

Holder of Employment Permit No. 1494, issued by the State Commissioner of Alcoholic Beverage Control.

CONCLUSIONS  
AND  
ORDER

In the Matter of Disciplinary Proceedings against  
DOLORES BADER  
180 Cabrini Boulevard  
New York City, N. Y.,

Holder of Employment Permit No. 3371, issued by the State Commissioner of Alcoholic Beverage Control.

George R. Sommer, Esq., Attorney for the Defendant-Licensee and Defendant-Permittees.

Richard C. Gossweiler, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee was served with the following charges:

- "1. In your license application dated May 29, 1942, filed with the Mayor and Council of the Borough of Caldwell, upon which Plenary Retail Distribution License D-7 for the

year 1942-43 was granted to you, you, after listing the following as the stockholders in your corporation - Dolores Bader 1 share, Frank Richard 1 share, and John H. Grossman 13 shares - falsely stated 'No' in answer to Question 24 in said application, which question asks: 'Has any stockholder of the applicant corporation any beneficial interest, directly or indirectly, in the stock of any other stockholder of the applicant corporation?', whereas in truth and in fact Dolores Bader and Frank Richard were the real and beneficial owners of stock listed in John H. Grossman's name; such false statement being in violation of R. S. 33:1-25.

"2. On or about August 27, 1942, 86-2/3% of your corporate stock was transferred to Rudolph Bader, a person who has not been a resident of the State of New Jersey for five years continuously immediately prior to said date, an act or happening occurring after the time of the making of your application for license, which, if it had occurred before said time, would have prevented the issuance thereof."

The defendant-licensee pleaded guilty as to charge (1) and not guilty as to charge (2).

It appears that at the time the application in question was filed by the corporate licensee, Dolores Bader and Frank R. Richard were the actual owners of all the corporate stock. Since Dolores Bader resided in New York and Frank R. Richard had only recently taken up his residence in New Jersey, they were disqualified, under the Alcoholic Beverage Law, from holding a liquor license in their own names (see R. S. 33:1-25) or owning more than 10% of the stock of a licensed corporation (see R. S. 33:1-12.1). They concealed the fact that they were the real and beneficial owners of all of the stock in the corporation by having John H. Grossman, a dummy stockholder who had no interest in the licensed business, hold 13 of the 15 shares of stock issued.

As to charge (2): Without reviewing the evidence in detail, I am satisfied that Rudolph Bader had not been a resident of this State for five years continuously immediately prior to August 27, 1942, the date when 86-2/3% of the corporate stock was transferred to him.

I must therefore find the defendant-licensee guilty as to the second charge.

It thus appears that the corporate device was used as an artifice by Dolores Bader and Frank R. Richard to obtain a license which they were then personally ineligible to hold. Rudolph Bader was merely substituted for John H. Grossman as the dummy stockholder. Hence, since the unlawful arrangement still exists, I shall suspend the license for the balance of its term. If, however, a correction is effected by a bona fide sale and transfer, application may be made to me for a lifting of such suspension. In no event, however, will the suspension be lifted until at least thirty days have elapsed from the effective date of the suspension herein imposed. Cf. Re Crown Liquor Store, Inc., Bulletin 549, Item 1.

The defendant-permittee, Frank R. Richard, pleaded guilty to a charge that he falsified his permit application by stating therein that he had no interest in any alcoholic beverage license, whereas, in truth and in fact, he was a stockholder and director of the corporate defendant-licensee.

The defendant-permittee, Dolores Bader, pleaded guilty to a charge that she was the person who executed the license application in question, under oath, containing the false statements as set forth in charge (1) against the defendant-licensee.

The employment permits of Dolores Bader and Frank R. Richard will each be suspended for the balance of the fiscal year, viz., until midnight, June 30, 1943. Cf. Re Solodar and Pell, Bulletin 549, Item 1.

Accordingly, it is, on this 2nd day of February, 1943,

ORDERED, that Plenary Retail Distribution License D-7, heretofore issued by the Mayor and Council of the Borough of Caldwell to Caldwell Wine & Liquor Co., Inc. for premises 471 Bloomfield Avenue, Caldwell, be and the same is hereby suspended for the balance of its term, effective at 1:00 A.M. on February 5, 1943; and it is

FURTHER ORDERED, that upon a correction of the existing unlawful situation by a bona fide sale and transfer, application may be made to me to lift the suspension, provided, however, that such suspension shall not be lifted prior to the expiration of thirty (30) days from the effective date of such suspension; and it is

FURTHER ORDERED, that Employment Permit No. 1494, heretofore issued to Frank R. Richard by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for the balance of its term, effective at 1:00 A.M. on February 5, 1943; and it is

FURTHER ORDERED, that Employment Permit No. 3371, heretofore issued to Dolores Bader by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for the balance of its term, effective at 1:00 A.M. on February 5, 1943.

ALFRED E. DRISCOLL  
Commissioner.

4. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - PERMITTING FEMALE EMPLOYEE TO ACCEPT ALCOHOLIC BEVERAGES AT THE EXPENSE OF A PATRON, IN VIOLATION OF RULE 22 OF STATE REGULATIONS NO. 20 - 20 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against )

RUSSELL C. UTTER )  
T/a CLUB ROYAL )  
938 North Third Street )  
Camden, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-153, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden. )  
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Russell C. Utter, Pro Se.  
Abraham Merin, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee pleaded guilty to charges alleging that he (1) sold, served and delivered alcoholic beverages during prohibited hours, in violation of local regulation, and (2) permitted a female employed

on his licensed premises to accept alcoholic beverages at the expense of a patron, in violation of Rule 22 of State Regulations No. 20.

On August 28, 1942, at about 2:45 A.M., or forty-five minutes past the permissible hour of sale fixed by local ordinance, two ABC agents observed a female employed by the licensee as a waitress, and a man, seated at a table in the service room of the licensed premises. Several empty glasses were on the table. The agents then saw the waitress leave the service room and return with a glass of beer for the man and a drink of whiskey for herself. These drinks were paid for by the customer.

Upon identifying themselves, the agents obtained written statements from the waitress, the male patron and the licensee. In her statement, the waitress admitted that after 2:00 A.M. of the morning in question, she had served both herself and the man, whom she described as her "boy friend", two drinks of alcoholic beverages each.

On the first charge, since the offense occurred prior to my recommendation of increased penalties for violations of closing hour regulations (see Re Disbrow, Bulletin 540, Item 3, dated November 27, 1942), I shall impose a penalty of ten days. Re Morgan, Bulletin 542, Item 10; Re Fiderko, Bulletin 545, Item 8.

As to the second charge, there is no proof that the waitress has made a practice of drinking with male patrons or that she had ever accepted beverages at the expense of anyone other than this man, who admitted in his signed statement that the waitress was his "girl friend." So far as appears from the record, the occasion in question is apparently an isolated one. Under the circumstances, I shall suspend the license for an additional ten days on this charge.

The total suspension of twenty days will be reduced by five days because of the guilty plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 2nd day of February, 1943,

ORDERED, that Plenary Retail Consumption License C-153, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Russell C. Utter, t/a Club Royal, for premises 938 North Third Street, Camden, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 A.M. on February 8, 1943, and terminating at 2:00 A.M. on February 23, 1943.

ALFRED E. DRISCOLL  
Commissioner.

5. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - SALE OF ALCOHOLIC BEVERAGES TO MEMBERS OF THE ARMED FORCES OF THE UNITED STATES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE AND ARMY CURFEW ORDER - 20 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against )

JOHN KEELEY )  
T/a KEELEY'S CAFE )  
2647 Fairmount Avenue )  
Atlantic City, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Board of Commissioners of the City of Atlantic City. )  
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John Keeley, Pro Se.  
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to the following charge:

"After 11:30 P.M. on Friday, November 13, 1942, and before 9:00 A.M. on Saturday, November 14, 1942, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to two persons wearing the uniform of one of the armed forces of the United States of America, viz., United States Army, in violation of an ordinance adopted by the Board of Commissioners of the City of Atlantic City on August 11, 1938, as amended by Section 1 of an ordinance adopted by said Board on September 10, 1942."

The departmental file discloses that at 4:30 A.M. on Saturday, November 14, 1942, two soldiers were observed on the premises of the defendant-licensee. One of the soldiers was drinking beer at the bar. The other was sitting at a table with a woman. The soldier at the table admitted in a signed statement having a couple of beers, one at 11:30 P.M. sharp and another one shortly thereafter. He states he drank it down quickly because the licensee told him it was after hours and he didn't want the MP's to walk in on him. The bartender admitted that a glass of beer was consumed by each of the soldiers after 11:30 P. M.

I am heartily in accord with the fine purpose which motivated the Board of Commissioners of Atlantic City in adopting, with the approval of the military authorities, the curfew ordinance relative to men in the armed services.

The military authorities in Atlantic City have publicly stated their position with respect to the hours within which alcoholic beverages may be sold to men in the service. The ordinance in question was amended with the approval of the commanding officer of the Post for the express purpose of lending civilian support to the policy of the army in Atlantic City. Licensees, if they wish to stay in business, must obey the letter and spirit of the law. It is their further duty to comply with and support to the fullest the announced

orders and regulations of the military authorities. I shall suspend the license for twenty days and, in view of the guilty plea, five days of this penalty will be remitted, leaving a net suspension of fifteen days.

Accordingly, it is, on this 3rd day of February, 1943,

ORDERED, that Plenary Retail Consumption License C-2, heretofore issued to John Keeley, trading as Keeley's Cafe, by the Board of Commissioners of the City of Atlantic City, for premises 2647 Fairmount Avenue, Atlantic City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 12:01 A.M. on February 9, 1943, and terminating at 12:01 A.M. on February 24, 1943.

ALFRED E. DRISCOLL  
Commissioner.

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 15 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary )  
Proceedings against )

ROLAND FARMER )  
T/a THE SPOT )  
545-47 Liberty Street )  
Camden, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-55, issued by the )  
Municipal Board of Alcoholic )  
Beverage Control of the City of )  
Camden. )  
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Isadore H. Hermann, Esq., Attorney for Defendant-Licensee.  
Abraham Merin, Esq., Attorney for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to the following charges:

"1. On or about December 1, 1942 you sold alcoholic beverages at your licensed premises to Randolph....., a minor, in violation of R. S. 33:1-77.

"2. On or about the date aforesaid, and on divers days prior thereto, you sold, served and delivered, and allowed, permitted and suffered the service and delivery of alcoholic beverages at your licensed premises to Randolph...., a person under the age of twenty-one (21) years, in violation of Rule 1 of State Regulations No. 20."

On December 1, 1942 Randolph...., who was then intoxicated, was apprehended by the Camden Police on one of the streets of that city. Randolph stated that, earlier on the same day, he had visited defendant's premises twice, and that on each of his visits he had purchased a pint of port wine from the bartender. He also stated that, on a prior date, he had purchased a bottle of wine at defendant's premises. Investigation on behalf of the Department revealed that the minor was approximately twenty years and four months of age

at the time of these purchases. It appears that, on December 1, 1942, the minor told the bartender that he was twenty-one years of age. However, a sale to a minor may not be excused unless the licensee has shown compliance with all the provisions of R.S. 33:1-77.

The minimum penalty for sales to minors is ten days. However, because of the aggravated circumstances of this case, I shall suspend the license for a period of fifteen days. In view of the guilty plea, five days of the penalty will be remitted.

Accordingly, it is, on this 3rd day of February, 1943,

ORDERED, that Plenary Retail Consumption License C-55, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Roland Farmer, t/a The Spot, for premises 545-47 Liberty Street, Camden, be and the same is hereby suspended for ten (10) days, commencing at 2:00 A.M. February 9, 1943, and terminating at 2:00 A.M. February 19, 1943.

ALFRED E. DRISCOLL  
Commissioner.

7. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN LICENSE APPLICATION  
CONCEALING MATERIAL FACTS - FAILURE TO FILE WITH ISSUING AUTHORITY  
NOTICE OF CHANGE OF FACTS, IN VIOLATION OF R.S. 33:1-34 - LICENSE  
SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO PETITION TO LIFT UPON  
EXPIRATION OF 30 DAYS AND CORRECTION OF ILLEGAL SITUATION.

In the Matter of Disciplinary )  
Proceedings against )

DELMOR, INC., )  
E-122 Route 4, )  
Paramus, R. D. 1, )  
Hackensack, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-9, issued by the )  
Borough Council of the Borough )  
of Paramus, N. J. )  
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Marcus Mandelbaum, Esq., Attorney for Defendant-Licensee.  
Richard C. Gossweiler, Esq., Attorney for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to the following charges:

"1. In your application filed with the Borough Council of the Borough of Paramus and upon which you obtained your current plenary retail consumption license, you, after listing the following as the stockholders in your corporation -- Reginald Ryerson 4 shares, Benjamin Olstein 92 shares, and Beulah Diamond 4 shares -- falsely stated 'No' in answer to Question 24, which asks: 'Has any stockholder of the applicant corporation any beneficial interest, directly or indirectly, in the stock of any other stockholder of the applicant corporation?', whereas in truth and fact Reginald Ryerson was the real and beneficial owner of all of the stock listed in Benjamin Olstein's name; such false statement being in violation of R. S. 33:1-25.

"2. You failed to file with the Borough Council of the Borough of Paramus within ten days after the occurrence thereof, a written notice of the changes occurring in the facts as set forth in your aforesaid license application, those changes being that on August 24, 1942 Joseph Rosenberg and Helen Dubow were made officers and directors of your corporation in the place and stead of Reginald Ryerson, Benjamin Olstein and Beulah Diamond, and also that, on the date aforesaid, Joseph Rosenberg and Helen Dubow each became the holder of fifty per cent of the capital stock of your corporation, with the stock thus listed in Helen Dubow's name being beneficially and actually owned by Philip Dubow; your failure to file the aforesaid notice being in violation of R.S. 33:1-34."

The departmental file discloses that the licensee corporation first secured a license in 1933. In May of 1942 one Reginald Ryerson, a non-resident, purchased the interest of the former stockholders in the corporation. Being disqualified from holding more than ten per cent of the corporate stock, he, accordingly, arranged to have two "dummies" hold all but four per cent of the same for him.

On August 24, 1942 Ryerson sold his interest in the business to Joseph Rosenberg and Helen Dubow, each of whom became the record holders of fifty per cent of the stock and were duly elected directors and officers in the corporation. Apparently they knew that Ryerson was the real owner of the corporate stock since all their dealings were with him and they had no contact or relationship concerning the negotiation of transfer of stock with the two "dummy" stockholders. This change of interest of the stockholdings in the corporation was not reported to the issuing authority as required. See R. S. 33:1-34. It appears further that Helen Dubow held the stock for her husband, Philip Dubow, who believed he was disqualified from holding the stock since he was a Polish national. In fact, however, he was not disqualified by virtue of a reciprocal trade treaty between the United States and Poland. Re Guskind, Bulletin 130, Item 5.

The existing "front" situation not having been corrected, I have no other alternative than to suspend the operation of the license for the balance of the term.

Accordingly, it is, on this 2nd day of February, 1943,

ORDERED, that Plenary Retail Consumption License C-9, heretofore issued by the Borough Council of the Borough of Paramus to Delmor, Inc. for premises E-122 Route 4, Paramus, P.O. R.D. 1, Hackensack, be and the same is hereby suspended for the balance of the term, effective immediately; and it is

FURTHER ORDERED, that if and when the "front" is corrected or a transfer of the license to a duly qualified person is granted by the local issuing authority, application may be made to me by said purchaser to vacate said suspension; provided, however, that in no event shall said suspension be vacated prior to the expiration of thirty (30) days from the effective date hereof.

ALFRED E. DRISCOLL  
Commissioner.

- 8. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY CLUB LICENSEE DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - SALE OF ALCOHOLIC BEVERAGES TO NON-MEMBERS, IN VIOLATION OF RULE 5 OF STATE REGULATIONS NO. 7 - SALE OF ALCOHOLIC BEVERAGES TO MINOR - FALSE ANSWER IN LICENSE APPLICATION - PREVIOUS RECORD. - 60 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against  
 POLISH AMERICAN CITIZENS' CLUB  
 1559 Mt. Ephraim Avenue  
 Camden, N. J.,  
 Holder of Club License CB-32,  
 issued by the Municipal Board of  
 Alcoholic Beverage Control of the  
 City of Camden.

CONCLUSIONS  
 AND ORDER

William H. J. Burton, Esq., Attorney for Defendant-Licensee.  
 Abraham Merin, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to charges alleging that (1) on Sunday, December 20, 1942, it sold alcoholic beverages after 2:00 A. M. in violation of a local ordinance; (2) on the same day it sold alcoholic beverages to persons other than bona fide members and their bona fide guests in violation of Rule 5 of State Regulations No. 7; (3) on said date it sold alcoholic beverages to Stefan ----, a minor, in violation of R. S. 33:1-77; (4) on said date it delivered alcoholic beverages to, and permitted the consumption of alcoholic beverages by, said minor, in violation of Rule 1 of State Regulations No. 20; and (5) in its license application dated June 11, 1942 it falsely denied that its license had ever been suspended.

On Sunday, December 20, 1942, at about 1:30 P.M., two investigators of the Department of Alcoholic Beverage Control, who were not members or guests of any member of defendant club, entered the licensed premises. They observed men at the bar drinking. Shortly thereafter, the investigators went to the bar and purchased drinks of alcoholic beverages. They also observed a minor, Stefan ----, consuming a glass of beer.

As to penalty: The licensee has a prior record. In May 1938 the local issuing authority suspended its license for five days for selling alcoholic beverages during prohibited hours on Sunday and permitting gambling on the licensed premises. In June 1939 the local issuing authority suspended its license for seven days for selling alcoholic beverages during prohibited hours on Sunday. Since this is a third violation, the penalty herein might well be a revocation of defendant's license. However, I note that the suspension in June 1939 concerned a violation which occurred in December 1938, approximately four years prior to the violations herein considered. I shall give the licensee one more chance. Taking into consideration the prior record, its license will be suspended for thirty days because of the violation set forth in charge (1). Its license will be suspended for an additional fifteen days because of the violation set forth in charge (2); for an additional ten days because of the single violation set forth in charges (3) and (4); and for an additional five days because of the violation set forth in charge (5). From

this total suspension of sixty days, five days will be remitted for the guilty plea, making a net suspension of fifty-five days.

Accordingly, it is, on this 3rd day of February, 1943,

ORDERED, that Club License CB-32, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Polish American Citizens' Club, for premises 1559 Mt. Ephraim Avenue, Camden, be and the same is hereby suspended for fifty-five days, commencing at 2:00 A.M. February 9, 1943, and terminating at 2:00 A.M. April 5, 1943.

ALFRED E. DRISCOLL  
Commissioner.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES FROM DELIVERY TRUCK UPON PUBLIC HIGHWAY, IN VIOLATION OF R.S. 33:1-2 - PREVIOUS RECORD - 15 DAYS' SUSPENSION.

SEIZURE - FORFEITURE PROCEEDINGS - FACTS EXAMINED - SEIZED ARTICLES ORDERED RETURNED UPON PAYMENT OF COSTS OF SEIZURE AND STORAGE.

In the Matter of Disciplinary Proceedings against )

JOHN BODNAR )  
913 Pine Street )  
Lawrence Township )  
P.O. Trenton, N. J., )

Holder of Plenary Retail Distribution License D-2 for the current fiscal year, issued by the Township Committee of the Township of Lawrence. )

CONCLUSIONS  
AND ORDER

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Case No. 6304 )  
In the Matter of the Seizure on July 24, 1942 of a Dodge truck and a quantity of alcoholic and other beverages contained therein, at or near the intersection of Southard and Princeton Avenues, in the City of Trenton, County of Mercer and State of New Jersey. )

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Felcone & Felcone, Esqs., by Joseph J. Felcone, Esq., Attorneys for Defendant-Licensee.  
Abraham Merin, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

These cases involve the same facts, hence may be decided together.

The defendant-licensee, who holds a plenary retail distribution license, was served with the following charge:

"On or about July 24, 1942, and on divers days prior thereto, you transported, possessed with intent to sell and sold alcoholic beverages, in and about the Township of Lawrence and the City of Trenton, New Jersey, beyond the terms and scope of your plenary retail distribution license, in that you peddled

such beverages from door to door and sold such beverages from an auto truck on the public highway off your licensed premises; such transportation, possession and sale being in violation of R. S. 33:1-2."

The defendant-licensee admits that on July 24, 1942 his driver, John Krysianda, sold a case of beer to an ABC agent directly from the licensee's Dodge delivery truck, parked at or near the intersection of Southard and Princeton Avenues, in Trenton. When the sale was completed the agent disclosed his identity and seized the truck and all the beverages therein.

The defendant-licensee claims that Krysianda left the licensed premises with a load of alcoholic beverages to be delivered only to customers who had "standing orders"; that Krysianda sold the beer to the agent without Bodnar's knowledge and consent, and in violation of his express instructions not to sell alcoholic beverages in that manner.

Bodnar states that the reason he was so insistent in his warnings to Krysianda was that his license was suspended by the local issuing authority in June 1942 for three days for peddling alcoholic beverages; that at that time he told the licensing authorities that he did not fully understand the law and asked them what steps he should take to keep out of similar trouble in the future; that he was informed that he could only deliver alcoholic beverages to customers from whom he had previous bona fide orders for such liquor. Bodnar says that he tried scrupulously to obey these instructions by listing customers who had "standing orders" in a route book; that he gave Krysianda this book when the truck was loaded with alcoholic beverages, with strict instructions to make deliveries only to the places there indicated.

It appears that when the ABC agent first approached Krysianda he refused to sell him the beer. He stated he could not serve anyone except a customer who had a "standing order", but that if the agent would then and there give him an order for a weekly delivery of beer he would make the first delivery immediately. The agent gave Krysianda such an order and purchased a case of beer.

It appears further that on the same day Krysianda accepted original orders for alcoholic beverages given by customers at their homes and immediately delivered such orders from the truck. Two of these customers gave written statements to ABC agents. One customer declared that she bought some beer that day, after a young man approached her on her porch and asked her if she was the lady who wanted beer and that she said, "Bring me a case of beer and a case of soda every week." The other customer stated that on the day in question, a young man came to her front door, said that someone had sent him and asked her if she wanted any beer; that she gave him an order for a case of beer, which was delivered from the truck, and that this was the first time that she had bought beer from this person. Both of these customers say that they did not know the name of the concern by whom this young man was employed. Statements of two other customers to whom so-called "standing orders" of alcoholic beverages were delivered on that day show that Krysianda obtained their original orders in the same manner, that is, at their homes.

Some of these customers' names appear in Bodnar's route book, although Bodnar says that he is quite certain that Krysianda did not tell him that he had picked up these customers on the route.

I am therefore satisfied that it was a practice in the licensee's business for Krysianda to accept original orders for alcoholic beverages at places other than the licensed premises and immediately to fill these orders directly from a delivery vehicle. Whether this practice was carried on because Bodnar hoped to evade the law or because Krysianda was careless and did not comply with his employer's

instructions is immaterial. The evidence shows that Bodnar knew or at least should have known that Krysianda was accepting orders on the route and making immediate delivery. There can be no perambulating licensed premises from which alcoholic beverages may be sold. Re Anderson, Bulletin 465, Item 5. The privilege afforded retail licensees, under R.S. 33:1-28, to use their licensed vehicles to deliver their customers' purchases may not be used as a means to cover peddling of alcoholic beverages. Re Goncharoff, Bulletin 544, Item 1.

I find that the licensee used his truck to transport alcoholic beverages intended for sale directly therefrom, and that, in fact, a number of sales were actually made from such truck on the date in question. The licensee is guilty as charged. Since this is a second similar violation, I shall suspend the license for fifteen days.

At the same time that the disciplinary proceedings were instituted, seizure proceedings were brought, pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes, to determine whether the seized Dodge truck and beverages should be forfeited.

The Dodge truck was returned to its owner, John Bodnar, upon payment, under protest, pursuant to R. S. 33:1-66, of its appraised value of \$400.00. Licensee has stipulated that the Commissioner should determine, in these proceedings, whether this money should be returned to him. Likewise, the licensee, who is the owner of the alcoholic and other beverages seized, seeks their return.

The transportation of alcoholic beverages, with intent to sell the same upon the public highway, as well as the actual sales found to have taken place, were contrary to the terms of the defendant's license and unlawful. The seized alcoholic beverages are therefore illicit. R. S. 33:1-1(i); R. S. 33:1-2. The law further provides (R. S. 33:1-66) that the vehicle containing the same is subject to forfeiture.

I am authorized to return seized or forfeited property where it appears to my satisfaction that the person seeking its return has unwittingly violated the law while acting in good faith. R.S.33:1-66(e). Since, so far as the seizure case is involved, the cases are similar, I shall give the defendant-licensee the same relief in the seizure proceedings as was granted to the licensee in the Goncharoff case, supra.

Accordingly, the money on deposit covering the value of the truck, after deducting the costs of seizure and storage, and also the alcoholic and other beverages, will be returned to John Bodnar.

Accordingly, it is, on this 3rd day of February, 1943,

DETERMINED AND ORDERED, that there shall be deducted from the \$400.00 paid by John Bodnar the costs due, paid or incurred in connection with the seizure and storage of the Dodge truck and beverages. The balance of the money deposited, as well as the seized beverages, are to be returned to John Bodnar; and it is further

ORDERED, that Plenary Retail Distribution License D-2, heretofore issued by the Township Committee of the Township of Lawrence to John Bodnar for premises 913 Pine Street, Lawrence Township, P. O. Trenton, be and the same is hereby suspended for a period of fifteen (15) days, commencing February 9, 1943, at 2:00 A.M., and terminating February 24, 1943, at 2:00 A. M.

*Alfred E. Buscill*  
Commissioner.

CHECKED BY No. 1

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