

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

BULLETIN 518

JUNE 30, 1942.

1. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - DISCREPANCY IN PROOF AND SOLID CONTENT - PERMITTING KNOWN PROSTITUTES ON LICENSED PREMISES - PERMITTING LEWDNESS AND IMMORAL ACTIVITY ON LICENSED PREMISES - FRONT - FALSE STATEMENTS IN LICENSE APPLICATIONS CONCEALING THE INTEREST OF ANOTHER - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - LICENSE REVOKED.

APPLICATION TO RETRACT GUILTY PLEA - DENIED.

In the Matter of Disciplinary )  
Proceedings against )

JOSEPH SHER, )  
2 Smith Street, )  
Perth Amboy, N. J., )

Holder of Plenary Retail Consump- )  
tion License C-73, issued by the )  
Board of Commissioners of the )  
City of Perth Amboy, and trans- )  
ferred during the pendency of )  
these proceedings to )

JACOB SHER, )

for the same premises. )  
----- )

CONCLUSIONS  
AND ORDER

Isadore Rosenblum, Esq., Attorney for Defendant-Licensee,  
Joseph Sher, and for Jacob Sher.  
Abraham Merin, Esq., Attorney for State Department of  
Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee was served with charges alleging that he (1) possessed an illicit alcoholic beverage in that a bottle found on his licensed premises varied in proof and solid content with an original sample thereof, in violation of R. S. 33:1-50; (2) without a proper license therefor, refilled the said bottle, in violation of R. S. 33:1-78; (3) permitted known prostitutes on his licensed premises, in violation of Rule 4 of State Regulations No. 20; and (4) permitted lewdness and immoral activities on his licensed premises, in violation of Rule 5 of State Regulations No. 20.

Licensee pleaded nolo contendere to the first two charges and guilty to the last two charges.

As to (1) and (2): On August 28, 1941, Federal agents seized a bottle of Seagram's Seven Crown Blended Whiskey 90 Proof, which, upon analysis by the Federal chemist, was found to be about fourteen points under in proof and to contain about four times the usual amount of solids. The chemist testified that, in his opinion, the bottle had been refilled with whiskey other than that called for by the label.

As to (3) and (4): The Department's evidence, as appears from the reports of investigators and a written statement of one of the prostitutes frequenting this tavern, is so vile and disgusting that it would be distasteful, to say the least, to outline it herein in any detail. The licensed premises, consisting of a store located on the ground floor of a four-story building, are situated on the waterfront. The upper stories, once used as a hotel, now contain cheap lodging rooms tenanted by white and colored people. The tavern is a hang-out for prostitutes, most of them being colored. These prostitutes solicit men at the tavern for immoral purposes, the men first purchasing liquor from the licensee and then being taken by the prostitutes to the rooms above the tavern. Most of the conversation at the tavern relates to sex and is of the gutter type, with the bartender frequently taking part therein. One investigator attempted to purchase a contraceptive from the bartender but was told that there were none in stock at the time.

Enough has been shown to demonstrate that this place is a "waterfront dive" that should not be permitted the privilege of dispensing alcoholic beverages. The unholy union of vice and liquor will not be tolerated on licensed premises. Licensees must either clean up their premises or get out of business.

As a result of certain testimony given by the licensee at the hearing on the aforesaid charges, supplemental charges were brought alleging that (1) the licensee falsified his license applications by denying that anyone other than himself was interested in the license or business conducted thereunder whereas Jacob Sher, his father, was the real owner of the license and business, in violation of R. S. 33:1-25, and (2) he permitted Jacob Sher to exercise the privileges of his license contrary to R. S. 33:1-26, in violation of R. S. 33:1-52.

In these supplemental charges the licensee pleaded guilty, admitting that he had held the license as a "front" for his father ever since Repeal because his father wished to conceal his assets from his creditors. Jacob Sher corroborated the testimony of his son. However, in 1937, during the course of an investigation made by this Department, Jacob Sher signed a statement in which he said, "I am employed by my son as manager of the licensed premises." When confronted with this statement, Jacob Sher admitted that he had deliberately lied when making that statement.

Upon consideration of all the circumstances, it is apparent that the only penalty commensurate with the gravity of the violations herein charged is an outright revocation of the license.

One further point deserves mention. At the conclusion of the case, licensee's attorney requested permission to retract the guilty plea to charges (3) and (4) and to defend them on the merits. The reasons given were, first, that "certain information" had come to his attention, and second, that in view of the developments resulting in the bringing of the supplemental charges, he believed that a more serious penalty would be inflicted than was originally anticipated. As to the first reason, the attorney admitted that the "certain information" was available to him and the licensee prior to the entry of the guilty plea to the charges in question. As to the second reason, a licensee should not be allowed to play fast and loose with the Department. He may not speculate on the penalty that may be meted out to him and then, when realizing that the Department's evidence merits a sterner penalty, be allowed to nullify his voluntary admission as to the truth of the charges. His request was properly denied.

Since these proceedings were instituted, the license has been transferred to Jacob Sher by the local issuing authority. Such transfer, however, does not bar or abate these proceedings and the license as transferred remains subject to the penalty herein imposed. See State Regulations No. 15.

Accordingly, it is, on this 18th day of June, 1942,

ORDERED, that Plenary Retail Consumption License C-73, heretofore issued by the Board of Commissioners of the City of Perth Amboy to Joseph Sher for premises 2 Smith Street, Perth Amboy, and transferred during the pendency of these proceedings to Jacob Sher, for the same premises, be and the same is hereby revoked, effective immediately.

ALFRED E. DRISCOLL,  
Commissioner.

2. LICENSEES - INDUCTION INTO MILITARY SERVICE - RE POWER OF ATTORNEY.

June 18, 1942

Miss Mary E. McGee,  
Borough Clerk,  
Palisades Park, N. J.

Dear Madam:

Your letter of June 15th re power of attorney of August E. Boesch has been referred to the writer for reply.

It is noted that Boesch was recently inducted into the army and by power of attorney dated May 25th has constituted Philip John Schulz his attorney-in-fact to maintain a bank account in the National Bank of Palisades Park in the name of August E. Boesch and to make deposits therein and withdrawals therefrom in the name of Philip John Schulz, attorney-in-fact.

Since the power of attorney gives the attorney-in-fact no power to conduct the licensed business, make applications for licenses and do whatever else is needful in the conduct of the licensed business, as indicated in Re Mills, Bulletin 512, Item 1, it is disapproved.

In accordance with your request, the power of attorney is returned herewith.

Very truly yours,  
ALFRED E. DRISCOLL,  
Commissioner.

By: Emerson A. Tschupp,  
Attorney.

3. DISCIPLINARY PROCEEDINGS - SUSPENSION STAYED PENDING APPLICATION FOR WRIT OF CERTIORARI.

In the Matter of Disciplinary Proceedings against )  
 GRANT LUNCH CORPORATION, )  
 197-199-201 Market Street )  
 and 6-8 Beaver Street, )  
 Newark, N. J., )  
 Holder of Plenary Retail Consump- )  
 tion License C-57, issued by the )  
 Municipal Board of Alcoholic )  
 Beverage Control of the City of )  
 Newark. )  
 - - - - - )

ORDER

It appearing that by Conclusions and Order herein dated June 12, 1942, the license of Grant Lunch Corporation was suspended for five days commencing June 22, 1942 at 2:45 A.M. and terminating June 27, 1942 at 2:45 A.M.; and

It further appearing that the licensee has by duly verified petition declared its intention to institute and prosecute with due diligence all appropriate applications and proceedings to review said Conclusions and Order, it is, therefore,

ORDERED, that the order of suspension heretofore entered herein be and the same is hereby stayed until the final determination of any and all applications and proceedings for review and reversal of said order; on condition, however, that application for a writ of certiorari shall be made to the New Jersey Supreme Court within twenty days from the date hereof and thereafter prosecuted with diligence.

ALFRED E. DRISCOLL,  
Commissioner.

Dated: June 17, 1942.

4. CROWNS - HEREIN OF THE USE OF SURPLUS CROWNS.

June 18, 1942

The William Peter Brewing Corporation,  
Union City, N. J.

Gentlemen:

We note that you have surplus crowns in the amount of 1150 gross bearing the inscription "Peter Sparkling Ale"; approximately 200 gross inscribed "Peter Dark Beer", and approximately 275 gross "Porter" crowns. We also note that you have a shortage of Light Beer crowns.

Subject to the approval of the Alcohol Tax Unit of the Treasury Department, Internal Revenue Service, having been first sought and obtained, we will permit you to use crowns, not to exceed the amounts indicated in your letter of June 17th, on Light Beer and Ale, provided the bottles are otherwise properly labeled, and provided further that suitable markings have been affixed to the crowns,

thereby voiding the information presently contained thereon with respect to Sparkling Ale, Porter and Dark Beer.

In other words, you must take whatever steps are necessary to avoid any confusion on the part of the consuming public or licensees who may sell your products.

It is suggested that you forward specimen crowns after the above mentioned corrections have been made.

In the event that your company desires to use crowns of a type other than those referred to in your letter, or in excess of the amount now indicated, it is understood that you will once again seek our approval to do so.

Very truly yours,  
ALFRED E. DRISCOLL,  
Commissioner.

5. ELIGIBILITY - GAMBLING - NO PROOF OF COMMERCIAL ACTIVITY - VIOLATION OF LIQUOR LAWS DURING PROHIBITION - NOT MORAL TURPITUDE IN INSTANT CASE - APPLICANT NOT DISQUALIFIED BY SUCH CONVICTIONS.

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

CONCLUSIONS  
AND ORDER

Case No. 215.  
- - - - - )

BY THE COMMISSIONER:

In 1921 petitioner was convicted in police court of being a gambling house proprietor and paid a fine of \$10.00. In February 1933 he was convicted in a Federal court of violating the Prohibition law, sentenced to pay a fine of \$150.00 and to serve fifteen days in jail. These are his only convictions of crime of record, although between 1921 and 1933 he was arrested on three other occasions, on complaint that he was a disorderly person; that he violated the liquor laws; and that he was a gambling house proprietor. These charges were all dismissed.

Petitioner says that these incidents occurred while he was conducting a "speakeasy" during Prohibition; that he was fined \$10.00 for playing a sociable game of cards for small stakes with a friend in his tavern; that the dismissed disorderly person charge actually involved an alleged liquor violation; that the dismissed gambling house proprietor charge, made nine years after the first charge, likewise involved a friendly game of cards; and that the two Prohibition law violation charges involved alleged sales of liquor in his "speakeasy."

The light fine imposed in the gambling case tends to corroborate petitioner's story. Apparently, gambling on a commercial scale was not involved. Hence this conviction did not involve moral turpitude. Cf. Re Case No. 143, Bulletin 500, Item 6.

Petitioner's conviction in 1933 of violating the liquor laws likewise does not involve the element of moral turpitude, since it was a run-of-the-mill Prohibition violation. Cf. Re Case No. 366, Bulletin 445, Item 10.

It thus appearing that, under the aforesaid rulings, petitioner has not been convicted of a crime involving moral turpitude within the meaning of the Alcoholic Beverage Law, his criminal record does not peremptorily disqualify him from engaging in the liquor industry in this State.

This merely means that he is not automatically barred from the liquor industry by the statute. (R. S. 33:1-25, 26). In this connection I note that petitioner, while not now in the liquor business, has, since Repeal, held various liquor licenses issued to him by the municipality wherein he resides. He says that he disclosed his convictions in an application for a license in 1940, but is uncertain whether he made such disclosure in other applications.

Whether petitioner is personally fit to hold a liquor license is entirely apart from the present ruling that he has not been convicted of a crime involving moral turpitude. If petitioner hereafter applies for a liquor license or permit, the issuing authority should consider his entire record in order to determine for itself whether, in its opinion, he is personally fit to hold such license.

In view that his convictions do not involve the element of moral turpitude, it is unnecessary to pass upon his present pending petition for removal of any disqualification. See R.S. 33:1-31.2. See Re Case No. 191, Bulletin 511, Item 5.

ALFRED E. DRISCOLL,  
Commissioner.

Dated: June 18, 1942.

6. DISCIPLINARY PROCEEDINGS - TRANSPORTATION OF ALCOHOLIC BEVERAGES, IN VIOLATION OF R. S. 33:1-2, DURING THE PERIOD LICENSEE'S SPECIAL PERMIT WAS UNDER SUSPENSION - PERMIT REVOKED.

In the Matter of Disciplinary )  
Proceedings against )

MABEL D. BRYANT,  
928 Prince Ave.,  
Petersburg, Va., )

CONCLUSIONS  
AND ORDER

Holder of Special Permit )  
TO No. 385 issued by the State )  
Commissioner of Alcoholic )  
Beverage Control. )  
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Abraham Merin, Esq., Attorney for the State Department of  
Alcoholic Beverage Control.

BY THE COMMISSIONER:

The permittee was charged with transporting alcoholic beverages in violation of R. S. 33:1-2 while her special permit, authorizing such transportation, was under suspension.

The permittee holds a "pick-up" permit authorizing transportation of alcoholic beverages from the licensed premises of New Jersey manufacturers or wholesalers to points outside New Jersey. Following cancellation of permittee's surety bond for the payment of any taxes that might accrue, the New Jersey State Tax Department requested that

a new bond be posted and, upon the permittee's non-compliance, requested that the permit be suspended or revoked. At a hearing duly held on charges alleging failure to post satisfactory security with the State Tax Department, the permittee failed to appear, whereupon an order was entered suspending the permit for the balance of the term, effective March 2, 1942.

Notwithstanding suspension of the permit and advice to the permittee that any alcoholic beverage activity pursuant to the permit during the period of suspension would be cause for revocation, the permittee continued to pick up and transport alcoholic beverages during the months of March and April 1942 to the extent of 2750 cases and 445 half barrels of beer, hence the charges in the instant case.

At a hearing duly held, postponed from the original hearing date to give the permittee an opportunity to appear and defend, the permittee failed to appear.

Accordingly, it is, on this 19th day of June, 1942,

ORDERED, that Special Permit TO No. 385, heretofore issued to Mabel D. Bryant, 928 Prince Avenue, Petersburg, Va., by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby revoked, effective immediately.

ALFRED E. DRISCOLL,  
Commissioner.

7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against )

PAUL M. LEVIN,  
T/a BOND LIQUOR,  
2102 Atlantic Ave.,  
Atlantic City, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distribution License D-27, issued by the Board of Commissioners of the City of Atlantic City. )  
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Frank S. Farley, Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant has pleaded guilty to a charge of selling one half-gallon bottle of Garrett's American Sauterne Wine below the Fair Trade price, in violation of Rule 6 of State Regulations No. 30.

On February 20, 1942, the date of the sale, the minimum consumer price for the item in question was \$1.64. See Bulletin 480. An investigator of this Department purchased the item for \$1.50.

The defendant has no previous record with the Department of any violation of either the law or the rules and regulations. The

evidence is in conflict with respect to the question of whether the violation was deliberate and made with the intention to "chisel." As a result of the doubt that exists with respect to the character of the violation, I shall impose the minimum penalty of ten days, less five days for the guilty plea.

Accordingly, it is, on this 19th day of June, 1942,

ORDERED, that Plenary Retail Distribution License D-27, heretofore issued to Paul M. Levin, t/a Bond Liquor, by the Board of Commissioners of the City of Atlantic City, for premises at 2102 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for a period of five (5) days, commencing at 7:00 A.M., June 23, 1942, and concluding at 7:00 A.M., June 28, 1942.

ALFRED E. DRISCOLL,  
Commissioner.

8. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - DELIBERATE VIOLATION - PREVIOUS RECORD - 25 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary )  
Proceedings against )

ALEXANDER ZOLNERCHIK,  
477 Avenue C,  
Bayonne, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Con- )  
sumption License C-31, issued )  
by the Board of Commissioners )  
of the City of Bayonne. )  
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Alexander Zolnerchik, Pro Se.  
G. George Addonizio, Esq., Attorney for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The defendant-licensee has pleaded guilty to the charge of selling one pint bottle of Kessler's Private Blend Blended Whiskey below the minimum Fair Trade price in violation of Rule 6 of State Regulations No. 30.

Departmental file discloses that on April 22, 1942 the defendant-licensee sold a pint bottle of Kessler's Whiskey for \$1.35. The minimum consumer price for the item was \$1.38. See Bulletin 489. In a signed statement the licensee admitted the sale of the liquor for \$1.35 and further admitted that he knew it was three cents below the Fair Trade price.

The defendant-licensee has never before been guilty of a Fair Trade violation. Under ordinary circumstances I would impose a fifteen-day suspension of the license for this apparently deliberate violation of the Regulation. However, the defendant has a previous record. In 1936 his license was suspended for the sale of illicit alcohol. In 1939 a further suspension of the license privileges was incurred by the defendant for sale of alcoholic beverages on Sunday during prohibited hours.

It is apparent that the licensee has had too little regard for the laws governing the sale of alcoholic beverages. I therefore shall suspend his license for a period of twenty-five days, with a remission of five days for the guilty plea. It is my hope that this penalty will apprise the defendant of the fact that the Rules and Regulations governing the sale of alcoholic beverages must be observed.

Since there are not sufficient days left in the current licensing year (which ends June 30) for the twenty-day suspension to be served, I shall suspend the defendant's present license for the balance of its term and shall direct that any license issued to the defendant, or anyone else, for the premises in question for 1942-43 be under suspension until the full period of twenty days has elapsed.

Accordingly, it is, on this 22nd day of June, 1942,

ORDERED, that Plenary Retail consumption License C-31, heretofore issued by the Board of Commissioners of the City of Bayonne to Alexander Zolnerchik for 477 Avenue C, Bayonne, be and the same is hereby suspended for the balance of its term, effective June 24, 1942, at 3:00 A.M.; and it is further

ORDERED, that if any license be issued to this licensee, or other person, for the premises in question for the 1942-43 fiscal year, such license shall be under suspension until 7:00 A.M. July 14, 1942.

ALFRED E. DRISCOLL,  
Commissioner.

9. ORDER LIMITING SUSPENSION - ILLEGAL SITUATION CORRECTED (SEE BULLETIN 516, ITEM 7).

In the Matter of Disciplinary )  
Proceedings against )

PHILIP WINBURN BIARD,  
172 William St., )  
East Orange, N. J., )

ON PETITION  
ORDER

Holder of Solicitor's Permit )  
No. 648, heretofore issued by )  
the State Commissioner of )  
Alcoholic Beverage Control. )  
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BY THE COMMISSIONER:

Heretofore, in this case, the defendant's permit to work as a solicitor for a brewery was suspended for the balance of its term, effective June 22, 1942. See Re Biard, Bulletin 516, Item 7.

Such suspension was imposed after the defendant had been found guilty of (1) violating R. S. 33:1-25 by failing to disclose in his permit application that, in addition to his employment as solicitor for the brewery, he was also working at week-ends as a musician for a retail liquor licensee, and (2) violating R. S. 33:1-43 (the so-called "tied house" provision) by such dual employment for both a brewery and a retailer.

However, in view of all the facts in the case, it was provided in the order of suspension that, if the defendant actually ceased his employment for the retailer, the suspension would then be lifted after two (2) days thereof had been served.

It now appears, from a verified petition filed by the defendant, that he has ceased any and all connection with the retailer.

Accordingly, it is, on this 22nd day of June, 1942,

ORDERED, that the suspension heretofore imposed upon the defendant's permit for the balance of its term, effective 12:01 A.M. June 22, 1942, shall continue for a period of only two (2) days and shall expire at 12:01 A.M. June 24, 1942.

ALFRED E. DRISCOLL,  
Commissioner.

10. APPEAL DISMISSED - HARRY'S LIQUOR STORE, INC. v. BAYONNE.

HARRY'S LIQUOR STORE, INC., )  
Appellant, )  
-vs- )  
BOARD OF COMMISSIONERS OF THE )  
CITY OF BAYONNE, )  
Respondent. )  
-----)

ON APPEAL  
ORDER

Hyman Tulbowitz, Esq., Attorney for Appellant.  
John J. Pagano, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

Appellant having appealed from a suspension imposed against it by respondent for a period of fifteen days, to commence May 25, 1942; and

Upon filing said appeal a stay of said suspension having been granted by order dated May 23, 1942; and

A stipulation of discontinuance of said appeal having been filed herein, duly consented to by the attorneys for the respective parties, and no cause appearing to the contrary,

It is, on this 22nd day of June, 1942,

ORDERED, that the within appeal be and the same is hereby dismissed; and it is further

ORDERED, that the aforesaid fifteen-day suspension be and the same is hereby reinstated, effective June 29, 1942, at 3:00 A.M.; and it is further

ORDERED, that any further license issued to appellant, or any other person, for the premises in question for the fiscal year 1942-43, shall be subject to the suspension herein until July 14, 1942, at 7:00 A.M.

ALFRED E. DRISCOLL,  
Commissioner.

- 11. DISCIPLINARY PROCEEDINGS - FALSE STATEMENTS IN LICENSE APPLICATION - AIDING AND ABETTING NON-LICENSEE (DISQUALIFIED BECAUSE OF RESIDENCE) TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - SUPPRESSION OF MATERIAL FACTS - DISQUALIFIED STOCKHOLDERS - FAILURE TO GIVE NOTICE OF STOCK TRANSFER AS REQUIRED BY R. S. 33:1-34 - LICENSE SUSPENDED FOR BALANCE OF TERM - PREMISES DISQUALIFIED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against )

IRVING'S DRUGS INC., )  
 305 East Ridgewood Avenue, )  
 Ridgewood, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-3, issued by the Board of Commissioners of the Village of Ridgewood. )  
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Jacob S. Glickenhous, Esq., Attorney for Defendant-Licensee.  
 William F. Wood, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant, Irving's Drugs Inc., holder of a plenary retail distribution license in Ridgewood, was served with the following charges, which, for convenience, may here be summarized and restated as follows:

(1) and (2). In its license application it denied that any person other than the applicant had any interest in the license applied for, although in fact, Nathan Miller, disqualified by reason of his lack of five years' residence in this State, and Irving Leipsig were the real and beneficial owners of the license applied for and the business conducted thereunder as partners, and that it aided and abetted them to exercise the rights and privileges of such license, in violation of R. S. 33:1-25, 26, 52.

(3) In its license application, in violation of R. S. 33:1-25, defendant evaded or suppressed a material fact by listing Amelia Miller as the holder of only nine per cent of its common stock, whereas in truth and fact said Amelia Miller was the record holder of one hundred per cent of its preferred corporate stock, as well as the holder of nine per cent of its common stock.

(4) That Nathan Miller, who signed the application in behalf of the corporate licensee, falsely stated therein, in violation of R. S. 33:1-25, that he had no reason to believe or suspect that any holder of ten per cent or more of its capital stock would fail to qualify as an individual applicant for a license.

(5) The defendant, after obtaining the license in question, failed to give the Board of Commissioners of the Village of Ridgewood notice, as required by R. S. 33:1-34, of the fact that on July 31, 1941 its common or voting corporate stock had been transferred to Abram Wedeen.

(6) Such transfer of stock to Abram Wedeen was an act which, had it occurred before granting of the license, would, in view of Abram

Wedeen's residence in the State of New York, have prevented the issuance of such license. See R. S. 33:1-12.1, 25, 31.

These various offenses were component parts of a plan to conceal the fact that Nathan Miller had a forty-nine per cent interest in the license and business conducted thereunder. The reason he kept his interest hidden was because, not being a five-year resident of this State, he could not legally own more than ten per cent of the capital stock of a retail corporate licensee. See R.S. 33:1-12.1, 25.

The defendant does not dispute these facts but claims that in setting up the corporate structure, which is here held to be a subterfuge, it acted upon and was guided by the advice of counsel. Such claim presents no defense since a licensee, in relying upon advice of counsel, takes the risk as to whether the conduct advised is legal. See Re Lipman, Bulletin 324, Item 1.

Hence, I find the defendant guilty as charged.

To end the conduct of the licensed business under this unlawful arrangement, the license will be suspended for the balance of its term, and as a further penalty any renewal of this license to the corporation, upon correction of the "front", or any new license for the premises issued to any other person, will be suspended until July 14, 1942.

The carry-over of the suspension to any license issued for the premises for the ensuing fiscal year, is to prevent the conduct of any liquor business there for at least a fifteen-day period, ten days in penalty for the "front" to evade the residence requirement (see Re Steinman, Bulletin 502, Item 9), and five days in penalty for the defendant's failure to notify the local issuing authority of the stock transfer (see Re Broadway Lites, Inc., Bulletin 513, Item 3).

If the defendant applies for renewal of its license, the local issuing authority should make certain that the corporate structure is corrected so that all persons holding more than ten per cent of its stock qualify in all respects as individual applicants, otherwise no renewal may be granted.

In view of the penalty imposed herein, the affiliate proceedings brought in this case to cancel the license outright because of the corporation's illegal set-up are dismissed. Cf. Re A. M. Home Stores, Inc., Bulletin 512, Item 6.

Accordingly, it is, on this 23rd day of June, 1942,

ORDERED, that Plenary Retail Distribution License D-3, heretofore issued by the Board of Commissioners of the Village of Ridgewood to Irving's Drugs, Inc., for 305 East Ridgewood Avenue, Ridgewood, be and the same is hereby suspended for the balance of its term, effective 1:00 A.M. June 29, 1942; and it is further

ORDERED, that if any license be issued to this licensee or any other person for the premises in question for the 1942-43 fiscal year, such license shall be under suspension until 7:00 A.M. July 14, 1942.

ALFRED E. DRISCOLL,  
Commissioner.

12. DISCIPLINARY PROCEEDINGS - FALSE STATEMENTS IN LICENSE APPLICATION - CLUB LICENSEE NOT QUALIFIED PURSUANT TO STATE REGULATIONS NO. 7 - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against )

WILLOW BROOK CLUB, )  
Inman Avenue, )  
Potters Section, )  
Raritan Township, )  
P. O. Box 82-A, )  
Rahway, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-3, )  
issued by the Board of Commis- )  
sioners of the Township of )  
Raritan (Middlesex County). )  
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Robert S. Hartgrove, Esq., Attorney for Defendant-Licensee.  
William F. Wood, Esq., Attorney for State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to charges that it falsified its application for license by claiming (1) that it was organized "four years ago--October 17, 1937"; (2) that it was in active operation for more than three years prior to the making of the application; and (3) that it had been in exclusive continuous possession and use of the premises for which the license was sought; all in violation of R. S. 33:1-25.

R. S. 33:1-12(5) provides that club licenses may be issued only to such organizations as comply with all conditions imposed by rules and regulations. State Regulations No. 7 require, inter alia, that a club, to be eligible for club license, must have been in active operation and in possession of club quarters in New Jersey for at least three years prior to the application for license.

Department records disclose not only that the club lacked the requisite existence and possession of premises, but also that the club had no existence, being merely the creature of two promoters who sought to engage in the liquor business for private gain through the instrumentality of the alleged club.

Club licenses, which authorize sale of alcoholic beverages only to club members and their bona fide guests, are issued at a fee substantially less than that chargeable for the plenary retail consumption license which authorizes sale to the general public. The purpose of the law, in authorizing the issuance of club licenses, was to permit bona fide clubs to dispense alcoholic beverages to their members and their guests as a service to those members. It was never intended that the club license should be used by individuals to operate a licensed business for private gain, in competition with other retail licensees who pay a much higher fee.

Because of the gross fraud perpetrated upon the issuing authority and this Department, the only proper penalty is revocation of the license.

Accordingly, it is, on this 23rd day of June, 1942,

ORDERED, that Club License CB-3, heretofore issued to Willow Brook Club by the Board of Commissioners of the Township of Raritan (Middlesex County) for premises on Inman Avenue, Potters Section, Raritan Township, be and the same is hereby revoked, effective immediately.

ALFRED E. DRISCOLL,  
Commissioner.

13. ELIGIBILITY - LARCENY - THEFT OF AUTOMOBILE - MORAL TURPITUDE INVOLVED - APPLICANT DECLARED INELIGIBLE TO HOLD A LIQUOR LICENSE OR TO BE EMPLOYED BY A LIQUOR LICENSEE.

June 24, 1942

Re: Case No. 439

Applicant seeks a ruling as to whether he is disqualified from working for a liquor licensee in New Jersey because of his conviction of a crime involving moral turpitude. See R.S. 33:1-25, 26.

In 1928 applicant was convicted of larceny of an automobile and sentenced to serve from one to ten years in a reformatory. In 1930 he was arrested on a charge of grand larceny involving the alleged theft of an automobile. In 1941 he was convicted in Juvenile and Domestic Relations Court of neglect of his minor children, and sentenced to serve one year in the County jail. He was released on probation after serving about six months of this sentence.

Applicant's story is that in 1928 he was in Indiana and wanted to get home to New York, so he picked up a car parked on the street and drove off; that he was caught in Pennsylvania a few days later, and served one year in prison for this offense. In 1930 he was employed to drive a car from Ohio for delivery in Pennsylvania, but instead he went with the car to New York; that for this offense he was in jail for about a month awaiting action of the Grand Jury, which eventually dismissed the complaint.

The probation officer's report in the non-support case shows that applicant and his wife were convicted of neglecting their four minor children, who were committed to the care of the State Board of Children's Guardians.

Larceny involving theft of an automobile is a crime which ordinarily involves the element of moral turpitude. Re Case No. 403, Bulletin 491, Item 4. There is nothing in the record which would tend to free petitioner's crime of that element. It is therefore unnecessary to determine the character of applicant's conviction of the charge of neglecting his children.

It is therefore recommended that applicant be advised that he is ineligible for employment by a liquor licensee in this State, and that his pending application for a solicitor's permit is denied.

I note that more than five years have elapsed from applicant's conviction of larceny, and hence he may petition this Department for removal of his disqualification on claim that he has been law-abiding during such period. (R. S. 33:1-31.2). Since lifting of such disqualification is a matter which rests in the sound discretion of the State Commissioner, it may be well to point out that in view of his

conviction in 1941 for neglecting his children, evidencing misconduct within the past five years, I can see no possible basis for removal of the disqualification. Cf. Re Case No. 424, Bulletin 506, Item 3.

Harry Castelbaum,  
Attorney.

APPROVED:  
ALFRED E. DRISCOLL,  
Commissioner.

14. DISCIPLINARY PROCEEDINGS - FALSE ANSWERS IN LICENSE APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - PERMITTING HOSTESSES ON LICENSED PREMISES - CORPORATION ALTER EGO FOR FORMER LICENSEE - RECORDS CONSIDERED AS ONE - THIRD HOSTESS VIOLATION - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against )

THE FAMOUS DOOR, INC., )  
53 Van Houten Street, )  
Paterson, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-219, issued by the Board of Alcoholic Beverage Control of the City of Paterson. )  
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Reuben Kasten, President, for Defendant-licensee.  
Abraham Merin, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty, (with an explanation), to charges alleging:

"1. In your application for license dated October 1, 1941, filed with the Board of Alcoholic Beverage Control of the City of Paterson, upon which Plenary Retail Consumption License C-219 for the year 1941-42 was transferred to you, you falsely stated 'No' in answer to Question 28 in said application, 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 fact Mike Singer was so interested in that he was the sole and real owner of the licensed business; said false statement being in violation of R. S. 33:1-25.

"2. In the application aforesaid, you falsely stated 'No' in answer to Question 23 in said application, which question asks: 'Has any.... individual other than the stockholders hereinabove set forth any beneficial interest directly or indirectly in the stock held by said stockholders?', whereas in truth and fact Mike Singer had such beneficial interest as real owner of all of said stock; said false statement being in violation of R. S. 33:1-25.

"3. From on or about November 5, 1941, and until the present time, you knowingly aided and abetted Mike Singer, a non-licensee, to exercise the rights and privileges of your license contrary to R. S. 33:1-26, in violation of R.S. 33:1-52.

"4. On or about February 5, 14, 16 and 20, 1942, you allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of and as a gift from customers and patrons, in violation of Rule 22 of State Regulations No. 20.

"5. On or about the dates aforesaid you served beverages to and permitted hostesses, female entertainers and other employees to sit at tables and stand at the bar with persons, patrons and customers visiting your licensed premises, in violation of Rule 6 of Rules and Regulations concerning alcoholic beverages adopted June 28, 1935 by the Board of Aldermen of the City of Paterson."

Reuben Kasten, President of defendant corporation and nominal holder of 92% of its stock, admitted at the hearing that he has no interest in the stock of the corporation. Michael Singer testified that he owns all of the stock of the corporation which was issued in the name of Reuben Kasten and two other individuals; that he caused defendant corporation to be organized in October 1941 and thereafter transferred his consumption license to said corporation because he expected to be called for military duty at that time. While the ruling in Re Horvath, Bulletin 432, Item 1, intimates that a licensee who is about to be called for military service may, for convenience, form a corporation and transfer his license to the corporation, that ruling carried the necessary implication that all shares of the corporation, except qualifying shares, would be issued to the real party in interest.

Since Michael Singer appears to be qualified, I would, ordinarily, permit correction of the unlawful situation herein disclosed and impose a penalty of suspension because of the false affidavit.

However, the charge of permitting hostesses on the licensed premises, to which the licensee has pleaded guilty, remains to be considered.

In April 1940 the consumption license then held by Michael Singer was suspended for twenty days after he had been found guilty of permitting hostesses on his licensed premises. In April 1941 his license was suspended for sixty days after he had been found guilty of the same type of violation. Under the circumstances in this case, the record of the licensee and Michael Singer must be considered as one. The corporate licensee is merely his alter ego. This is, therefore, the third hostess violation of which he has been found guilty. It follows that neither the licensee nor Singer are entitled to relief. Cf. Re Mazzo, Bulletin 515, Item 10. The only proper penalty is revocation of the license.

Accordingly, it is, on this 24th day of June, 1942,

ORDERED, that Plenary Retail Consumption License C-219, issued to The Famous Door, Inc. by the Board of Alcoholic Beverage Control of the City of Paterson for premises located at 53 Van Houten Street, Paterson, be and the same is hereby revoked, effective immediately.

*Alfred E. Bissell*  
Commissioner.