

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark, 2, N. J.

BULLETIN 581

August 23, 1943.

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STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark, 2, N. J.

BULLETIN 581

AUGUST 23, 1943

1. DISCIPLINARY PROCEEDINGS - PERMITTING FEMALE EMPLOYEE TO ACCEPT BEVERAGES AT THE EXPENSE OF PATRONS, IN VIOLATION OF RULE 22 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary)
Proceedings against)

STELLA LUKOWSKI)
93 Division Street)
South River, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-26 for the fiscal)
year 1942-43, and now holder of)
Plenary Retail Consumption License)
C-26 for the current (1943-44))
year, both issued by the Borough)
Council of the Borough of South)
River.)

Stella Lukowski, Pro Se.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded not guilty to the following charge:

"On the night of April 4, 1943, and early morning of April 5, 1943, you allowed, permitted and suffered a female 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."

The evidence herein shows that Corporal Thomas L--- and Private James S--- entered defendant's premises early in the evening of April 4, 1943. At that time they had in their possession two pints of whiskey which they had purchased at other licensed premises. They went to the bar of defendant's premises and purchased a number of drinks from one Florence M---, who was then acting as bartender. Shortly thereafter the licensee entered the premises and went behind the bar. Florence M--- then joined the soldiers in front of the bar and each of the soldiers purchased a number of drinks for themselves and Florence. These drinks were served by the licensee. Later in the evening the soldiers and the girl who had acted as bartender went to a rear room of defendant's premises, where the two pints of whiskey and other drinks subsequently purchased at the bar by the soldiers were consumed by these three individuals and others who had joined the party.

Defendant did not deny any of the above facts. She testified, however, that on the night in question Florence relieved her behind the bar and that she did not pay Florence for her services. The female bartender was an employee within the meaning of Rule 22 whether or not she was compensated for her services. Re Vlamincik, Bulletin 147, Item 4; Re Haino, Bulletin 295, Item 7; Re Geller, Bulletin 312, Item 1. I must find defendant guilty as charged. Any other decision would open the door to the abuse of the Regulations by "part-time" female employees.

This case does not involve either the employment of a "hostess" to operate on a commission basis or the usual case of permitting a full-time female employee to accept drinks at the expense of male patrons. Defendant, however, has a prior record. In March 1939 the local issuing authorities suspended her license for seventeen days after she had pleaded guilty to a charge of possessing illicit alcoholic beverages. Under all the circumstances of this case, I shall suspend the license which defendant now holds for a period of ten days.

Accordingly, it is, on this 13th day of August, 1943,

ORDERED, that Plenary Retail Consumption License C-26, issued by the Borough Council of the Borough of South River to Stella Lukowski, for premises 93 Division Street, South River, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 A.M. August 17, 1943, and terminating at 2:00 A.M. August 27, 1943.

ALFRED E. DRISCOLL
Commissioner.

2. DISQUALIFICATION - APPLICATION TO LIFT - APPLICANT FOUND NOT DISQUALIFIED.

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

CONCLUSIONS

Case No. 282.

BY THE COMMISSIONER:

This matter comes before me on an application to remove disqualification under the provisions of R. S. 33:1-31.2.

A careful examination of the record shows that the petitioner was arrested in 1934 by the Police Department of Asbury Park and charged with the crime of larceny of an automobile; further, that on January 31, 1935 the said charge was dismissed by the December 1934 term Grand Jury of Monmouth County. Petitioner testified that in 1934, when nineteen years of age, he and other young men were arrested because they had taken an automobile for a "joy ride", but that he has no recollection of ever having been convicted of any charge as a result thereof.

It further appears, according to the record of the Monmouth County Probation Department, that petitioner was placed on probation for a year by the Asbury Park Police Judge. The Police Department of the City of Asbury Park apparently has no record of this order.

The records, therefore, fail to disclose any conviction of any crime. No disqualification by reason of a conviction of a crime involving moral turpitude appearing, it will not be necessary to enter any order herein.

ALFRED E. DRISCOLL
Commissioner.

Dated: August 13, 1943

3. DISCIPLINARY PROCEEDINGS - FALSE ANSWERS IN LICENSE APPLICATION
CONCEALING MATERIAL FACTS - 10 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

SUNNY POINT BAR & GRILL, INC.)
65 Mill Street)
Paterson, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-237 for the)
fiscal year 1942-43 and now holder)
of Plenary Retail Consumption)
License C-237 for the current)
(1943-44) year, both issued by the)
Municipal Board of Alcoholic Beverage)
Control of the City of Paterson.)

David Hilowitz, Esq., Attorney for Defendant-Licensee.
Edward F. Ambrose Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Licensee pleaded non vult to charges that it falsified its application for its 1942-43 license (1) in falsely answering question 33; (2) falsely answering question 35; and (3) falsely answering question 38.

Licensee appeared in defense of an order to show cause why its license should not be cancelled and declared null and void on the ground that it was disqualified to hold the license because one of its directors had been convicted of a crime involving moral turpitude, namely larceny of an automobile.

The plea of non vult is accepted by me as fully equivalent to a plea of guilty. Re Fennia Grill, Inc., Bulletin 568, Item 7.

Defendant admits that its application did not reveal that one of its directors had been convicted, in 1921, of illegal possession of alcoholic beverages and that, from 1938 to 1941, he had held a liquor license in another municipality. The crime in question did not involve moral turpitude. Defendant also admits that said application did not reveal an alleged conviction against another of its directors of the crime of larceny of an automobile.

For the violations charged in that they refer to the first director and which violations I believe were inadvertent and due to carelessness rather than to an intent to mislead the issuing authority, I shall suspend the license for a period of ten days, less five for the guilty plea. Re Russo, Bulletin 577, Item 2.

The rule to show cause shall be dismissed for the reason that there is nothing in the record that shows the other director mentioned had been convicted of any crime. See Re Case No. 282, Bulletin 581, Item 2.

Although this proceeding was instituted during the license period ending June 30, 1943, it does not abate but remains fully operative against the defendant's renewal license for the current 1943-44 period. State Regulations No. 15.

Accordingly, it is, on this 13th day of August, 1943,

ORDERED, that rule to show cause as to why the said license should not be cancelled and declared null and void be and the same is hereby dismissed; and it is further

ORDERED, that Plenary Retail Consumption License C-237, heretofore issued by the Municipal Board of Alcoholic Beverage Control of the City of Paterson, for the current year, to Sunny Point Bar & Grill, Inc., for premises 65 Mill Street, Paterson, be and the same is hereby suspended for five (5) days, commencing at 3:00 A. M. August 16, 1943, and terminating at 3:00 A.M. August 21, 1943.

ALFRED E. DRISCOLL
Commissioner.

4. MORAL TURPITUDE - CRIME OF SECOND DEGREE MURDER INVOLVES MORAL TURPITUDE.

DISQUALIFICATION - APPLICATION TO LIFT - FACTS EXAMINED - GOOD CONDUCT FOR FIVE YEARS LAST PAST AND NOT CONTRARY TO PUBLIC INTEREST - APPLICATION GRANTED.

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. 287.

BY THE COMMISSIONER:

In 1917 petitioner was convicted on the charge of second degree murder and sentenced to a term of fifteen to thirty years in a state prison. He was paroled on May 3, 1928. The crime in question, per se, involves the element of moral turpitude. See Re Case No. 31, Bulletin 372, Item 2.

Petitioner represents that he has been law-abiding for at least five years last past, and hence, pursuant to R. S. 33:1-31.2, seeks removal of his disqualification from working for a liquor licensee or holding a liquor license in this state by reason of his conviction of a crime involving moral turpitude.

Petitioner was born in 1885 in Italy. In 1909 he came to the United States and established a residence in a municipality in New Jersey where he has since lived. He worked as a hod carrier until August 1916, when he was arrested for shooting and killing his wife, whom he had married in 1914. He alleges the crime followed a quarrel with his wife during which she admitted "having another man." After his release from prison in 1928, petitioner resumed his former work. His parole period expired in 1929. He worked as a laborer for the W. P. A. for several months in 1933 and then went on the municipal relief roll because of a physical disability which incapacitated him from working as a laborer. He was put off the relief roll in February 1943 and since then has been working as a porter in the club rooms of an Italian association which holds a retail liquor license.

A city employee, who is an officer of the association, testified that he has known petitioner for ten years as a member of the association, during which time he has conducted himself in a law-abiding manner and has had the reputation of being a good citizen in

the community where he resides. His testimony was confirmed by another city employee and an insurance agent, both members of the association, who have known petitioner for more than ten years.

I find that petitioner has conducted himself in a law-abiding manner during the five years immediately past. While the crime in question was a heinous offense, the testimony adduced at the hearing convinces me petitioner has sincerely endeavored for more than fifteen years to live an upright life. I conclude that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 12th day of August, 1943,

ORDERED, that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby lifted, in accordance with the provisions of R. S. 33:1-31.2. Petitioner has applied to become a citizen of the United States but has not obtained his final papers. He may not obtain a license in the absence of proper proof that he is a citizen. If he desires to be employed on licensed premises, he must obtain an employment permit prior to the commencement of said employment.

ALFRED E. DRISCOLL
Commissioner.

5. APPELLATE DECISIONS - KORTE v. PEMBERTON.

GEORGE KORTE,)
Appellant,)
-vs-) ON APPEAL
BOROUGH COUNCIL OF THE) CONCLUSIONS AND ORDER
BOROUGH OF PEMBERTON,)

Respondent)
Frank F. Neutze, Esq., Attorney for Appellant.
Powell & Parker, Esqs., by Robert W. Criscuolo, Esq.,
Attorneys for Respondent.

BY THE COMMISSIONER:

This is an appeal from the action of respondent denying appellant's application for a plenary retail consumption license.

Appellant is the nephew of the late Catherine Laughlin, who held a plenary retail consumption license in the Borough of Pemberton from the repeal of the National Prohibition Law until her death on April 15, 1943. Appellant duly qualified as an administrator c.t.a. of the estate of Catherine Laughlin, deceased. As such personal representative he applied for and obtained an extension of her license (R. S. 33:1-26) and thereupon continued to operate the licensed premises for the benefit of the estate until the expiration of the term of the license on June 30, 1943.

The testimony of the appellant, together with the proof of advertising, discloses that the notice of the making of the instant application had been fully advertised prior to the filing of the application for the license with the Borough Clerk on June 18, 1943.

An applicant for a plenary retail consumption license (so also in the case of other municipal liquor licenses) is required by R. S. 33:1-25 to advertise in a proper newspaper on two occasions, a week apart his "notice of intention" to obtain a license. Rule 1 of State Regulations 2 requires that his application actually be on file with the local issuing authority at or before the first advertisement of that notice. The defect in the proceedings below, resulting from appellant's failure to comply with the Regulations, is substantial, and warrants an affirmance of the denial of the application. See Brost v. Township of East Amwell, Bulletin 304, Item 1.

Entirely apart from this fatal defect, the merits of the case require that I reach the same conclusion.

The Borough of Pemberton, located in Burlington County, in the neighborhood of Fort Dix, is a smallish community, as evidenced by its population of 906 persons. It is about one-half mile in diameter and is entirely surrounded by the Township of Pemberton. At one time, a number of years past, two plenary retail consumption licenses were issued in the Borough. When one of these licensees ceased business, no new license was issued. Catherine Laughlin, however, was granted a renewal of her license each year. In 1942, when she had passed her eightieth birthday, her license was renewed by the favorable vote of a bare majority of the members of the Borough Council. One of these members, who subsequently voted against appellant's application, testified that he had voted in favor of the renewal of the Laughlin license because she "would only need the license a short while." This witness and two other members of the Council who testified stated that they opposed the appellant's application for a license on the ground that it was not needed in the community. One of these Councilmen testified that he voted against the issuance of a license to the appellant for the reason that "so many licenses were close to the tavern it was not necessary to have any more in the town."

In the Township of Pemberton, with a population of 2,386, according to the last census, there are eighteen plenary retail consumption licenses. One of these is located within 50 feet of the Pemberton Borough line. Another, the testimony discloses, is located approximately 150 feet from the Borough line. Additional licensed places in the township appear to be located at somewhat greater distances along the roads leading into the Borough. Appellant's proposed licensed premises are reported to be less than one-half mile from the nearest tavern in the Township.

No testimony was offered by the appellant to show a need for a licensed premises within the Borough.

The mere fact that there is no licensed premises within the Borough does not require the issuance of a license where there are a sufficient number of such establishments in the general area to take care of the public needs, nor is a municipal issuing authority compelled to issue a license merely because no objection thereto has been filed.

In the exercise of its discretionary power to license or not to license, an issuing authority should carefully consider all pertinent facts likely to affect the public welfare. Municipal boundary lines must be treated realistically. A borough line is not a trade barrier, nor does it prevent people desiring to purchase liquor from visiting nearby taverns adjacent to their homes even though these taverns may be in another municipality. See Gomulka v. Linden,

Bulletin 294, Item 8. Where, therefore, a local issuing authority reaches the reasonable conclusion that a sufficient number of taverns are in existence in the general area, it may wisely refuse to issue an additional consumption license. Cf. Bumball v. Burnett, 115 N.J.L. 254.

It cannot be said in the instant case that the respondent abused its discretion in refusing to issue a liquor license to appellant. Respondent's action appears to have been neither arbitrary nor unreasonable and is therefore affirmed.

Accordingly, it is, on this 13th day of August, 1943,

ORDERED, that the petition of appellant filed herein be and the same is hereby dismissed.

ALFRED E. DRISCOLL
Commissioner.

6. DISCIPLINARY PROCEEDINGS - CHARGE OF SELLING ALCOHOLIC BEVERAGES TO PERSONS ACTUALLY OR APPARENTLY INTOXICATED DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.

In the Matter of Disciplinary)
Proceedings against)

JAMES AHERN)

800 State Highway 4-N)

Spring Lake Heights)

P.O. Spring Lake, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-7 issued by the)
Borough Council of the Borough)
of Spring Lake Heights.)
-----)

John J. Meehan, Esq., Attorney for Defendant-Licensee.
William F. Wood, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant pleads not guilty to a charge alleging that:

"On September 20, 1942, during the hours shortly after midnight, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Sergeant Nicholas V--- and Private John S---, persons actually and apparently intoxicated, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon your licensed premises, in violation of Rule 1 of State Regulations No. 20."

The evidence shows that the Sergeant and the Private mentioned in the above charge were in defendant's premises on the evening of Saturday, September 19th, and the early morning of Sunday, September 20th. There is a sharp conflict in the evidence as to whether either of them was at any time actually or apparently intoxicated during the course of their visit.

The only witness who testified on behalf of the Department as to the physical condition of the soldiers named in the charge was

Sergeant K---, who is attached to the military police. He testified that, while off duty, he entered the defendant's premises during the early morning of September 20th. He expressed the opinion that both of the soldiers named in the charge were apparently intoxicated. He based his opinion on the fact that one soldier had his collar unbuttoned, tie loosened, and that once in a while this soldier's arm slipped off the bar, and upon the further fact that the other soldier wobbled around a bit.

Both soldiers denied that they were actually or apparently intoxicated. One of them testified that, during the period of about five hours he remained in the premises, he drank a considerable number of "beers", but stated that he could drink the quantity in question without it having any effect upon him. The other soldier stated that, during this same period, he consumed about ten glasses of beer. Both testified that they left the licensed premises separately, without any assistance, hitch-hiked back to their camp located about two miles away, and passed the military police in entering their camp without being questioned or detained. It does not appear from the evidence that either soldier created any disturbance while present on the licensed premises.

The licensee and his bartender, both of whom were present during the entire period, testified that, on the evening in question, there were about six soldiers present on the licensed premises; that they served drinks to Sergeant Nicholas V--- and Private John S---, who appeared at all times to be absolutely sober. Three patrons also testified on behalf of defendant-licensee. All of these witnesses appear to be men of standing in their respective communities. One who was present until the soldiers left the premises stated that he had seen several soldiers in the place but that he had not seen anything out of the ordinary, and particularly that he did not see any intoxicated or apparently intoxicated persons in the premises at any time. The other two testified that they had left an hour or more before the soldiers, but that they had not observed anyone who was intoxicated or apparently intoxicated on the premises.

It appears from the evidence that neither of the soldiers mentioned in the charge was intoxicated in the sense of being helpless or failing to realize what he was doing. Admittedly it is a very difficult question to determine when a person is apparently intoxicated. The Sergeant of the military police testified that in his opinion these soldiers were apparently intoxicated. On the other hand, both soldiers denied that they were apparently intoxicated. The testimony of defendant, his bartender and three patrons tends to corroborate the testimony of the soldiers. The charge is serious. The burden of proof rests with the Department. After considering all the facts, I conclude that the Department has not sustained the burden of proof in showing, by a preponderance of the evidence, that either of these soldiers was apparently intoxicated.

Hence, I shall dismiss the charge.

The licensee is, however, hereby put on notice and warned that, if at any time in the future he is adjudged guilty of selling alcoholic beverages to persons actually or apparently intoxicated, he may expect a severe penalty. Licensees must cooperate with the military authorities at all times.

Accordingly, it is, on this 13th day of August, 1943,

ORDERED, that the charge herein be and the same is hereby dismissed.

ALFRED E. DRISCOLL
Commissioner.

7. DISCIPLINARY PROCEEDINGS. -- SALE OF ALCOHOLIC BEVERAGES BY PERMITEE CONTRARY TO CONDITIONS IMPOSED THEREIN -- 30 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary
Proceedings against

ALEX BARANYAI,
c/o Circle Inn,
Route 28, 1-1/2 miles West
of North Branch,
Branchburg Township,
P. O. Somerville, RD3, N. J.,

CONCLUSIONS
AND ORDER

Holder of Employment Permit No. 5699)
heretofore issued by the State
Commissioner of Alcoholic Beverage)
Control.
-----)

George W. Allgair, Esq., Attorney for Defendant-Permittee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant, holder of an employment permit, pleads
guilty to the following charge:

"On the night of March 27, 1943, and early morning and afternoon of March 28, 1943, you, while the holder of an Employment Permit for the 1942-43 period for a person disqualified by reason of non-citizenship, which permit was issued upon the condition that, if its holder 'does not qualify as to . . . citizenship . . . such permittee shall not in any manner whatsoever sell or solicit the sale . . . of any alcoholic beverages', did sell and serve alcoholic beverages in contravention of that condition and in violation of R.S. 33:1-26 and Rule 1 of State Regulations No. 11."

It appears that defendant while employed in a tavern knowingly violated the terms of his alien employment permit on the days in question by selling and serving alcoholic beverages. Until the recent amendment to Section 26 of the Alcoholic Beverage Law which became effective April 8, 1943, alien permittees were disqualified from selling or serving any alcoholic beverages.

In the absence of a prior record or aggravating circumstances, the usual penalty of a thirty-day suspension of defendant's permit will be imposed. I shall remit five days for the guilty plea, making a net suspension of twenty-five days. See Re Onofrietti, Bulletin 540, Item 1.

Accordingly, it is, on this 13th day of August, 1943,

ORDERED, that Employment Permit No. 5699, heretofore issued to Alex Baranyai by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for a period of twenty-five (25) days, commencing on August 17, 1943 at 2:00 A.M., and concluding on September 11, 1943, at 2:00 A.M.

ALFRED E. DRISCOLL,
Commissioner.

8. APPELLATE DECISIONS - MARIE WARR, ADMINISTRATRIX OF THE ESTATE OF WILLIAM BAVELER, DECEASED v. WYCKOFF TOWNSHIP.

APPELLATE DECISIONS - MARIE WARR, ADMINISTRATRIX OF THE ESTATE OF WILLIAM BAVELER, DECEASED v. WYCKOFF TOWNSHIP AND ADE.

MARIE WARR, ADMINISTRATRIX OF
THE ESTATE OF WILLIAM BAVELER,
DECEASED, TRADING AS THE
BROWNSTONE INN,

Appellant,

-vs-

TOWNSHIP COMMITTEE OF THE TOWN-
SHIP OF WYCKOFF,

Respondent.

ON APPEAL

CONCLUSIONS AND ORDER

MARIE WARR, ADMINISTRATRIX OF
THE ESTATE OF WILLIAM BAVELER,
DECEASED, TRADING AS THE
BROWNSTONE INN,

Appellant,

-vs-

TOWNSHIP COMMITTEE OF THE TOWN-
SHIP OF WYCKOFF, and ALLEN ADE,

Respondents.

Brunetto & Welsh, Esqs., by Frank J. Brunetto, Esq., Attorneys for the Appellant.

George R. Hendrickson, Esq., Attorney for the Respondent, Township Committee of the Township of Wyckoff.

Winne & Banta, Esq., by John A. Christie, Esq., Attorneys for the Respondent-Licensee, Allen Ade.

BY THE COMMISSIONER:

On May 18, 1943, respondent issuing authority extended plenary retail consumption license C-2 (for the balance of its term) to appellant as Administratrix of the Estate of William Baveler, deceased. On June 29, 1943, said respondent denied appellant's application for a license renewal and issued a plenary retail consumption license to respondent Allen Ade. The two appeals, from the denial and issuance respectively, were taken separately but were consolidated at the hearing by consent of counsel.

A salutary resolution limiting to three the number of plenary retail consumption licenses to be issued and outstanding was passed by the Township Committee of the Township of Wyckoff on June 26, 1934. Prior to the issuance of a plenary retail consumption license to Allen Ade, two such licenses had already been issued for the license year 1943-44, and therefore only one license was available within the limitation quota. The Township Committee was confronted with the problem of deciding which of three applicants should receive the available license - appellant, Allen Ade, or a third party not involved in these appeals.

The circumstances prompting the appeals and the pleadings filed herein would normally raise the following significant question concerning the local issuing body's discretionary authority: In selecting between two applicants, what preferential consideration, if any, must the issuing authority give to the one who seeks a renewal, as against the other who applies for a new (original) license? Here, however, it is neither necessary nor appropriate to resolve that question. At the hearing, the issue, as regards the appellant and the respondent Township Committee, was limited by stipulation of counsel to the legal question as to whether or not the Committee had legal authority to issue a renewal license to appellant in a representative capacity. Thus, it was stipulated and agreed that the only reason for refusal of appellant's renewal license was that the Township Committee, by its interpretation of R.S. 33:1-26, reached the conclusion that it had no legal right to issue a license to Marie Warr as administratrix.

The pertinent provision of R.S. 33:1-26 reads:

"In case of death, bankruptcy, receivership or incompetency of the licensee, or if for any other reason whatsoever the operation of the business covered by the license shall devolve by operation of law upon a person other than the licensee, the commissioner or other issuing authority may, in his or its discretion, extend said license for a limited time, not exceeding its term, to the executor, administrator, trustee, receiver or other person upon whom the same has devolved by operation of law as aforesaid. Under no circumstances, however, shall a license, or rights thereunder, be deemed property, subject to inheritance, sale, pledge, lien, levy, attachment, execution, seizure for debts, or any other transfer or disposition whatsoever, except to the extent expressly provided by this chapter."

The words "extend said license for a limited time, not exceeding its term" apply to an extension during a license term and not to a renewal for the ensuing term. If an executor or administrator obtains extension of the license for the full balance of its term, he may, in pursuance of his function as personal representative of the decedent's estate, apply for renewal of the license for the next fiscal year and the municipal issuing authority may, in the exercise of its sound discretion, issue a renewal license. See Re Deighan, Bulletin 355, Item 9.

I must hold that the Township Committee of the Township of Wyckoff had the legal right and authority to renew the license previously extended to appellant. In view of the stipulation and agreement by counsel limiting the issue on appeal to the narrow legal question as to such authority, I shall reverse the Township Committee's action denying a renewal to appellant and order that the renewal license as applied for by Marie Warr, Administratrix, for the fiscal year 1943-44 be issued. The only reason for the denial of the appellant's application was without substance as a matter of law.

It follows from this conclusion that issuance of a plenary retail consumption license to Allen Ade - making four outstanding licenses - violates the Township's limitation resolution. I shall, therefore, reverse the Township Committee's action in that regard and order the said license cancelled forthwith.

Accordingly, it is on this 13th day of August, 1943,

ORDERED that the action of respondent in denying appellant's renewal application be and the same is hereby reversed; and it is further

ORDERED that respondent issue a plenary retail consumption license to Marie Warr, Administratrix of the Estate of William Baveler, deceased, trading as the Brownstone Inn; and it is further

ORDERED that the action of respondent in issuing a plenary retail consumption license to respondent Allen Ade, for premises located on the south side of Franklin Avenue, 100 feet west of Everett Avenue, Wyckoff, be and the same is hereby reversed and that such license is hereby cancelled, effective forthwith.

ALFRED E. DRISCOLL,
Commissioner.

9. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACTS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO PETITION TO LIFT UPON CORRECTION OF ILLEGAL SITUATION AND EXPIRATION OF 15 DAYS.

In the Matter of Disciplinary
Proceedings against

PATRICK McNICHOLAS,
6 Treat Place
Newark, New Jersey

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Con-
sumption License C-861 issued by the)
Municipal Board of Alcoholic Beverage)
Control of the City of Newark.)

Patrick McNicholas, Pro se.

Milton H. Cooper, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleaded non-vult to charges which allege in substance that, in his application filed for the current fiscal year, he falsely stated that no individual other than the applicant had any interest in the license applied for, whereas in truth Thomas Crawley and Annie Crawley had such an interest, said false statement being in violation of R.S. 33:1-25; and also that, from July 1, 1934, to date, he knowingly aided and abetted Thomas Crawley and Annie Crawley to exercise the rights and privileges of his successive licenses, in violation of R.S. 33:1-52.

On July 1, 1934, Patrick McNicholas obtained a plenary retail consumption license for the premises in question. At the beginning of each fiscal year thereafter he renewed the license in his own name. The files of the ABC Department show that at all times Thomas Crawley and Annie Crawley, who are respectively brother-in-law and sister of the defendant, were the true owners of the licensed business.

The "front" situation appears to have been created and continued because the Crawleys believed that they were ineligible because of non-citizenship to hold a license in their own names. The facts are that Thomas Crawley was a national of the Irish Free State until he became a citizen of the United States in December 1941, and that Annie Crawley is a national of Great Britain. Because of existing treaties, both individuals apparently were qualified at all times to hold a license. Re Guskind, Bulletin 130, Item 5.

As to penalty: In view of the illegal situation now existing, I shall suspend the license for the balance of its term. Ordinarily I would grant permission to Thomas Crawley and Annie Crawley to make application to me by verified petition to lift the suspension herein imposed provided that the license is duly transferred to them by the local issuing authorities and provided, further, that at least ten days shall have expired from the effective date of said suspension. However, defendant has a prior record. On August 2, 1943, his license was suspended for a period of ten days after he had been found guilty on a charge of possessing illicit liquor. Under the circumstances, no relief will be afforded until at least fifteen days have expired from the effective date of this suspension. Re Joe's Wine & Liquor Inc., Bulletin 579, Item 6.

Accordingly, it is, on this 17th day of August, 1943,

ORDERED that plenary retail consumption license C-861, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Patrick McNicholas, for premises 6 Treat Place, Newark, be and the same is hereby suspended for the balance of its term, effective at 2 A.M. August 19, 1943; and it is further

ORDERED that, upon a correction of the existing unlawful situation by a bona fide transfer, application may be made to me by Thomas Crawley and Annie Crawley for an order lifting said suspension; provided, however, that such suspension shall not be lifted prior to the expiration of fifteen (15) days from the effective date of the suspension herein imposed.

ALFRED E. DRISCOLL,
Commissioner.

10. DISCIPLINARY PROCEEDINGS - VIOLATION OF R.S. 33:1-34 - FAILURE TO FILE NOTICE OF CHANGE IN FACTS WITH MUNICIPAL ISSUING AUTHORITY - UNLAWFUL SITUATION CORRECTED - 30 DAYS' SUSPENSION.

In the Matter of Disciplinary)
Proceedings against)

SCHOONER CLUB (a corporation)
404 - 37th Street
Union City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-239 for the fiscal)
year 1942-43 and now holder of)
Plenary Retail Consumption License)
C-233 for the current (1943-44) year,)
both issued by the Board of Commis-)
sioners of the City of Union City.)
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Theodore Cohen, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant, a corporate licensee, pleaded non vult to the following charge:

"You failed to file with the Board of Commissioners of the City of Union City, within ten days after the occurrence thereof, a requisite written notice of the full changes occurring in the facts as set forth in your application for your current plenary retail consumption license, those changes being that, on or about January 15, 1943, your stockholders and officers of record became Eugene Ricasolo, president, director and holder of 4 shares of stock, Anthony Berardi, secretary-treasurer, director and holder of 18 shares, and James Guida, director and holder of 2 shares, with Michael Pasquale having a beneficial interest in 9 of the said 18 shares of stock standing in the name of Anthony Berardi; your failure to file the aforesaid requisite notice being in violation of R.S. 33:1-34."

In the early part of January 1943 Michael Pasquale who was disqualified from holding a license because of a criminal record, acquired a half interest in the eighteen shares of stock in question. No written notice was filed with the local issuing authorities as required by R.S. 33:1-34. It is represented in affidavits filed on behalf of the defendant that on or about June 15, 1943, Pasquale divested himself of such interest and is not now connected in any capacity with the defendant or the licensed business. Hence it appears that the unlawful situation has been corrected.

In view of the correction and the absence of a prior record, a thirty day suspension will be imposed. See Re Luker, Bulletin 423, Item 7.

Accordingly, it is, on this 18th day of August, 1943,

ORDERED that Plenary Retail Consumption License C-253, issued by the Board of Commissioners of the City of Union City, for the current fiscal year, to Schooner Club (a corporation), for premises 404-37th Street, Union City, be and the same is hereby suspended for a period of thirty (30) days, commencing at 3:00 A.M. August 23, 1943 and terminating at 3:00 A. M. September 22, 1943.

ALFRED E. DRISCOLL,
Commissioner.

11. FAIR TRADE - NOTICE - COMPLETE PUBLICATION

IMPORTANT NOTICE

In order that you may adjust the minimum resale prices of your products to include changes provided for in OPA Regulation MPR 445, effective August 31, 1943, it is my decision that a complete new publication of minimum resale prices pursuant to Fair Trade Rules (Regulations No. 30) shall become effective on Monday, September 13, 1943.

The publication will combine all the prices into one complete book superseding the November 1942 publication and the succeeding supplements of December 1942, February 1943 and May 1943, now in force. New items and changes in old items must be filed at the offices of this Department not later than Friday, August 27, 1943.

In submitting price lists to this Department for this complete publication, it is requested that:

(1) Complete schedule of all items for which price maintenance is desired, including those presently listed, should be submitted. Any items not submitted will be considered withdrawn.

(2) If no change in brand name or description is made of items presently subject to price maintenance, list those items exactly as they appear in the pamphlets or official bulletins.

(3) Indicate by appropriate notation the new items which will be scheduled for the first time and those items in which a change in brand name or description is made.

(4) All prices listed must be net. It is, therefore, suggested that the phrase "discount of ___% permitted on case lot purchases", usually appearing at the end of each listing, be omitted.

(5) Since new OPA regulations permit mark-ups to be computed on basic prices which include the 1942 Federal tax increase, the need for setting forth the Federal tax increase in a separate column of the minimum resale price publication no longer exists. Listings should now be submitted in the following form:

Brand	Size	Minimum Consumer Price
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Notification of the proportionate share of the aggregate expense involved will be made to participating companies as soon as the pamphlet price list is mailed to retail licensees.

Unless you advise me in writing on or before August 27, 1943, that you agree to pay your share of the cost of such complete publication, it will be deemed that you are not desirous of participating therein. In such case, your products will be withdrawn from the Fair Trade price list and will no longer be subject to protection and enforcement by this Department.

Dated: August 19, 1943.

ALFRED E. DRISCOLL,
Commissioner.

12. MILITARY FORCES - REGULATIONS NO. 37 - HOURS OF SALE TO MEMBERS OF ARMED FORCES IN THE CITY OF BORDENTOWN AND THE TOWNSHIP OF BORDENTOWN, BURLINGTON COUNTY, RESTRICTED.

TO ALL LICENSEES IN THE CITY OF BORDENTOWN AND THE TOWNSHIP OF BORDENTOWN, BURLINGTON COUNTY, NEW JERSEY:

The Military authorities, District No. 5, Second Service Command, with the concurrence of the Naval authorities for the same area, by duly operative order, have established the hour of 12:00 midnight as the time after which alcoholic beverages are not to be sold to any members of the armed forces in the City of Bordentown and the Township of Bordentown in Burlington County.

The order prohibits the sale of alcoholic beverages to members of the armed forces between 12:00 midnight of every day and the municipal opening hour for the following morning.

Accordingly, from and after the date of this notice, all licensees in the City of Bordentown and Township of Bordentown, in Burlington County, are strictly bound by Rule 2 of Regulations No. 37, as follows:

"2. Whenever a properly authorized officer or agency of the armed forces of the United States has issued an operative order, effective in a designated area, forbidding sales of alcoholic beverages to any person wearing the uniform of the armed forces of the United States during certain hours specified in such order, no licensee within said area shall, during those hours, sell, serve or deliver, or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, directly or indirectly, to any person wearing the uniform of the armed forces of the United States or of an Allied Nation, or allow, permit or suffer any such person to consume any alcoholic beverage upon the licensed premises."

I emphatically call to your attention that, by virtue of this Rule, you may not, after the midnight curfew hour, sell or serve any alcoholic beverages to any person wearing the uniform of the armed forces of either the United States or an Allied Nation -- whether soldiers, sailors, marines, Coast Guardsmen, or members of the Women's Auxiliary of said branches of service -- nor may you allow any such person to consume alcoholic beverages on your premises after that curfew hour.

Violation will be cause for suspension or revocation of your license. Aside from your responsibility to this Department by virtue of Regulations No. 37, it is expected that all licensees will cooperate to the fullest with our military and naval authorities.

August 20, 1943
Commissioner.

Dated: August 20, 1943.