

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 983

SEPTEMBER 2, 1953.

TABLE OF CONTENTS

ITEM

1. NEW LEGISLATION - AMENDMENT OF R. S. 33:1-46.1 (L. 1945, C. 55, SEC. 1) DEALING WITH ISSUANCE OF CLUB LICENSES IN MUNICIPALITIES WHEREIN A REFERENDUM HAS BEEN HELD UNDER R. S. 33:1-45 OR R. S. 33:1-46.
2. APPELLATE DECISIONS - KEMO v. TRENTON.
3. DISCIPLINARY PROCEEDINGS (Atlantic Highlands) - LEWDNESS AND IMMORAL ACTIVITIES (PROSTITUTION) - HOSTESS - FALSE ANSWER IN APPLICATION - PRIOR RECORD - LICENSE REVOKED.
4. DISCIPLINARY PROCEEDINGS (Wallington) - ILLICIT LIQUOR - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Burlington) - SUSPENSION REIMPOSED AFTER FURTHER STAY DENIED BY APPELLATE DIVISION ON APPEAL.
6. DISCIPLINARY PROCEEDINGS (Woodbridge) - UNLABELED BEER TAP - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 6 DAYS, LESS 1 FOR PLEA.
7. DISQUALIFICATION - PRIOR APPLICATION DENIED - FIVE YEARS' GOOD CONDUCT - APPLICATION TO LIFT GRANTED.
8. DISCIPLINARY PROCEEDINGS (Burlington) - CLUB LICENSEE - SALE TO NON-MEMBERS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
9. APPEAL CASES - JULY 1, 1952 THROUGH JUNE 30, 1953.
10. STATE LICENSES - NEW APPLICATIONS FILED.

New Jersey State Library

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 983

SEPTEMBER 2, 1953.

1. NEW LEGISLATION - AMENDMENT OF R. S. 33:1-46.1 (L. 1945, C. 55, SEC. 1) DEALING WITH ISSUANCE OF CLUB LICENSES IN MUNICIPALITIES WHEREIN A REFERENDUM HAS BEEN HELD UNDER R. S. 33:1-45 OR R. S. 33:1-46.

Assembly Bill No. 472 was approved by Governor Driscoll on August 11, 1953 and thereupon became Chapter 367, Laws of 1953. Under this amendatory Act, certain provisions heretofore permitting club licenses in municipalities where a referendum has been held under R. S. 33:1-46 are now also made applicable where the referendum has been held under R. S. 33:1-45. This amendatory Act reads as follows:

"AN ACT to amend 'An act concerning alcoholic beverages, and supplementing chapter one of Title 33 of the Revised Statutes,' approved March thirtieth, one thousand nine hundred and forty-five (P. L. 1945, c. 55).

"BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

"1. Section one of the act of which this act is amendatory is amended to read as follows:

"1. It shall be lawful for the governing board or body of any municipality in which a referendum has been held pursuant to the provisions of section 33:1-45 or section 33:1-46, of the Revised Statutes wherein a majority of the legal voters of said municipality voted 'No,' to issue a club license as defined in and regulated by subsection five of section 33:1-12 of the Revised Statutes, to a bona fide golf and country club in said municipality, incorporated not for pecuniary gain, and to adopt an enabling ordinance therefor.

"2. This act shall take effect immediately."

-----  
DOMINIC A. CAVICCHIA  
Director.

Dated: August 18, 1953.

## 2. APPELLATE DECISIONS - KEMO v. TRENTON.

JOHN L. KEMO, trading as )  
T & J LIQUOR STORE, )

Appellant, )

-vs- )

ON APPEAL  
CONCLUSIONS AND ORDER

BOARD OF COMMISSIONERS OF THE )  
CITY OF TRENTON, )

Respondent. )

-----  
Martin P. Devlin, Jr., Esq., Attorney for Appellant.  
Louis Josephson, Esq., by John A. Brieger, Esq., Attorney for  
Respondent.

BY THE DIRECTOR:

This is an appeal from the denial of an application for a place-to-place transfer of a plenary retail distribution license from 634 North Clinton Avenue to 840 Pennington Avenue. Respondent's resolution (adopted March 12, 1953) set forth the following reason for such denial:

"That the granting of said application for transfer would be in violation of the policy heretofore adopted by the City:

'Not to issue any new licenses or transfer any licenses to premises in the western part of Trenton; namely, that portion of the City to the west of Calhoun Street and Pennington Avenue.'"

Appellant contends that respondent's action was erroneous in that:

- (a) The respondent failed to maintain the burden of proof.
- (b) The finding was contrary to the evidence.
- (c) The finding was arbitrary.
- (d) The finding was capricious.

This appeal was heard de novo pursuant to Rule 6 of State Regulations No. 15.

There is no substantial disagreement as to most of the background facts. The major disagreement is with respect to the existence and extent of an alleged policy, on the part of the local issuing authority, against the issuance of liquor licenses in or the transfer of licenses to the "Western Section" of the City.

It appears from the record before me that appellant's present premises at 634 North Clinton Avenue are in a different section of the City than the proposed new premises at 840 Pennington Avenue; that the proposed new premises are at or near the triangle formed by the intersection of Parkway Avenue and Pennington Avenue; that the rear of the proposed new premises is across the street from Ewing Township; that there are a plenary retail consumption license and a plenary retail distribution license in Ewing Township within a short distance of the proposed new premises; that such proposed new premises are west of Calhoun Street and that the immediate neighborhood contains some business properties (including a paint factory), some stores, a gasoline service station, a water reservoir and a number of

dwelling. It also appears that on the same side of Pennington Avenue as the reservoir there are a number of dwellings but no stores, and that the other streets in the neighborhood are, in the main, residential. In addition, there are several churches in the area, one between 600 and 700 feet from the proposed new location and another between 900 and 1,000 feet therefrom.

Appellant testified that he seeks to transfer his license because there are now four licensed premises near his present location whereas, formerly, his and one other were the only ones in that locality; that previously (in 1948) he had applied for a place-to-place transfer of this same license from his present premises on North Clinton Avenue to the corner of Prospect Street and Stuyvesant Avenue, which is west of Calhoun Street; that his application was denied and that such denial was affirmed by the then Commissioner. (See Kemo v. Trenton, Bulletin 822, Item 13.) He further testified that he had heard of a policy on the part of the City not to allow liquor licenses in the "Western Section" of Trenton, but added, "I can't call this the western section".

Testifying on behalf of appellant, a former Mayor and another former member of the City Commission, both of whom served from 1935 to 1939, testified that the City had an unwritten policy not to permit additional licensed premises in the "Western Section" of the City. However, both testified that the "Western Section" was bounded by Calhoun Street, the Delaware River and Stuyvesant Avenue. Both expressed the opinion that Pennington Avenue, which is north of Stuyvesant, was not affected by this policy. There was also received in evidence a letter dated March 3, 1953, addressed to respondent Board and signed by these two witnesses and their former colleagues, to the same general effect.

The real estate agent who negotiated the sale of the land at the proposed new premises testified and, while admitting the general residential character of that section of the City, denied that the neighborhood would be adversely affected by the transfer. He further testified that the City would gain tax ratables if the transfer were granted. In addition, a petition signed by 89 residents of the neighborhood who had no objection to the transfer was received in evidence.

The City Clerk testified that a search of the records of the City failed to disclose any resolution or ordinance establishing the aforementioned policy but read into the record the following statement made by a member of the governing body at a meeting held August 10, 1937 during the consideration of an application by Harry Oransky for a place-to-place transfer of a license from East State Street to 632 Stuyvesant Avenue: "At the end of the meeting Mr. Henderson asked there be noted on the record that his reasons in voting against the application of Mr. Oransky was on account of the premises being located in the western section of the city and that council had never granted a license in such section, merely renewing existing licenses there". The Clerk further testified that the boundaries of the "Western Section" were not described by streets.

Mrs. Edith H. Moore, who was a member of the City Alcoholic Beverage Control Board between 1933 (immediately following the repeal of Prohibition) and 1934 and who has been an Alcoholic Beverage Control Inspector for the City since that time, testified that the policy was adopted in 1934 following the granting, in 1933, of several licenses in "... what we designate now as the western section of Trenton, two -- on Stuyvesant Avenue, Mr. Dearden's on Pennington Avenue and then we went on down to Calhoun Street. There was one on Calhoun Street and there were several granted -- two granted on Reservoir Street. Shortly after the granting of these licenses, particularly the Stuyvesant Avenue license ... there was terrific repercussion."

This witness further testified that the policy was discussed as early as 1933 and 1934 and that the "Western Section" included everything west of Calhoun Street and from the river to the northern boundary of the City -- the Ewing Township line. The witness also testified that Pennington Avenue was mentioned in the decision of the late Commissioner Burnett in the Oransky case (Oransky v. Trenton, Bulletin 220, Item 5) affirming denial of the transfer from East State Street to 632 Stuyvesant Avenue, aforementioned. A copy of that decision was received in evidence over objection by appellant's attorney. Since that decision is part of the history of licensing in Trenton it may be considered and was properly received in evidence. The witness also testified that no new licenses have been issued in the "Western Section" or on or near Stuyvesant Avenue since 1934 and that all subsequent applications for new licenses or place-to-place transfers to the "Western Section" have been denied; that all licenses now in existence for premises on Stuyvesant Avenue and between Stuyvesant Avenue and Pennington Avenue had been issued before the policy was established; that none had been issued for Pennington Avenue since the policy was established because no applications had been received and that, thereafter, only renewal applications had been received from the area between Stuyvesant Avenue and Pennington Avenue.

Two clergymen and five other witnesses testified in objection to the proposed transfer. Thirteen other objectors, living in the vicinity of the proposed new premises, had their appearances noted on the record. Several witnesses testified that the other licensed premises in the area, including those nearby in Ewing Township, adequately serve the area. In addition, petitions signed by more than 300 objectors were received in evidence.

"A transfer of a liquor license to other persons or premises, or both, is not an inherent or automatic right. The issuing authority may grant or deny the transfer in the exercise of reasonable discretion. If denied on a reasonable ground, such action will be affirmed. Fafalak v. Bayonne, Bulletin 95, Item 5; VanSchoick v. Howell, Bulletin 120, Item 6; Craig v. Orange, Bulletin 251, Item 4; Semento v. West Milford, Bulletin 253, Item 2; Masarik et al. v. Hilltown, Bulletin 283, Item 10." Biscamp & Hess v. Teaneck, Bulletin 821, Item 8. See also Biscamp v. Teaneck, 5 N. J. Super. 172 (App. Div. 1949).

"The question of whether or not a place-to-place transfer is to be granted is within the sound discretion of the Board in the first instance and, on appeal, the burden is on appellant to show that the Board abused its discretion. Rule 6 of State Regulations No. 15. Bock Tavern Inc. v. Newark, Bulletin 952, Item 1; Segal et al. v. Clifton et al., Bulletin 732, Item 5; Christian v. Passaic, Bulletin 928, Item 2." Bramberger v. Clifton, Bulletin 971, Item 1.

As hereinabove indicated, the major issue raised on this appeal is the existence and extent of an alleged policy in Trenton under which no new retail licenses are to be issued for, or any retail license transferred to, premises in the "Western Section" of the City. From all of the evidence I conclude that such a policy has existed for many years. Apparently the policy has never been reduced to writing in a resolution, ordinance or other official document and it seems doubtful that the exact boundaries of the "Western Section" have ever been officially agreed upon. It is generally conceded, however, that one boundary (which, strictly speaking, is the southeasterly boundary) is Calhoun Street; that another boundary (strictly speaking, the southwesterly boundary) is the Delaware River and that the protected area extends from Calhoun Street in a general westerly direction to the City line out West State Street and continuing on through Sanhican Drive and the surrounding area. The only dispute seems to be whether or not the

"1. On March 6, 7, 8, 10 and 13, 1953, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of arrangements for the purpose of illicit sexual intercourse and the renting, providing and furnishing of rooms therein for that purpose; in violation of Rule 5 of State Regulations No. 20.

"2. On March 6, 7, 8, 10 and 13, 1953, you allowed, permitted and suffered Dorothea S---, a female employed on your licensed premises, to accept beverages at the expense of or as a gift from customers and patrons; in violation of Rule 22 of State Regulations No. 20.

"3. In your application dated June 6, 1952, filed with the Borough Council of the Borough of Atlantic Highlands upon which you obtained your current plenary retail consumption license, you falsely stated 'No' in answer to Question 41 which asks: 'Have you or has any person mentioned in this application ever had any interest, directly or indirectly, in any alcoholic beverage license in New Jersey which was surrendered, suspended, revoked or cancelled?', whereas in truth and fact alcoholic beverage licenses held by you had been suspended by the Director of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety for five days, effective November 13, 1950, and for the balance of the term, effective January 31, 1951; such false statement being in violation of R. S. 33:1-25."

The defendant originally entered a plea of not guilty to all charges. However, at the hearing but prior to the taking of testimony, it withdrew its plea of not guilty to charge (3) and entered a plea of non vult thereto. After an ABC agent testified on behalf of the Division, the defendant withdrew its plea of not guilty to charges (1) and (2) and entered a plea of non vult to said charges.

The file in the instant case discloses that the licensed premises consist of a two-story building having a barroom, kitchen and dining room on the first floor and about fourteen bedrooms on the second floor. On Friday, March 6, 1953, at noon, two ABC agents visited these premises and seated themselves in the barroom. They observed a woman called Dottie (Dorothea S---), who operates the food concession, drinking at the expense of several male patrons. After most of the male patrons had left the defendant's establishment, Dorothea S--- came over and opened up a conversation with the ABC agents, remarking that she had overheard them talking about their intention of purchasing a boat. During the time she remained in the company of the two agents, each agent purchased two drinks of whiskey and soda for her. When one of the agents first asked her what she was drinking, Dorothea S--- said "Just tell Howard (the bartender) it's for me he'll know what to give you." The agents left defendant's licensed premises at 4:00 p.m.

On Saturday, March 7, 1953, at about 9:30 p.m., the two ABC agents again visited defendant's licensed premises. A young man called "Johnnie" (Charles Hauser), later identified as the manager, was tending bar. Dorothea S--- joined the agents at the bar and asked how they made out with the boat. The agents told her they did not buy one and she referred them to a boat yard in town. One of the agents remarked that they didn't wish to look at boats that night as they were out to have some fun. He asked her what she did after finishing her work and Dorothea S--- said that she goes out sometimes and "lets her hair down." In answer to a question by the agents whether she had a girl friend, Dorothea S--- said she did not trust any woman as she felt better if no other woman knew what she did. The agent then inquired if she lived upstairs and, when she said she did, asked whether she would walk in her sleep and come into his room if he happened to get a room next to her room. She said "maybe" but advised him not to get a room next to hers because there was a man in one of the rooms next to her room and she did not wish him to know anything. She then told the agents that she was going upstairs to get washed and change her clothes and requested them to wait for her. She left to go upstairs at about 10:45 p.m. and at midnight, when she failed to return, the agent called to the



bartender and told him the story. The bartender then went upstairs and in a short time returned and stated that he knocked at her door but got no answer. The other agent asked the bartender whether he could go upstairs and try to wake her. The bartender said he could and told him that Dorothea S--- was in "Apartment 10." The agent went upstairs and when he came down said, although he knocked on the door, he received no answer. The agents made preparations to leave and the bartender escorted them to the door, remarking that earlier in the evening Dottie was drinking in the place with a sailor who got pretty drunk and that Dottie then took the sailor in the kitchen, and he did not see him since. One of the agents said that he had been in the kitchen a few minutes before and that no one was there. The bartender then stated that Dottie probably took the sailor up to her room through the back way and was up in her room with him then, probably laying him. One of the agents then told the bartender that they expected to lay Dottie upstairs that night and asked him if she "was a good lay." The bartender answered that he never laid her, but some of the boys in the place told him "she was a good lay." The agents left the premises at 1:00 a.m. on March 8, 1953.

On Tuesday, March 10, 1953, at about 11:45 a.m., the two agents again visited defendant's licensed premises. Howard Day was then tending bar. After the dinner rush was over, Dorothea S--- came over to the bar and greeted the agents and some male patrons. One of the patrons bought two drinks for her. Later, the agents walked over to a booth where Dorothea S--- was seated and one of the agents asked her why she had not kept her appointment with them on the **past** Saturday night. She answered that upon returning upstairs she fell asleep on the bed. Each agent treated her to drinks. One of the agents told Dorothea S--- that he was disappointed about the previous Saturday because he thought he could go to her room and have some fun. She remarked that the man in the room next to her room might hear them in her room and suggested that the agent obtain a room farther down the hall. Dorothea S--- checked the register and, upon returning to the agents, said all the rooms were occupied. When she stated that there may be a vacancy on the following night, the agent agreed to return at that time and have some fun. She said, "I don't go to bed with everybody, I have to know you better." A sailor entered the premises and Dorothea S--- said it was her boy friend. The agents left the premises at 4:00 p.m.

On Friday, March 13, 1953, at 1:45 p.m., the two agents who had visited the defendant's licensed premises on previous occasions, together with another ABC agent and a county detective, arrived in the vicinity of defendant's premises. The two ABC agents who had been in the premises on the previous occasions entered the place and took seats at the bar. Howard was tending bar and Dorothea S--- was seated at the bar in the company of a male patron who was treating her to drinks. She nodded to the agents. After a period of time she came over to them and sat at the bar between them. As she did this, the bartender poured a drink of whiskey for her and took 40¢ from the agents' money. She asked one of the agents why he hadn't come down the other night as she had saved him a room. The agent told her that he would take the room then and that they could go upstairs and have some fun. The agent stated that they had twenty dollars and if they could use her room she could have it all. He then asked her the price of the rooms and she said "\$2.50 for a single and \$3.50 for a double." Dorothea S--- left them to wait on a patron. The agent ordered sandwiches from her and as she served these, a man entered the premises and Dorothea S--- greeted him and accepted a drink from him. Thereafter, she went into the kitchen. Sometime later the agents went to the kitchen and inquired about going upstairs. One of the agents asked if they could use her room and she indicated that she did not want to take both of them upstairs because she expected her boy friend. This agent then stated to



Dorothea S--- that he would get his own room upstairs and have a girl friend come up to engage in sexual intercourse and he didn't care if his friend (meaning the other agent) did likewise after he got through. Dorothea S--- laughed and said she would give him a room. The agent went to the telephone booth, and upon his return Dorothea S--- asked whether his girl friend was coming. He told her she was expected at six o'clock. They went to a small counter where Dorothea S--- handed him a card and told him to register. He wrote "Jim Rocco" and after some hesitation "and wife, Long Branch, N. J." Dorothea S--- said "Why did you put wife for, you could have had a single room, now I have to give you a double." He asked how much was the double room and she said \$3.50. He gave her four one-dollar bills, the serial numbers of which had been previously listed. She handed him a key, saying "Number 3." Dorothea S--- gave the bartender, who had meantime joined them, the four dollars. The agents returned to the bar and the bartender gave the agent who had rented the room from Dorothea S--- fifty cents change. The other agent then handed Dorothea S--- fifteen dollars (two five-dollar bills and five one-dollar bills, the serial numbers of which had previously been noted), which sum of money she placed in the left-hand pocket of her slacks. She then told the agent she was going upstairs to make the beds and that he should go outside and come up the back stairs to Room No. 10, but cautioned him to be very quiet as "her next door roomer was nosy." About fifteen minutes thereafter, while still in the barroom, the agent told Dorothea S--- that he would go upstairs in about five minutes. At this remark she took the fifteen dollars from her pocket and threw them on the bar saying, "I don't want anybody to know what's going on." After a short conversation with the agent Dorothea S--- picked up the money from the bar and again placed it in her pocket. At 5:00 p.m., the agents left the premises, one telling Dorothea S--- that he was going to pick up his girl friend, and the other that he would return and see her later. Dorothea S--- suggested that the agent who had given her the fifteen dollars use the rear outside stairs. The local police were notified and the Chief of Police accompanied the agents when they returned to the vicinity of defendant's premises at 6:20 p.m. One agent entered the barroom and the other entered by way of the rear stairway. Later, the first agent came upstairs and both agents went to Room No. 3. There was a knock on the bedroom door. When the agents opened the door; they observed in the hallway another ABC agent, a county detective, the local Police Chief and Dorothea S---. The latter admitted she had rented a room to one of the agents for the purpose of engaging in illicit sexual intercourse with a girl friend, and that she had received money from the other agent for the purpose of engaging in sexual intercourse with him. She produced fifteen dollars from her pocket which was found to be the money received from the agent, the serial numbers of which had theretofore been taken down. Dorothea S--- said that because she had no intention of going through with the agreement to engage in sexual intercourse with the agent she did not go upstairs while they were there and that she intended to return the money to him the next time she saw him.

This is not a case where the immoral activity charged involves merely the renting of rooms for the purpose of illicit sexual intercourse. The charge which alleges immoral activity (charge 1) also includes the making of arrangements for that purpose. In fixing the penalty, therefore, I must take into account the following matters and things, i.e., that a woman, who was permitted to work as a food concessionaire in the barroom, was allowed to circulate among the male patrons and drink freely at their expense, contrary to Rule 22 of State Regulations No. 20 (see Re Hrubec's Bar, Bulletin 752, Item 2); that she lived in one of the bedrooms on the premises; that defendant's manager suspected that she was engaging in illicit sexual intercourse in that bedroom; that she made arrangements personally to engage in illicit sexual intercourse in that bedroom; that she was allowed to rent out the other bedrooms and did, in fact, rent one

such bedroom to be used for the purpose of illicit sexual intercourse. The fact that no illicit sexual intercourse actually occurred -- or that the woman (as she claimed) did not intend to go through with her own arrangement -- does not alter the basic aspects of the case. The renting of rooms to be used, ostensibly, for illicit sexual intercourse is itself a violation of Rule 5 of State Regulations No. 20. In Re Schneider, 12 N. J. Super. 449 (App. Div. 1951); in Re Larsen, 17 N. J. Super. 564 (App. Div. 1952).

While there is no evidence that the officers, directors or stockholders of defendant corporate licensee personally participated in the transactions in question, such fact is neither a defense nor an excuse. A licensee must exercise close supervision over his licensed premises at all times and violations occurring there cannot be excused merely because he had no personal knowledge of them. As was said in Essex Holding Corp. v. Hock, 136 N. J. L. 28 (Sup. Ct. 1947), "Although the word 'suffer' may require a different interpretation in the case of a trespasser, it imposes responsibility on a licensee, regardless of knowledge, where there is a failure to prevent the prohibited conduct by those occupying the premises with his authority. Guastamachio v. Brennan, 128 Conn. 356, 23 A. 2d 140 (Sup. Ct. of Err., Conn., 1941)." Dorothea S--- was no trespasser upon defendant's licensed premises. On the contrary, she was there self-evidently with defendant's authority. Defendant cannot escape responsibility for her acts and conduct. "When a privilege to enter [licensed premises] is given, whether general, conditional or restricted, the licensee has the duty of taking such measures as the circumstances of the particular case require to prevent prohibited conduct on the licensed premises arising out of the grant of the privilege." Greenbrier, Inc. v. Hock, 14 N. J. Super. 39 (App. Div. 1951).

As appears from the additional violation alleged in charge 3 (defendant's failure to set forth its past suspensions in its application for its 1952-53 license), defendant has a prior adjudicated record. Effective November 13, 1950, its then existing license was suspended for 5 days because of a mislabeled beer tap. Re Pier Hotel Inc., Bulletin 890, Item 6. Later, effective January 31, 1951, the license was suspended for the balance of its term on a charge that defendant had "farmed out" the license to another person, leave being granted, however, to file a petition to lift this suspension when the illegal situation had been corrected but not until at least 25 days had elapsed from the effective date of the suspension. Re Pier Hotel Inc., Bulletin 897, Item 4. Said suspension was eventually lifted, effective June 1, 1951. Re Pier Hotel Inc., Bulletin 909, Item 9. In those violations, defendant, a corporation, consisted of the same stockholders, directors and officers as are involved in the present case.

Revocation is clearly the only proper penalty in the present proceedings. Defendant, by its above mentioned "farming out" case, has already exhibited, within the last several years, a serious lack of understanding of the obligations and responsibilities of a licensee. Having received the benefit of restoration of the privileges of its license in that matter under the circumstances there detailed, defendant, by the sordid case here involved, demonstrates total unfitness to hold a license. Under the facts, anything less than revocation would be an injustice to the public and to the great number of law-abiding licensees.

Although this proceeding was instituted during the 1952-53 licensing year, it does not abate but remains fully effective against the renewal license for the present 1953-54 licensing year. State Regulations No. 16.

Accordingly, it is, on this 10th day of August, 1953,

ORDERED that Plenary Retail Consumption License C-12, issued for the 1953-54 licensing year by the Borough Council of the Borough of Atlantic Highlands to Pier Hotel, Inc., for premises at 38-40 First Avenue, Atlantic Highlands, be and the same is hereby revoked, effective immediately.

DOMINIC A. CAVICCHIA  
Director.

4. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

EDWARD P. GRZEGOWSKI  
95 Pulaski Avenue  
Wallington, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Mayor and Council of the Borough of Wallington.

Edward P. Grzegowski, Defendant-licensee, Pro Se.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On July 2, 1953, you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, an alcoholic beverage in a bottle which bore a label which did not truly describe its contents, viz.,

One pint bottle labeled 'Carstairs White Seal  
Blended Whiskey 86 Proof';

in violation of Rule 27 of State Regulations No. 20.

"2. On the aforesaid date, while an inspector of the Division of Alcoholic Beverage Control was investigating the above alleged violation, you hindered and delayed and failed to facilitate such investigation; in violation of R. S. 33:1-35."

The file discloses that on July 2, 1953, an ABC agent visited defendant's licensed premises to test the open stock of liquor. A woman, subsequently identified as the mother of the defendant, was behind the bar at the time, and when the agent entered she hurriedly put something on the floor under the drainboard and then placed a case of beer in front of it. The agent requested a cloth from the woman and when she left to obtain the cloth, the agent pulled out the case of beer and found a pint bottle of Carstairs White Seal Blended Whiskey. As he was looking at the bottle the woman returned and attempted to wrest the bottle from the agent's possession. After the agent persuaded the woman to relinquish her hold on the bottle, he made a test of the contents thereof and the test indicated that the contents were off-color and low in proof. Subsequent analysis by the Division chemist confirmed the fact that the contents of the pint of Carstairs White Seal Blended Whiskey were not genuine as labeled.

Defendant has a prior adjudicated record. Effective October 23, 1950, defendant's license was suspended for a period of ten days after he had pleaded non vult to (a) possession of a bottle of alcoholic beverages that bore a label which did not truly describe its contents, and (b) without a license so to do refilled a bottle labeled "Fleischmann's Distilled Dry Gin" with a blended whiskey. Re Grzegowski, Bulletin 887, Item 10.

The minimum penalty imposed for a violation of the kind set forth in charge (1) is a suspension for a period of fifteen days, Re Rudolph, Bulletin 680, Item 1. Since this is a second similar violation within five years, I shall suspend defendant's license for thirty days because of the violation set forth in charge (1), Re Iwanowski, Bulletin 768, Item 6. I shall suspend defendant's license for an additional period of fifteen days because of the violation set forth in charge (2), Re Von Schrag, Bulletin 975, Item 3, making a total of forty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty days.

Accordingly, it is, on this 14th day of August, 1953,

ORDERED that Plenary Retail Consumption License C-6, issued by the Mayor and Council of the Borough of Wallington to Edward P. Grzegowski, 95 Pulaski Avenue, Wallington, be and the same is hereby suspended for a period of forty (40) days, commencing at 3:00 a.m. August 24, 1953, and terminating at 3:00 a.m. October 3, 1953.

DOMINIC A. CAVICCHIA  
Director.

5. DISCIPLINARY PROCEEDINGS - SUSPENSION REIMPOSED AFTER FURTHER STAY DENIED BY APPELLATE DIVISION ON APPEAL.

In the Matter of Disciplinary  
Proceedings against

CHARLES E. MITCHELL  
T/a PARADISE CAFE  
Green Street & Linden Avenue  
Burlington, N. J.,

ORDER

Holder of Plenary Retail Consumption  
License C-15 (for the 1952-53 and 1953-  
54 licensing years), issued by the  
Common Council of the City of Burlington.)  
-----

BY THE DIRECTOR:

On July 21, 1953, the defendant's license was suspended for a period of 45 days, effective July 28, 1953. On July 29, 1953, the defendant filed a notice of appeal to the Superior Court, Appellate Division, and obtained a temporary stay of the suspension. On August 11, 1953, the Court entered an order denying any further stay. The suspension may now, therefore, be reimposed.

The defendant has already served 2 days of the suspension, leaving a balance of 43 days still to be served.

Accordingly, it is, on this 12th day of August, 1953,

ORDERED that the suspension of 45 days (less the 2 days already served), heretofore imposed upon License C-15 issued by the Common Council of the City of Burlington to Charles E. Mitchell, t/a Paradise Cafe, for premises at Green Street and Linden Avenue, Burlington, be and the same is hereby reimposed, commencing at 2:00 a.m. August 18, 1953, and terminating at 2:00 a.m. September 30, 1953.

DOMINIC A. CAVICCHIA  
Director.

6. DISCIPLINARY PROCEEDINGS - UNLABELED BEER TAP - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 6 DAYS, LESS 1 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

MELODY CLUB, INC. )  
T/a MELODY CLUB, INC. )  
120-122 Main Street )  
Woodbridge, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-3, issued by the )  
Township Committee of the Township )  
of Woodbridge. )

Melody Club, Inc., Defendant-licensee, by Philip Pollen, President.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On June 24, 1953, you allowed, permitted and suffered two taps on your licensed premises to be connected with barrels of malt alcoholic beverages which taps did not bear any markers which truly indicated the names or brands of the manufacturers of such malt alcoholic beverages, in that one of said taps bearing no marker was connected to a barrel of Krueger beer and the other of said taps bearing no marker was connected to a barrel of Schaefer beer; in violation of Rule 26 of State Regulations No. 20."

An ABC agent, during a routine inspection of defendant's licensed premises on June 24, 1953, found that beer from barrels labeled "Krueger" and "Schaefer", respectively, were being dispensed through taps which bore no markers.

Defendant has a prior adjudicated record. Effective June 4, 1951, its license was suspended for a period of two days after it had pleaded guilty to a similar violation. Re Melody Club, Inc., Bulletin 909, Item 7. The minimum suspension is three days for a violation of the type now under consideration. Re Cavanaugh & Hrasna, Bulletin 979, Item 8. However, because of a prior similar violation, I shall suspend defendant's license for a period of six days. One day will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 7th day of August, 1953,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Woodbridge to Melody Club, Inc., t/a Melody Club, Inc., 120-122 Main Street, Woodbridge, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. August 17, 1953, and terminating at 3:00 a.m. August 22, 1953.

DOMINIC A. CAVICCHIA  
Director.

7. DISQUALIFICATION - PRIOR APPLICATION DENIED - FIVE YEARS' GOOD  
CONDUCT - APPLICATION TO LIFT GRANTED.

In the Matter of an Application                    )  
to Remove Disqualification                            )  
because of a Conviction, Pursuant                    )  
to R. S. 33:1-31.2.                                    )  
CONCLUSIONS  
AND ORDER

Case No. 1076.  
- - - - -)

BY THE DIRECTOR:

On September 1, 1944, petitioner pleaded guilty to the crime of receiving property stolen from the United States Government, and as a result thereof received a sentence of one year and one day and was fined \$400.00. The operation of the sentence was suspended and petitioner was placed on probation for two years. On June 25, 1953, I dismissed a prior petition filed herein solely because it appeared that petitioner had falsely denied, in an application filed for a solicitor's permit, that he had been convicted of a crime. In the Conclusions and Order filed therein, he was given permission to renew his application for relief after August 14, 1953. Re Case No. 1066, Bulletin 977, Item 9.

The petitioner has now reapplied to have his disqualification removed. It appears that he has not been convicted of any crime or involved with the law in any manner whatsoever since the denial of his prior petition on June 25, 1953.

After careful consideration of the entire record, I conclude that petitioner's association with the alcoholic beverage industry will not be contrary to the public interest. Hence, I shall now grant the relief sought. Cf. Case No. 785, Bulletin 867, Item 4.

Accordingly, it is, on this 17th day of August, 1953,

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

DOMINIC A. CAVICCHIA  
Director.

8. DISCIPLINARY PROCEEDINGS CLUB LICENSEE - SALE TO NON-MEMBERS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

BURLINGTON LODGE #965,  
LOYAL ORDER OF MOOSE,  
S/E Corner Wood & Broad Streets,  
Burlington (City), New Jersey,

CONCLUSIONS  
AND ORDER

Holder of Club License CB-39,  
issued by the Director of Alcoholic  
Beverage Control.

Defendant-licensee, by Joseph Bowley, Governor.  
David S. Piltzer, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On Friday, July 24, 1953, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to persons not bona fide members of your club or bona fide guests of such members; in violation of Rule 8 of State Regulations No. 7."

The file herein discloses that two ABC agents entered defendant's premises at about 9:20 p.m. on July 24, 1953. Neither agent was a member, or the guest of a member, of defendant Lodge or a member of any Lodge of the Loyal Order of Moose. While the agents were seated at the bar, they purchased and consumed alcoholic beverages which were served to them by Eugene Sliwoski, who was then acting as bartender.

In alleged mitigation, the Governor of defendant Lodge states that the agents entered defendant's premises while he was temporarily in another part of the building signing checks. The temporary absence of the Governor does not excuse the violation.

Defendant has a prior record. Effective September 25, 1939, its license was suspended by the Commissioner for three days for sale of alcoholic beverages to non-members. Re Burlington Lodge #965, L.O.O.M., Bulletin 346, Item 3. Effective June 12, 1944, its license was suspended by the Commissioner for ten days for possessing a slot machine on its licensed premises. Re Burlington Lodge #965, L.O.O.M., Bulletin 623, Item 4. Inasmuch as the similar violation occurred more than ten years ago and the dissimilar violation occurred more than five years ago, I shall not consider them in aggravation of the present charge. Re Wally's Inc., Bulletin 931, Item 9. Therefore, I shall suspend defendant's license for the minimum period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Ridgfield World War Veteran's Association, Inc., Bulletin 923, Item 9.

Accordingly, it is, on this 1st day of September, 1953,



ORDERED that Club License CB-39, issued by the Director of Alcoholic Beverage Control to Burlington Lodge #965, Loyal Order of Moose, for premises at S/E Corner Wood & Broad Streets, Burlington (City), be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. September 8, 1953, and terminating at 2:00 a.m. September 18, 1953.

DOMINIC A. CAVICCHIA  
Director.

9. APPEAL CASES - JULY 1, 1952 THROUGH JUNE 30, 1953.

August 17, 1953.

MEMO TO: Dominic A. Cavicchia Director.  
FROM: Edward J. Dorton, Deputy Director.

Cases undecided June 30, 1952	6
Cases filed for period July 1, 1952 through June 30, 1953	<u>40</u>
Total - - - - -	46

Disposition

Affirmed	24
Reversed	4
Modified	1
Withdrawn	8
Undecided (3 cases heard, 1 case partially heard, 5 cases not heard)	<u>9</u>
Total - - - - -	46

Edward J. Dorton  
Deputy Director.

## 10. STATE LICENSES - NEW APPLICATIONS FILED.

Dant Distillery and Distributing Corp.  
122 East 42nd Street  
New York, New York.

Application filed August 14, 1953 for Plenary Wholesale License.

The Hilsom Corporation  
1 Exchange Place  
Jersey City, N. J.

Application filed August 21, 1953 for Plenary Wholesale License

Lawrence Warehouse Company  
Bremen Ave. and Liebig Street  
Galloway Township, N. J.

Application filed August 20, 1953 for Public Warehouse License.

Carl R. Bowman  
1439 Bluestone St.  
Harrisonburg, Virginia.


Application filed August 21, 1953 for Transportation License.

Joseph Jacobitti  
"Flash King"  
Johnny's Landing, Highlands, N. J.

Application filed September 1, 1953 for Plenary Retail  
Transit License.

Jacobi & Gallo Inc.  
16th and Madison Street  
Hoboken, N. J.

Application filed September 1, 1953 for Transportation License.

  
Dominic A. Cavicchia  
Director.

New Jersey State Library