

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

BULLETIN 551

FEBRUARY 5, 1943

1. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - PREVIOUS RECORD - 30 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY PERMITTEE TO MINORS - 30 DAYS' SUSPENSION OF PERMIT PRIVILEGE, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

PETER A. GAJEWSKI and)
 CASMER J. TABOR, Trustee)
 for Emil Tabor,)
 31 Wall Street,)
 Passaic, N. J.,)

-----)
 Holders of Plenary Retail Consumption License C-114, issued by the Board of Commissioners of the City of Passaic.)

CONCLUSIONS
AND
ORDER

-----)
 In the Matter of Disciplinary Proceedings against)

OLGA BORUSHKO,)
 23 Van Riper Avenue)
 Clifton, N. J.,)

-----)
 Holder of Employment Permit No. 5941, issued by the State Commissioner of Alcoholic Beverage Control.)

-----)
 Michael Andrus, Esq., Attorney for Defendant-Licensees and Defendant-Permittee.)
 Richard C. Gossweiler, Esq., Attorney for the Department of Alcoholic Beverage Control.)

BY THE COMMISSIONER:

The defendant-licensees have pleaded guilty to charges of having sold alcoholic beverages to five minors on the 17th day of October 1942, in violation of R.S. 33:1-77 and Rule 1 of State Regulations No. 20.

Olga Borushko, defendant-permittee, has pleaded guilty to the charge of having sold alcoholic beverages to three of the minors on the date in question.

The charges against the defendant-licensees and the defendant-permittee arise out of the same set of facts, and, therefore, may be disposed of at one and the same time.

The Department record discloses that, on October 17, 1942, Olga Borushko, (holder of a non-residence employment permit) employed as a waitress by the licensees, sold alcoholic beverages to

two girls and two boys seated in a booth on the licensed premises. Of these, three were minors: a boy seventeen years of age, a girl sixteen years of age and another girl twenty years of age. At approximately the same time, another employee sold alcoholic beverages to two boys who were at the bar, one of whom was eighteen years of age, and the other nineteen years of age. Both employees sold the alcoholic beverages without questioning the minors as to their ages.

In entering the plea of guilty for the defendants, counsel represented that the minors (with the exception of the girl sixteen years of age) appeared to be over twenty-one years of age, and therefore requested the Commissioner to have the minors appear before him so that he might have an opportunity to form his own estimate of their ages. This request was granted and four of the five minors appeared before me on the date set for hearing.

After having observed these young people, it is my opinion that each of them is quite apparently under twenty-one years of age and, in fact, each does not appear older than their actual ages of sixteen, seventeen, eighteen and twenty. It is difficult for me to see how anyone could conclude, from observation, that any of these youngsters had reached his or her majority.

As to penalty against the defendant-licensees: It is the duty of licensees to obey the law and see to it that those who are employed by them likewise obey the law. The sale of alcoholic beverages to, or permitting the consumption by, even one minor is a serious violation. Sale to a number of minors, especially where their youth is so obvious, is an aggravating factor. Furthermore, the licensees in this case have a previous record, having had their license suspended by the Board of Commissioners of the City of Passaic for three days in June of 1941 for selling alcoholic beverages during prohibited hours on Sunday.

Under all the circumstances, I shall suspend the defendants' license for a period of thirty days, with five days remitted for the guilty plea, making a net penalty of twenty-five days.

As to penalty against the defendant-permittee: Her permit will be suspended for a like period of thirty days, with five days remitted for the guilty plea, or a net of twenty-five days. This, I believe, will teach her to steer clear of future violations of this nature.

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

ORDERED, that Plenary Retail Consumption License C-114, heretofore issued by the Board of Commissioners of the City of Passaic to Peter A. Gajewski and Casmer J. Tabor, Trustee for Emil Tabor, for premises 31 Wall Street, Passaic, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 3:00 A.M. on January 22, 1943, and terminating at 3:00 A.M. on February 16, 1943; and it is further

ORDERED, that Employment Permit No. 5941, heretofore issued to Olga Borushko by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 3:00 A.M. on January 22, 1943, and terminating at 3:00 A.M. on February 16, 1943.

ALFRED E. DRISCOLL
Commissioner.

- 2. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO PERSON (SOLDIER) ACTUALLY OR APPARENTLY INTOXICATED AND PERMITTING THE CONSUMPTION OF SAME ON LICENSED PREMISES, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 20 - AGGRAVATING CIRCUMSTANCES - 90 DAYS' SUSPENSION - PERMITTING FEMALE EMPLOYEE TO ACCEPT ALCOHOLIC BEVERAGES AT THE EXPENSE OF PATRONS, IN VIOLATION OF RULE 22 OF STATE REGULATIONS NO. 20 - 20 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA - TOTAL: 105 DAYS.

In the Matter of Disciplinary)
 Proceedings against)
)
 JOHN J. BURATTI)
 1 Stelton Road)
 Piscataway Township)
 P.O. New Market, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-4, issued by the)
 Township Committee of the Town-)
 ship of Piscataway.)
 - - - - -)

John J. Buratti, Pro Se.
 Milton H. Cooper, Esq., Attorney for Department of Alcoholic
 Beverage Control.

BY THE COMMISSIONER:

The licensee pleaded guilty to charges alleging that (1) he sold, served and delivered alcoholic beverages to a person actually or apparently intoxicated, in violation of Rule 1 of State Regulations No. 20, and (2) permitted a female employee to accept beverages at the expense of patrons, in violation of Rule 22 of State Regulations No. 20.

On December 2, 1942, at about 11:30 P.M., several ABC agents, seated at a table on the licensed premises, saw a soldier enter the tavern and occupy a stool next to a female at the bar. The soldier, according to this female, who is employed as a waitress by the licensee, was "half drunk" when he entered. He and the waitress were nevertheless each served three drinks of whiskey by the bartender before midnight. By this time the soldier was obviously intoxicated. He became boisterous, his speech was incoherent and he staggered around the bar.

Shortly after midnight, the licensee appeared at the tavern and joined the party. Thereafter, they were each served five drinks of whiskey. When the military police arrived at the premises at about 1:00 A.M. pursuant to a call from the agents, the soldier was in such a drunken stupor that he could not be interrogated.

The service of alcoholic beverages to drunken soldiers is a reprehensible and unpatriotic act. As I indicated in Re Traverso, Bulletin 519, Item 12, licensees who do so may expect to receive heavy-fisted penalties. In this case, the licensee's active participation in this shameful episode by permitting a member of our armed forces to reach such an extreme state of intoxication and accepting drinks at the soldier's expense while he was in such condition, is so aggravating a factor as to warrant a penalty of ninety days.

The waitress resides with her husband in a room above the tavern. She is also employed by the licensee as a chambermaid. It does not appear that any immoral activities accompanied her drinking

with patrons on the licensed premises or that, as is customarily the case with professional "hostesses", she was paid on a percentage basis. I shall, therefore, impose a penalty on this charge of twenty days, with five days remitted for the guilty plea. Cf. Re Bud Holding Company, Bulletin 469, Item 8; Re Kovacs, Bulletin 498, Item 4; Re McDonald, Bulletin 550, Item 5.

The suspension thus totals one hundred and five days.

Accordingly, it is, on this 27th day of January, 1943,

ORDERED, that Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of Piscataway to John J. Buratti for premises 1 Stelton Road, Piscataway Township, be and the same is hereby suspended for a period of one hundred and five (105) days, commencing at 3:00 A.M. on February 1, 1943 and terminating at 3:00 A.M. on May 17, 1943.

ALFRED E. DRISCOLL
Commissioner.

3. ON PETITION - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO PETITION TO LIFT UPON EXPIRATION OF 90 DAYS AND CORRECTION OF ILLEGAL SITUATION (BULLETIN 538, ITEM 3) - FACTS EXAMINED - APPLICATION TO LIFT GRANTED.

In the Matter of Disciplinary)
Proceedings against)
CLINTON CUT RATE DRUGS, INC.)
1031 Springfield Avenue)
Irvington, N. J.,)
Holder of Plenary Retail Distri-)
bution License D-3 issued by the)
Board of Commissioners of the)
Town of Irvington.)
-----)

ON PETITION
ORDER

BY THE COMMISSIONER:

On November 9, 1942 I suspended defendant's license for the balance of its term and granted leave to a transferee of said license to apply to me to lift said suspension. The order heretofore entered provided that in no event would the suspension be lifted until at least ninety days had elapsed from the effective date of the suspension. Re Clinton Cut Rate Drugs, Inc., Bulletin 538, Item 3.

Roda Drugs, Inc. has filed a verified petition herein wherein it is set forth that George Goodman is President and principal stockholder of said corporation and that he and all other stockholders are fully qualified as individual licensees. The petition also sets forth that, on December 22, 1942, the Board of Commissioners of the Town of Irvington transferred the license, subject to the suspension previously imposed, from Clinton Cut Rate Drugs, Inc. to Roda Drugs, Inc. Certification that the license was so transferred has been received by me from the Comptroller of the Town of Irvington.

Ninety days of the suspension heretofore imposed will expire on Sunday, February 7, 1943.

Accordingly, it is, on this 28th day of January, 1943,

ORDERED, that the suspension heretofore imposed be lifted, effective at 12:00 o'clock noon Sunday, February 7, 1943.

ALFRED E. DRISCOLL
Commissioner.

- 4. DISCIPLINARY PROCEEDINGS - LICENSEE CHARGED WITH SALE OF ALCOHOLIC BEVERAGES TO MEMBER OF THE ARMED FORCES OF THE UNITED STATES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE AND ARMY CURFEW ORDER - CHARGE DISMISSED FOR LACK OF PROOF - SALE OF ALCOHOLIC BEVERAGES TO PERSON ACTUALLY OR APPARENTLY INTOXICATED, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 20 - 20 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)

ANNIE I. WILSON)
T/a WILSON'S CAFE)
1826 Atlantic Avenue)
Atlantic City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-50, issued by the Board of Commissioners of the City of Atlantic City.)
-----)

Leon Leonard, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded not guilty to the charges served upon her alleging that:

"1. Between 1:15 A.M. and 2:00 A.M., Saturday, December 12, 1942, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to a person actually or apparently intoxicated, in violation of Rule 1 of State Regulations No. 20.

"2. After 11:30 P.M., Friday, December 11, 1942, and before 9:00 A.M., Saturday, December 12, 1942, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to a person wearing the uniform of one of the armed forces of the United States of America, viz., the United States Army, in violation of an Ordinance adopted by the Board of Commissioners of the City of Atlantic City on August 11, 1938, as amended by Section 1 of an Ordinance adopted by the said Board on September 10, 1942."

As to charge (1): This charge concerns an alleged sale and service of alcoholic beverages to one Frank Sexton while he was actually or apparently intoxicated. The evidence shows that Sergeant S---, a member of the United States Army, entered defendant's premises with Sexton and two other civilians, viz., Eugene Steeb and John Dougherty, on Saturday morning, December 12, 1942, at about 1:00 A.M. The sergeant testified that earlier on the same night he and Sexton

had been at a friend's house for a couple of hours and that they had been drinking beer during that time. He further testified that after he entered defendant's premises, he was served with a glass of "coke" and each of his friends was served with a glass of beer; that he and Sexton got into an argument and that thereafter each of his three friends drank another glass of beer. As to Sexton's physical condition, the sergeant testified that he "had a few in him", "he was noisy", "I wouldn't say he was intoxicated", and "can't say he was sober." John Dougherty testified that each of the three civilians had two glasses of beer in the licensed premises; that, between the first and the second round, Sexton started to get boisterous and started to "holler." As to Sexton's physical condition, Dougherty testified that he "had a few drinks"; that "he was on the verge of intoxication"; and that "he was under the influence of liquor."

Joseph E. Wilson, husband of licensee and bartender in the licensed premises, denied that Sexton had consumed any alcoholic beverages on the licensed premises. His testimony is weakened by the fact that he admitted, in a statement given to investigators of the Department of Alcoholic Beverage Control, that the three civilians had a glass of beer each. At the hearing Sexton denied that he had consumed any beer on the licensed premises on the evening in question. In view of all the other evidence herein, I find myself unable to believe his testimony. The licensee is guilty as to charge (1).

As to charge (2): Sergeant S--- was exceedingly evasive and ambiguous concerning the contents of the fluid that was in the glass from which he had been drinking. He was asked, "Were you served any alcoholic beverages?", to which he answered, "I wouldn't say there were any alcoholic beverages in it." When asked, "Did you taste any alcoholic beverages in it or did it taste like coca cola?", he answered, "I couldn't say, I had a few before I went in there." Joseph Wilson, tending bar, denied that any alcoholic drinks were served Sergeant S---. A witness for the Department, a military policeman who discovered the soldier in the tavern, assumed that he was drinking whiskey but wasn't able to testify as to the color of the liquid or describe the size of the bottle from which it had been poured. He stated he didn't smell the fluid nor did he taste it. His conclusion that it was whiskey was arrived at because it had been taken from the bar. The others present knew little, if anything, about this phase of the case. Therefore, I shall give the defendant-licensee the benefit of any doubt that may exist and dismiss charge (2).

As to the penalty for serving alcoholic beverages to a person actually or apparently intoxicated, defendant's license will be suspended for twenty days.

Accordingly, it is, on this 27th day of January, 1943,

ORDERED, that Plenary Retail Consumption License C-50, heretofore issued by the Board of Commissioners of the City of Atlantic City to Annie I. Wilson, trading as Wilson's Cafe, for premises 1826 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for a period of twenty (20) days, commencing at 12:01 A.M. January 30, 1943, and terminating at 12:01 A.M. February 19, 1943.

ALFRED E. DRISCOLL
Commissioner.

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - DISCREPANCY IN SOLIDS AND COLORING - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against
)
)
 JOSHUA FUHRER
 146 Pavonia Avenue
 Jersey City, N. J.,
)
)
 Holder of Plenary Retail Consumption License C-276, issued by the Board of Commissioners of the City of Jersey City.
)

CONCLUSIONS AND ORDER

Louis A. Fast, Esq., Attorney for Defendant-Licensee.
 Abraham Merin, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee pleaded guilty to a charge alleging that, on September 18, 1942, he possessed a quart bottle of "Three Feathers The Aristocrat Blended Whiskey"; a quart bottle of "Calvert Special Blended Whiskey"; a quart bottle of "Carstairs White Seal Blended Whiskey"; and a 4/5th quart bottle of "Imperial Hiram Walker's Blended Whiskey"; all of which contained alcoholic beverages which were not genuine as labeled, in violation of R. S. 33:1-50.

It appears that, on September 18, 1942, Federal agents tested forty-seven bottles of liquor at defendant's premises and found forty-three to be satisfactory. Subsequent analysis by a Federal chemist disclosed that the contents of the four bottles mentioned in the charge differed substantially from authentic samples in the amount of solids and the percentage of artificial coloring. The Federal chemist concluded from his analysis that each of the seized bottles was a "refill."

The licensee has held a license continuously since Repeal and has no prior record. I shall suspend his license for ten days. Re Facher, Bulletin 549, Item 7.

Accordingly, it is, on this 29th day of January, 1943,

ORDERED, that Plenary Retail Consumption License C-276, issued by the Board of Commissioners of the City of Jersey City to Joshua Fuhrer, for premises 146 Pavonia Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 A. M. February 2, 1943, and terminating at 2:00 A.M. February 12, 1943.

ALFRED E. DRISCOLL
 Commissioner.

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO PERSONS (SOLDIERS) ACTUALLY OR APPARENTLY INTOXICATED AND PERMITTING THE CONSUMPTION OF SAME ON LICENSED PREMISES, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 20 - PREVIOUS RECORD - 65 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

RUDOLPH A. SEAKER, T/a TERMINAL BAR OF NEW BRUNSWICK 145 Albany Street New Brunswick, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-48 issued by the Board of Commissioners of the City of New Brunswick.)

-----)

Morris Spritzer, Esq., Attorney for Defendant-Licensee. Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee pleaded non vult to a charge alleging that, on January 8, 1943, he sold, served and delivered alcoholic beverages to four soldiers actually or apparently intoxicated, in violation of Rule 1 of State Regulations No. 20.

On the evening in question, two Department agents entered the defendant's tavern, where they observed about twenty soldiers drinking alcoholic beverages at the bar. Their attention was immediately directed to four soldiers who manifested all the outward signs of intoxication. They were unsteady on their feet, boisterous, and their speech was incoherent. After the four soldiers had consumed the beer which they were drinking when the agents entered, they were again each served a glass of beer by the bartender.

I have repeatedly pointed out the seriousness of this type of violation. Re Traverso, Bulletin 519, Item 12; Re Constantino, Bulletin 547, Item 7; Re Reit, Bulletin 548, Item 10. The facts herein are peculiarly similar to those of the last cited case where, also, four intoxicated soldiers were served with alcoholic beverages. In that case the suspension was fixed at sixty days, with a remission of five days for the guilty plea. This licensee, however, has a previous record. In April 1937, while he was a member of a partnership holding a liquor license, the local issuing authority suspended the license for seven days for selling alcoholic beverages on Sunday in violation of a local regulation. Because that violation occurred almost six years ago, I shall increase the penalty in this case by only five days. I shall, therefore, impose a penalty herein of sixty-five days, with five days remitted because of the guilty plea, or a net of sixty days.

In attempted extenuation of the violation, the licensee explains that, on the day in question, he was not at the licensed premises since he was confined to a hospital where he had undergone a major operation. He argues that, because he was not present at the time the offense was committed, such fact should be considered a mitigating circumstance. Even if the licensee's explanation is true, however, it neither excuses nor palliates the offense. Although a

licensee's personal participation in this and other types of violations may be considered an aggravating factor warranting an increased penalty, it does not follow that a penalty commensurate with the gravity of the offense should be reduced simply because of the absence of the licensee from the premises at the time of the infraction. Were it otherwise, a licensee would escape the full force of his liability for violations of the law merely by remaining away from his licensed premises. I find the licensee's argument to be devoid of merit.

The licensee was also charged with the sale of alcoholic beverages to a soldier under twenty-one years of age. This soldier was ordered overseas prior to the date scheduled for hearing and was not available to testify. Since, under the circumstances, the Department was not in a position to submit satisfactory proof of the age of this soldier, I am constrained to dismiss the charges relating to the sale of alcoholic beverages to this alleged minor.

Accordingly, it is, on this 27th day of January, 1943,

ORDERED, that Plenary Retail Consumption License C-48, issued by the Board of Commissioners of the City of New Brunswick to Rudolph A. Seaker, t/a Terminal Bar of New Brunswick, for premises 145 Albany Street, New Brunswick, be and the same is hereby suspended for a period of sixty (60) days, commencing at 2:00 A.M. February 1, 1943, and terminating at 2:00 A.M. April 2, 1943.

ALFRED E. DRISCOLL
Commissioner.

- 7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY CLUB LICENSEE DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - PREVIOUS RECORD - 30 DAYS' SUSPENSION - FALSE ANSWER IN LICENSE APPLICATION - 3 DAYS' SUSPENSION - TOTAL: 33 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

GEORGE W. BOOZ POST NO. 274 OF THE AMERICAN LEGION 1944 Broadway, Camden, N. J.,)

CONCLUSIONS AND ORDER

Holder of Club License CB-21, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

-----)

George W. Booz Post No. 274 of the American Legion, by William Breakman, Adjutant. Abraham Merin, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee, through its adjutant, has pleaded guilty to the following charges:

"1. On Sunday, November 1, 1942, at about 8:00 P.M., you sold, served and delivered and suffered and permitted the sale, service and delivery of alcoholic beverages upon your licensed premises, in violation of Section 5 of an Ordinance

concerning alcoholic beverages adopted by the Board of Commissioners of the City of Camden on December 27, 1934, which Ordinance prohibits the sale of alcoholic beverages after 2:00 A.M. on Sundays.

"2. In your license application dated May 22, 1942, filed with the Municipal Board of Alcoholic Beverage Control of the City of Camden, upon which Club License CB-21 for the year 1942-43 was granted to you, you falsely stated 'No' in answer to Question 36 in said application, which asks: 'Did the club ever hold an alcoholic beverage license which was surrendered, suspended or revoked?', whereas in truth and fact your license had been suspended for five days effective June 19, 1939; said false statement being in violation of R. S. 33:1-25."

As to charge (1): It appears from departmental records that on Sunday, November 1, 1942, at about 8:00 P.M., two ABC agents entered the licensed premises and observed six men seated at a table in a rear room drinking alcoholic beverages. The bartender admitted that he had served beer and whiskey to the men, who were members of the club.

It is urged, as mitigating circumstances, that earlier that day the members present attended a service flag-raising and had returned to the clubroom for alcoholic refreshments donated by the club. The barroom was closed and the beverages were being consumed in the privacy of a rear room.

It is unfortunate that those who had participated in the highly patriotic task of honoring men in the service should afterwards run afoul of the law, while assembled, presumably, to discuss the events of the day. However, any sale, service or delivery of alcoholic beverages by a licensee in Camden, on Sunday, is prohibited. Hence, albeit reluctantly, I must penalize the club for this infraction of the law.

As to charge (2): The licensee claims that in its application for the license for the current year it inadvertently failed to reveal the suspension of its 1939 license for five days for dispensing alcoholic beverages on Sunday. It is the duty of the licensee to see to it that the questions in its license application are fully and truthfully answered.

As to penalty: Since this is a second similar offense, I must suspend the license for a period of thirty days on the first charge, this being the usual penalty in such a case (Re South Spruce Bocce Club, Bulletin 539, Item 11), and for a further period of three days on the second charge. Five days will be remitted because of the guilty plea, making a net suspension of twenty-eight (28) days.

Accordingly, it is, on this 29th day of January, 1943,

ORDERED, that Club License CB-21, heretofore issued to George W. Booz Post No. 274 of the American Legion, for premises 1944 Broadway, Camden, N. J., by the Municipal Board of Alcoholic Beverage Control of the City of Camden, be and the same is hereby suspended for a period of twenty-eight (28) days, commencing at 2:00 A.M. February 4, 1943, and terminating at 2:00 A.M. March 4, 1943.

ALFRED E. DRISCOLL
Commissioner.

9. DISCIPLINARY PROCEEDINGS -- FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACTS - PERMITTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - 60 DAYS' SUSPENSION - PERMITTING NON-CITIZEN PERMITTEE TO SELL AND SERVE ALCOHOLIC BEVERAGES - 5 DAYS' SUSPENSION, LESS 2 FOR GUILTY PLEA - TOTAL: 63 DAYS.

DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION FOR EMPLOYMENT PERMIT - FAILURE TO DISCLOSE MATERIAL FACTS - SALE AND SERVICE OF ALCOHOLIC BEVERAGES CONTRARY TO CONDITIONS OF PERMIT - PERMIT PRIVILEGE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary Proceedings against)

BRUNO KATSCH & MARTHA PAULSEN)
1045-1049 Clinton Avenue)
Irvington, N. J.,)

Holders of Plenary Retail Consumption License C-37, issued by the Board of Commissioners of the Town of Irvington, and now held only in the name of)

BRUNO KATSCH)

for the same premises.)

CONCLUSIONS AND ORDERS

In the Matter of Disciplinary Proceedings against)

WALTER H. C. PAULSEN)
1045 Clinton Avenue)
Irvington, N. J.,)

Holder of Employment Permit No. 3390, issued by the State Commissioner of Alcoholic Beverage Control.)

Nathan Turesky, Esq., Attorney for Defendant-Licensees and Defendant-Permittee.
Abraham Merin, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant-licensees pleaded guilty to charges alleging that they (1) falsely concealed in their license application that Walter H. C. Paulsen was a partner in the licensed business, (2) permitted said Walter H. C. Paulsen to exercise the rights and privileges of their license, and (3) permitted the said Walter H. C. Paulsen, holder of a non-citizen employment permit, to sell and serve alcoholic beverages.

The defendant-permittee pleaded guilty to charges that he (1) falsely concealed in his permit application that he had an interest in the plenary retail consumption license issued to Bruno Katsch & Martha Paulsen, and (2) sold and served alcoholic beverages contrary to the conditions of his permit.

Walter H. C. Paulsen, a German national and thus ineligible to hold a liquor license, frankly disclosed that his interest in the partnership license was held on his behalf by his wife, Martha Paulsen.

After the institution of these proceedings, Mr. Paulsen's interest in the business was purchased by the other partner, Bruno Katsch, who is now the sole owner of the license and business conducted thereunder, and the license has been so endorsed by the local issuing authority.

From the proofs submitted in the record, it would appear that the sale of Paulsen's interest to Katsch is bona fide and that neither Mr. Paulsen nor his wife have any further connection whatsoever with the licensed business. Thus, the unlawful situation theretofore existing has now been corrected. The license will be suspended for sixty days on the first two charges (cf. Re Scharmberg, Bulletin 540, Item 4; Re Rodeo, Inc., Bulletin 546, Item 7), and for five days, less two for the guilty plea, on the third charge (cf. Re Onofrietti, Bulletin 540, Item 1), or a total suspension of sixty-three days.

So far as the defendant-permittee is concerned, his permit will be suspended for the balance of the fiscal year. Cf. Re Wuorela, Bulletin 540, Item 11.

Accordingly, it is, on this 29th day of January, 1943,

ORDERED, that Plenary Retail Consumption License C-37, heretofore issued to Bruno Katsch & Martha Paulsen for premises 1045-1049 Clinton Avenue, Irvington, by the Board of Commissioners of the Town of Irvington, and now held only by Bruno Katsch for the same premises, be and the same is hereby suspended for sixty-three (63) days, commencing at 3:00 A.M. on February 3, 1943, and terminating at 3:00 A.M. on April 7, 1943; and it is further

ORDERED, that Employment Permit No. 3390, heretofore issued to Walter H. C. Paulsen by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for the balance of its term, effective immediately.

ALFRED E. DRISCOLL
Commissioner.

- 10. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - 15 DAYS' SUSPENSION - FAILURE TO DISCLOSE VIEW OF INTERIOR - 5 DAYS' SUSPENSION - TOTAL: 20 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against
)
)
 VIOLET GRIP
 T/a ARENA CAFE
 3225 Mt. Ephraim Avenue
 Camden, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption License C-207 issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.
)
)

Violet Grip, Pro Se.
 Abraham Merin, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleaded guilty to charges alleging that (1) on Sunday, December 13, 1942, she sold alcoholic beverages after 2:00 A.M., in violation of a local ordinance, and (2) on that day she failed to arrange the curtains and screens on the windows and doors of the licensed premises so that the interior should be fully exposed to public view, in violation of a local ordinance.

At 2:00 A.M. on Sunday, December 13, 1942, two investigators of the Department of Alcoholic Beverage Control were present in a rear service room of the licensed premises. At that time the bartender, who was the licensee's husband, locked the doors and closed the Venetian blinds in both the service room and the barroom in such a manner as to prevent a view of the interior from the outside. However, about fifteen patrons were permitted to remain on the premises. Thereafter alcoholic beverages were served to the investigators, and to another patron at 2:15 A.M., 2:30 A.M. and 2:45 A.M. At or about the latter time, the investigators identified themselves to the licensee's husband, who then requested all patrons to leave.

I shall suspend the license for a period of fifteen days because of the violation set forth in charge (1) (Re Disbrow, Bulletin 540, Item 3) and for an additional period of five days because of the violation set forth in charge (2). Five days will be remitted for the guilty plea, making a net suspension of fifteen days.

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

ORDERED, that Plenary Retail Consumption License C-207, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Violet Grip, t/a Arena Cafe, for premises 3225 Mt. Ephraim Avenue, Camden, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 A.M. February 3, 1943, and terminating at 2:00 A.M. February 23, 1943.

ALFRED E. DRISCOLL
 Commissioner.

11. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES CONTRARY TO TERMS OF PLENARY RETAIL CONSUMPTION LICENSE, IN VIOLATION OF R. S. 33:1-2 - CORRUPTION OF MILITARY POLICE AND SALE OF LIQUOR TO SOLDIERS, IN VIOLATION OF "OFF LIMITS" ORDER - LICENSE SUSPENDED FOR BALANCE OF TERM.

LICENSEES REQUIRED TO COOPERATE WITH MILITARY AUTHORITIES AS A CONDITION PRECEDENT TO THEIR CONTINUED EXERCISE OF THE LICENSE PRIVILEGE.

In the Matter of Disciplinary Proceedings against

TONY and MARY RIZZO
T/a TONY AND MARY'S CAFE
E/S Trenton Road
Browns Mills
Pemberton Township
Burlington County, N.J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-2, issued by the Township Committee of Pemberton Township.

Felcone & Felcone, Esqs., Attorneys for the Defendant-Licensees.
Milton H. Cooper, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendants pleaded guilty to the following charge:

"On January 11, 1943, at about 9:30 P.M., you sold alcoholic beverages not pursuant to and within the terms of your Plenary Retail Consumption License, in that you sold and delivered two 4/5th quart bottles of whiskey on the outside of your licensed premises, said sale off your licensed premises being in violation of R. S. 33:1-2."

The records before me disclose that, some time prior to January 11, 1943, the licensed premises were officially declared "off limits" by an order of the Commanding Officer at Fort Dix. Soldiers were thereby prohibited from entering the licensed premises or from purchasing alcoholic beverages from the licensees. The licensees were notified by the Post Provost Marshal of the "off limits" order and directed neither to permit soldiers to enter their place nor to sell alcoholic beverages to the same for consumption off the licensed premises (bottled goods). For the purpose of enforcing the "off limits" order, four military policemen were stationed in the immediate vicinity of the licensed premises.

On January 11, 1943 two soldiers approached the cafe from the woods in the rear of the building, whistled, waited for a beckoning wave of a hand from a lavatory window in the back portion of the cafe, and then proceeded to the window. Two bottles containing whiskey were thereupon handed through the open window and delivered to the soldiers on the outside by the licensees, their agent or servant. The price charged the soldiers was not only excessive but also carried an additional tariff of 25¢ per bottle, which the person making the sale directed the soldiers to pay to each of the two military policemen who were present at the time.

The viciousness of the practice rests not so much in the fact that the licensees sold beyond the terms of their license but rather in the deliberate corruption of the two military policemen. These two men were lured from their path of duty and prevailed upon to disregard their orders. The sale in question, in open violation of the "off limits" order, resulted in the two soldier-purchasers taking the bottles back to camp, the very practice the Commanding Officer was seeking to prevent.

In Re Traverso, Bulletin 519, Item 12, I made it crystal clear that licensees found guilty of violations of the Alcoholic Beverage Law involving members of the armed forces would receive severe punishment. The conduct of defendants was an arrogant flaunting of the United States military authorities. The "pay-off" of the military policemen stationed to guard against soldiers entering the premises can only be viewed as an actual corruption of military personnel for individual gain and a total disregard of any consideration for the security of one of the largest and most important military establishments in the East. The prearranged signal and the surreptitious sale out of the rear lavatory window were characteristic elements of bootleg activities and the operation of a "speakeasy."

A license to sell alcoholic beverages is merely a privilege. The licensees in question have demonstrated to my entire satisfaction that they are not entitled to exercise the privilege heretofore granted them by Pemberton Township. We must not permit anyone or the exercise of any privilege to interfere with the training of our troops or the security of the State. Full cooperation with the military authorities in this period of stress is the order of the day.

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

ORDERED, that Plenary Retail Consumption License C-2, issued to Tony and Mary Rizzo, t/a Tony and Mary's Cafe, for premises on E/S Trenton Road, Browns Mills, Pemberton Township, by the Township Committee of Pemberton Township, be and the same is hereby suspended for the balance of its term, effective immediately.

Alfred E. Griswold
Commissioner.

New Jersey State Library

CHECKED BY No. 11