

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

BULLETIN 612

APRIL 14, 1944.

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

BULLETIN 612

APRIL 14, 1944.

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 - 20 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

NUNZIO MILANO
T/a NUNZIO'S CAFE
1901 South 4th Street
Camden, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-111, issued by the
Municipal Board of Alcoholic
Beverage Control of the City of
Camden.

Edward V. Martino, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads non vult to charges that he sold
and served to and permitted the consumption of alcoholic beverages
by minors on the licensed premises in violation of R. S. 33:1-77 and
of Rule 1 of State Regulations No. 20.

The file discloses that, on the night of March 3rd and the
early morning of March 4, 1944, three youths, two of whom were
eighteen and one seventeen years of age, were sold whiskey and beer
by an employee of the defendant. The minors alleged, in statements
given to investigators of the Department of Alcoholic Beverage Con-
trol, that they had been served alcoholic beverages on previous
occasions.

The usual penalty for sale to a minor, where there are no
aggravating circumstances, is ten days. Re Abrams, Bulletin 562,
Item 8. However, because of the youthfulness of the boys, especially
of the seventeen year old youth, a greater penalty is warranted.

The defendant has a previous adjudicated record. He pleaded
guilty to sales of alcoholic beverages during prohibited hours on a
Sunday. As a result thereof, his license was suspended by the local
issuing authority for six days, commencing June 24, 1939.

Under all of the circumstances, I shall suspend the license
for a period of twenty days, with remission of five days for the
non vult plea, or a net suspension of fifteen days.

Accordingly, it is, on this 5th day of April, 1944,

ORDERED, that Plenary Retail Consumption License C-111,
issued by the Municipal Board of Alcoholic Beverage Control of the
City of Camden to Nunzio Milano, t/a Nunzio's Cafe, for premises
1901 South 4th Street, Camden, be and the same is hereby suspended
for a period of fifteen (15) days, commencing at 2:00 A.M. April 12,
1944, and terminating at 2:00 A.M. April 27, 1944.

ALFRED E. DRISCOLL
Commissioner.

2. DISQUALIFICATION - APPLICATION TO LIFT - FACTS EXAMINED - APPLICATION DENIED.

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. 320.
-----)

BY THE COMMISSIONER:

Petitioner, in this proceeding, has re-applied for an order lifting his disqualification resulting from the conviction of a crime, pursuant to R. S. 33:1-31.2. On September 3, 1943 petitioner filed a similar petition but it was ordered dismissed, on October 27, 1943, by the Commissioner because five years had not elapsed since his release from a county prison. The petitioner was granted leave to renew the application after December 17, 1943. See Case No. 294, Bulletin 593, Item 2.

There is apparently no adjudicated record of any criminal convictions of the petitioner during the past five years. Our files disclose, however, that, on December 21, 1943, certain illicit alcoholic beverages, caramel coloring, a funnel and empty whiskey bottles found in the home of petitioner herein, were confiscated by municipal detectives. Petitioner disclaims any knowledge regarding the illicit liquor and other items that were discovered in a bedroom of his home. He admitted the presence of empty whiskey bottles on the premises but stated that these were used by his mother for the purpose of preserving tomato juice. Petitioner further stated that he spent a night occasionally in another section of the city at the residence of his father who, petitioner says, has been separated from his mother for about six years. The unlawful property has been forfeited. See Seizure Case No. 6557.

R. S. 33:1-31.2, pertinent to the instant matter, provides, inter alia, that "Whenever any such application is made and it appears to the satisfaction of the Commissioner that at least five years have elapsed from the date of conviction, that the applicant has conducted himself in a law-abiding manner during that period and that his association with the alcoholic beverage industry will not be contrary to the public interest, the Commissioner may, in his discretion and subject to rules and regulations, enter an order removing the applicant's disqualification from obtaining and holding a license or permit because of the conviction." (Underlining mine).

In both the former and present petitions filed by the petitioner herein, he stated that he lived at the address where the illicit liquor was confiscated. His testimony reveals that he had slept only occasionally at the home of his father. I am not convinced that he, living in a suite of rooms occupied by members of his family, was ignorant of the fact that illicit alcohol was stored on the premises. Furthermore, the explanation made by petitioner relative to empty whiskey bottles being used for tomato juice is much too naive for belief.

In view of the circumstances enumerated above, I shall not exercise the discretion vested in me by statute and remove the disqualification in the instant matter. (R. S. 33:1-31.2.)

Accordingly, it is, on this 3rd day of April, 1944,

ORDERED, that the petition herein be and the same is hereby denied.

ALFRED E. DRISCOLL
Commissioner.

3. DISCIPLINARY PROCEEDINGS - PENALTY RECONSIDERED.

In the Matter of Disciplinary
Proceedings against

AL STRICKLAND
T/a STRICKLAND'S TAVERN
108 Easton Avenue
New Brunswick, N. J.,

O R D E R

Holder of Plenary Retail Consump-)
tion License C-57 issued by the)
Board of Commissioners of the)
City of New Brunswick.)
-----)

BY THE COMMISSIONER:

On March 9, 1944 I suspended defendant's license for a period of thirty days after he had been found guilty of selling alcoholic beverages to two minors. Re Strickland, Bulletin 610, Item 1.

Application having been made to me by defendant for a reduction of the penalty, and it appearing to my satisfaction that there may have been mitigating circumstances in this case, I have decided to reduce the penalty from thirty days to twenty-five days.

Accordingly, it is, on this 5th day of April, 1944,

ORDERED, that the order heretofore entered herein be amended to read as follows:

"ORDERED, that Plenary Retail Consumption License C-57, issued by the Board of Commissioners of the City of New Brunswick to Al Strickland, t/a Strickland's Tavern, for premises 108 Easton Avenue, New Brunswick, be and the same is hereby suspended for a period of twenty-five (25) days commencing at 2:00 A.M. March 14, 1944, and terminating at 2:00 A. M. April 8, 1944."

ALFRED E. DRISCOLL
Commissioner.

4. MORAL TURPITUDE - CRIMES OF BREAKING AND ENTERING AND BURGLARY INVOLVE MORAL TURPITUDE.

DISQUALIFICATION - APPLICATION TO LIFT - GOOD CONDUCT FOR FIVE YEARS LAST PAST NOT SHOWN - APPLICATION DENIED.

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. 327.
-----)

BY THE COMMISSIONER:

Petitioner herein prays that his disqualification because of convictions of crime be lifted, pursuant to R. S. 33:1-31.2.

On or about December 23, 1929 petitioner was apprehended for breaking into a store. He pleaded guilty to the charge of breaking, entering and larceny and was sentenced, on February 11, 1930, by the Judge of a County Court of Quarter Sessions, to serve a maximum of seven years in the Rahway Reformatory. He was subsequently transferred to the Annandale Reformatory, from which he was released on parole on July 20, 1931. On December 6, 1931 petitioner was again arrested for stealing money and other articles from a country club and, upon being charged with burglary, petitioner pleaded guilty and was sentenced by the Judge of a County Court of Quarter Sessions to Annandale for six years. On December 21, 1932, however, petitioner was paroled from Rahway Reformatory, to which institution he had been transferred. Both the crimes of breaking and entering and burglary, respectively, are crimes involving moral turpitude.

On three separate and distinct occasions petitioner was convicted of the charge of disorderly conduct. As a result thereof, petitioner was either fined or sentenced to a County Workhouse. Correspondence with the Warden of the County Workhouse discloses that petitioner was an inmate of the Workhouse from November 23, 1939 to December 5, 1939, as a result of convictions for disorderly conduct. When the fact of the convictions was called to the attention of petitioner, he stated he did not remember these occurrences. The information from the warden, however, is no doubt an accurate statement of the petitioner's record. This being so, the petitioner is premature in filing the within petition as the record fails to disclose law-abiding conduct for five years last past.

Petition is therefore dismissed, with leave to re-apply after December 5, 1944, at which time five years shall have elapsed from the date of his release from a penal institution.

Accordingly, the petition is denied.

ALFRED E. DRISCOLL
Commissioner.

Dated: April 3, 1944.

5. ACTIVITY REPORT FOR MARCH, 1944

To: Alfred E. Driscoll, Commissioner

ARRESTS: Licensees and employees - - - - - 9 Bootleggers - - - - - 12
 Total number of persons arrested - - - - - 21

SEIZURES: Still - 1 to 50 gallons daily capacity - - - - - 1
 50 gallons and more daily capacity - - - - - 0
 Total number of stills seized - - - - - 1
 Mash - gallons - - - - - 200
 Motor Vehicles - Trucks - - - - - 2
 Passenger cars - - - - - 2
 Total number of motor vehicles seized - - - - - 4
 Beverage alcohol - gallons - - - - - 16.75
 Brewed malt alcoholic beverages (beer, ale, etc.) - gallons - - - - 124.10
 Wine - gallons - - - - - 0
 Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons - - 17.03

RETAIL LICENSEES:

Total number of premises inspected - - - - - 1,640
 Total number of bottles gauged - - - - - 12,274
 Total number of premises where violations were found - - - - - 72
 Total number of violations found - - - - - 114
 Type of violations found:
 Illicit (bootleg) liquor - - - 34 Improper beer tap markers - - - - 9
 Gambling devices - - - - - 0 Stock disposal permits necessary - - 5
 Prohibited signs - - - - - 0 No sign denoting legal sale hours -
 Unqualified employees - - - - 32 off-premises consumption - - - - 23
 "Fronts" (concealed ownership) - 3 Other types of violations - - - - 8

MILITARY AREA PATROL INSPECTIONS: - - - - - 616STATE LICENSEES:

Premises inspected - - - - - 6
 License applications investigated - - - - - 13

COMPLAINTS:

Investigated, reviewed and closed - - - - - 410
 Investigation assigned, not yet completed - - - - - 251

LABORATORY:

Analyses made - - - - - 150
 "Shake-up" cases (alcohol, water and artificial coloring) - - - - - 7
 Liquor found to be not genuine as labeled - - - - - 9

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made - - - - - 22
 Persons fingerprinted for non-criminal purposes - - - - - 190
 Identification contacts with other enforcement agencies - - - - - 226
 Motor vehicle identifications via N. J. State Police Teletype - - - - 23

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - - 31
 Cases instituted at Department - - - - - 34

HEARINGS HELD AT DEPARTMENT:

Total number of hearings held - - - - - 45
 Appeals - - - - - 6 Seizures - - - - - 3
 Disciplinary proceedings - - - 29 Tax revocations - - - - - 2
 Eligibility - - - - - 4 Application for special permit - 1

PERMITS ISSUED:

Total number of permits issued - - - - - 531
 Unqualified employees - - - - - 177
 Solicitors - - - - - 37
 Social affairs - - - - - 100
 Home manufacture of wine - - - - - 1
 Disposal of alcoholic beverages - - - - - 98
 Miscellaneous permits - - - - - 118

Respectfully submitted,
 Sydney B. White
 Chief Inspector.

6. DISCIPLINARY PROCEEDINGS - PERMITTING FEMALE EMPLOYEES TO ACCEPT BEVERAGES AT CUSTOMER'S EXPENSE, IN VIOLATION OF RULE 22 OF STATE REGULATIONS NO. 20 - PERMITTING IMMORAL ACTIVITIES ON LICENSED PREMISES, IN VIOLATION OF RULE 5 OF STATE REGULATIONS NO. 20 - SALE OF ALCOHOLIC BEVERAGES TO PERSONS ACTUALLY OR APPARENTLY INTOXICATED, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary
Proceedings against

ANNA MANUK
T/a HORSESHOE TAVERN
1268 White Horse Pike
Galloway Township
P.O. Absecon, R.D., N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-17, issued by the
Township Committee of Galloway
Township.

Charles M. Deull, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads non vult to the following charges:

"1. On the night of March 3, 1944 and early on the morning of March 4, 1944, you allowed, permitted and suffered Anna ---- and Virginia ----, females employed on the licensed premises, to accept beverages at the expense of and as a gift from a customer, in violation of Rule 22 of State Regulations No. 20.

"2. On the occasions aforesaid, you allowed, permitted and suffered immoral activities in and upon your licensed premises, in violation of Rule 5 of State Regulations No. 20.

"3. On the early morning of March 4, 1944, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Chief Boatswain's Mate William ----, Seaman Wayne Francis ----, Private Paul ---- and Emory ----, and also to three unidentified soldiers and an unidentified male civilian, all persons actually or apparently intoxicated, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon the licensed premises, in violation of Rule 1 of State Regulations No. 20."

The file discloses that several investigators of the Department of Alcoholic Beverage Control visited the licensed premises for a brief period of time, on the evening of March 3, 1944, and returned a few minutes past twelve o'clock on the morning of March 4, 1944.

Apparently, the defendant's premises are largely patronized in the hours between twelve midnight and closing time. The premises were crowded on the morning of March 4, 1944, and the majority of the patrons were members of the armed forces. The ABC agents observed two female employees of the defendant accepting drinks at the expense of customers. One of these women, when not engaged in serving drinks

to patrons, devoted her attention to a member of the armed forces with whom she was involved in unseemly activities of an amorous character. The licensee, who observed this improper conduct, not only failed to take the steps required of a prudent licensee, but on the contrary, by her jocular remarks encouraged the continuation of the objectionable activities. The serviceman was further permitted to over indulge and was served alcoholic beverages while apparently intoxicated.

Six members of the armed forces and two civilians were observed by the agents to be actually or apparently intoxicated. Nonetheless, the licensee continued to serve, or to permit the service of, alcoholic beverages to these men in violation of Rule 1 of State Regulations No. 20.

In mitigation of the penalty, the licensee urges that the couple first referred to were engaged to be married and, further, that she was not aware of the fact that alcoholic beverages were served to persons who were actually or apparently intoxicated. Assuming these statements to be true, they offer little assistance to the defendant. She failed in her obligation as a licensee to see to it that the law and the regulations were scrupulously obeyed.

The licensee has no prior adjudicated record.

Under all the circumstances in the instant case, I shall suspend the license for the balance of the term.

Accordingly, it is, on this 5th day of April, 1944,

ORDERED, that Plenary Retail Consumption License C-17, issued by the Township Committee of Galloway Township to Anna Manuk, t/a Horseshoe Tavern, for premises 1268 White Horse Pike, Galloway Township, be and the same is hereby suspended for the balance of its term, effective at 12:01 A.M. April 10, 1944.

ALFRED E. DRISCOLL
Commissioner.

7. EGG NOG - SERVICE BY RETAIL CONSUMPTION LICENSEES PERMITTED
APRIL 6, 1944 - APRIL 10, 1944, INCLUSIVE.

April 6, 1944

Mr. W. G. Irons
Burlington, N. J.

Dear Mr. Irons:

Traditionally, each year, with the coming of Spring, the Department has permitted consumption licensees to serve egg nog for a limited period of time.

This year the privilege will be permitted commencing Thursday, April 6th and ending Monday, April 10th, at midnight.

The attention of all licensees is directed to the fact that over-indulgence in any form during these war days is not to be tolerated. Licensees will be expected to govern themselves accordingly.

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

8. FAIR TRADE - NOTICE - EFFECTIVE DATE OF NEW MINIMUM RESALE PRICE LIST POSTPONED.

April 6, 1944

NOTICE

On March 13, 1944 I directed an important notice to all licensees, announcing a complete new minimum resale price publication to become effective on Monday, April 17, 1944. In accordance with my instructions, manufacturers and wholesalers have submitted listings for all alcoholic beverages sold at retail in this State. These minimum prices were also represented as being the maximum ceiling prices computed in conformity with the OPA formula for percentage mark-up.

While the OPA has been cooperating, the task encountered by this Department in checking submitted prices, to determine whether they are substantially in accord with ceiling levels, is of such proportions that additional time must be provided to effect a proper publication intended as a helpful service to the retailers and consumer public of this State.

Therefore, it is my decision that the effective date of the new minimum resale price publication, originally announced as Monday, April 17, 1944, shall be extended to Monday, April 24, 1944.

ALFRED E. DRISCOLL
Commissioner.

9. ADVERTISING - LICENSEES MAY NOT ADVERTISE ALCOHOLIC BEVERAGES FOR MEDICINAL, CURATIVE OR THERAPEUTIC PURPOSES.

April 10, 1944

Development Syndicate, Inc.
T/a Schwenks Hotel Clayton
Clayton, N. J.

Gentlemen:

According to our records, you hold a plenary retail consumption license for your premises at the above address.

My attention has been called to the fact that, last January 13th, you advertised in the Williamstown "The Plain Dealer" as follows:

"BEVERAGES — for Medicinal and Social Purposes. Imported and Domestic Rums, Gins, Brandy, Cordials, and Vermouths. Also mixes for making fancy drinks. Wines, both dry and sweet. Beer, Ale, etc. Schwenck's Hotel Clayton Liquor Store and Cafe, Clayton."

I disapprove of this advertisement in so far as it mentions "for medicinal purposes."

Whether a physician wishes to prescribe alcoholic beverages for a patient is one thing. The part of a liquor licensee is quite another! It ill behooves any such licensee to advertise alcoholic beverages for any medicinal, curative or therapeutic purposes whatsoever. I deem such advertising to be inimical to sound liquor control and hence improper.

While I am confident that you intended no harm, you must nevertheless desist forthwith from this objectionable type of advertising.

Please let me have, by return mail, your solemn pledge that you will comply.

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

10. HOURS OF SALE - STATE REGULATIONS NO. 38 - HEREIN OF NOTICE REQUIRED TO BE POSTED BY LICENSEE SETTING FORTH THE HOURS DURING WHICH THE SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION IS PERMITTED.

April 6, 1944

The Union News Company,
New York, N. Y.

Gentlemen:

This will acknowledge receipt of your letter asking to be relieved of your obligation to post a notice as required by Regulations No. 38.

Rule 3 of State Regulations No. 38 provides:

"Each licensee permitted to sell at retail for off-premises consumption shall keep prominently displayed, on or near the entrance to the licensed premises and clearly visible from the exterior, a sign not less than 10 x 12 inches in size stating clearly and legibly the legal hours during which the sale of alcoholic beverages in original containers for off-premises consumption is permitted."

Rule 4 of the same regulations provides:

"Any violation of these rules shall subject the licensee to suspension or revocation."

The holder of a plenary retail consumption license is entitled, under the New Jersey law, to sell alcoholic beverages for consumption on the licensed premises by the glass and also to sell alcoholic beverages in original containers for consumption off the licensed premises. Accordingly, your company, notwithstanding the fact that it has voluntarily chosen not to exercise the full privilege granted by its license, nonetheless falls within the classification of those "permitted to sell at retail for off-premises consumption", and hence must post the notice required by the regulations.

I have reached the conclusion, however, that where a licensee, on his own initiative, determines to engage in the sale of alcoholic beverages for off-premises consumption for a lesser number of hours than that permitted by the statute or the regulations, or refrains entirely from selling alcoholic beverages for off-premises consumption, he may, in lieu of the notice required in Rule 3 of State Regulations No. 38, post a notice of the same size and in the same location, setting forth the hours during which he will engage in the sale of alcoholic beverages for off-premises consumption or, in the alternative, stating that no alcoholic beverages are sold for off-premises consumption.

Where a licensee chooses to adopt either of the alternative plans provided for herein, he must strictly abide by his posted notice. No exceptions will be permitted. Sales contrary to the terms of the posted notice will constitute a violation of Regulations No. 38.

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

11. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACTS - ILLEGAL SITUATION CORRECTED - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against

RIDGEWOOD WINES & LIQUORS, INC.,
47 Franklin Avenue
Ridgewood, N. J.,

CONCLUSIONS

Holder of Plenary Retail Distribution License D-8 issued by the Board of Commissioners of the Village of Ridgewood, and which license has, during the pendency of these proceedings, been transferred by said Board of Commissioners to

AND ORDER

WILLIAM H. BURGESS and
CAROLINE E. BURGESS,
T/a RIDGEWOOD WINE & LIQUOR CO.,

for the same premises.

Charles F. Black, Esq., Attorney for Defendant-Licensee.
Gaylord R. Hawkins, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee has pleaded non vult to the following charge:

"In your application, filed with the Board of Commissioners of the Village of Ridgewood and upon which you obtained your current plenary retail distribution license, you, after listing the following as the stockholders in your corporation - Robert Grant 2 shares, Florence Shaffrin 25 shares, Caroline Burgess 1 share and William H. Burgess 2 shares, falsely stated, 'No' in answer to Question 24 which asks: 'Has any stockholder of the applicant corporation any beneficial interest, directly or indirectly, in the stock of any other stockholder of the applicant corporation?', whereas in truth and in fact the said William H. Burgess was the real and beneficial owner of the 25 shares listed as aforesaid in the name of Florence Shaffrin; such false statement being in violation of R. S. 33:1-25."

ABC investigators, in checking over the books of the company, discovered the following information: In November 1939 William H. Burgess desired to acquire the business conducted at 47 Franklin Avenue, Ridgewood, N. J. At that time Burgess had not been a resident of New Jersey for a sufficient time to qualify either as a licensee, nor at that time was a corporation in which he held 10% or more of its corporate stock eligible to hold a retail license. In order to secure the business, Burgess purchased the outstanding stock of the corporation from its previous owners but failed to transfer on the books of the company the stock of one Florence Shaffrin, the holder of 75% of the outstanding stock of the company, and continued to report the said Florence Shaffrin as the holder of said stock although she had no interest in the stock or business since 1939.

Burgess states the reason he withheld the transfer of stock and continued to report Florence Shaffrin as the holder of the same was solely because of his lack of qualification as to residence. This subterfuge continued after the amendment of R. S. 33:1-25. See P. L. 1943, c. 46.

The situation has now been corrected. The license has been transferred to the said William H. Burgess and Caroline E. Burgess, his wife. However, a penalty must be imposed. In view of the fact that the corporation and the individual transferees have no prior record of violations, a minimum penalty of ten days' suspension will be imposed.

Accordingly, it is, on this 11th day of April, 1944,

ORDERED, that Plenary Retail Distribution License D-8, issued by the Board of Commissioners of the Village of Ridgewood to Ridgewood Wines & Liquors Inc. for premises 47 Franklin Avenue, Ridgewood, and transferred during the pendency of these proceedings to William H. Burgess and Caroline E. Burgess, t/a Ridgewood Wine & Liquor Co. for the same premises, be and the same is hereby suspended for ten (10) days, commencing at 1:00 A. M. April 17, 1944 and terminating at 1:00 A. M. April 27, 1944.

ALFRED E. DRISCOLL
Commissioner.

12. MORAL TURPITUDE - CONSPIRACY TO COMMIT ARSON INVOLVES MORAL TURPITUDE.

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

In the Matter of an Application)
to Remove Disqualification be-)
cause of a Conviction, Pursuant) CONCLUSIONS
to R. S. 33:1-31.2.) AND ORDER
Case No. 328.)

BY THE COMMISSIONER:

Petitioner herein, pursuant to the provisions of R.S. 33:1-31.2, seeks to have any disqualification removed that may exist by reason of his having been convicted of a crime.

Petitioner stated that he was apprehended by municipal police after an investigation disclosed that he had participated in a scheme to set fire to the building wherein his business was being conducted in order to collect the fire insurance on the property. The petitioner was indicted by the Grand Jury for conspiracy to commit arson. On November 18, 1938 he pleaded non vult to the charge aforesaid and was thereupon sentenced by the Judge of a County Court of Quarter Sessions to State Prison for a term of two to three years. The sentence, however, was suspended and a fine of \$500.00 was imposed upon petitioner and he was placed on probation for a period of three years.

Conspiracy to commit arson is a crime involving moral turpitude. The petitioner, with the exception of the offense aforementioned, has apparently been leading a law-abiding life. This is corroborated by three substantial citizens who reside, and also conduct their businesses, in the community in which petitioner lives. The three witnesses state that they have known petitioner for approximately twenty years and are in agreement that he now bears a good reputation in the community.

According to the report of the Prosecutor of the county in which petitioner resides, there have been no complaints concerning petitioner's conduct since the offense committed, nor does the record disclose any pending investigations.

I am, therefore, satisfied that petitioner has been leading a law-abiding life for five years last past, and conclude that his association with the alcoholic beverage industry will not be contrary to the public interest. Consequently, I shall lift his disqualification which resulted by reason of his conviction of the crime of conspiracy to commit arson.

Accordingly, it is, on this 11th day of April, 1944,

ORDERED, that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby lifted, pursuant to the provisions of R. S. 33:1-31.2.

ALFRED E. DRISCOLL
Commissioner.

13. DISCIPLINARY PROCEEDINGS - FRONT - EXERCISING THE RIGHTS AND PRIVILEGES OF THE LICENSE PRIOR TO TRANSFER - 20 DAYS' SUSPENSION.

In the Matter of Disciplinary
Proceedings against

ANNA ROSZGONYI
Fourth and Washington Streets
Fieldsboro, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-2, issued by the
Borough Council of the Borough
of Fieldsboro.

Anna Roszgonyi, Pro Se.

Edward F. Ambrose, Esq., Appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded guilty to a charge alleging that, between July 1, 1938 and February 7, 1944, she exercised the privileges of the successive consumption licenses issued to her son, Louis Roszgonyi, for premises Fourth and Washington Streets, Fieldsboro, in violation of R. S. 33:1-26.

The license for the premises in question was originally issued to the defendant in February 1934. While the license continued in her name, she twice committed violations of the local regulations. In October 1937 she was fined \$10.00 as a result of selling alcoholic beverages during prohibited hours. In May 1938 the local issuing authority suspended her license for ten days after she was found guilty of violating the local "screen" ordinance. Shortly thereafter, in July 1938, the license was issued to her son, Louis Roszgonyi, who held it until February 7, 1944, when it was transferred to the defendant.

Whether the "front" was created in order to avoid the consequences normally resulting from the defendant's record in the event of a subsequent violation or, as the parties contend, because the son was better able to control his father's weakness for liquor, the fact, nevertheless, remains that the defendant did exercise the rights and privileges of the license nominally issued to her son, in violation of the provisions of the Alcoholic Beverage Law (R. S. 33:1-26).

The close family relationship between the parties and the fact that the defendant's record is clear of violations for almost six years last past are, however, mitigating factors on the question of the proper penalty to be inflicted for the instant violation. In addition, there is no probative proof to support the inference, which is prompted by the mere recital of the background antedating the creation of the unlawful arrangement, that the defendant's record of infractions motivated the placing of the license in the son's name. Under all of the circumstances, I shall suspend the license for a period of twenty days.

Accordingly, it is, on this 12th day of April, 1944,

ORDERED, that Plenary Retail Consumption License C-2, heretofore issued by the Borough Council of the Borough of Fieldsboro to Anna Roszgonyi, for premises Fourth and Washington Streets, Fieldsboro, be and the same is hereby suspended for a period of twenty (20) days, commencing at 1:00 A. M. April 18, 1944 and terminating at 1:00 A. M. May 8, 1944.

ALFRED E. DRISCOLL
Commissioner.

14. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY LICENSEE ON UNLICENSED PREMISES, IN VIOLATION OF R. S. 33:1-2 AND R. S. 33:1-50(a) - POSSESSION OF BOTTLING EQUIPMENT, IN VIOLATION OF R. S. 33:1-50(c) - POSSESSION OF ILLICIT ALCOHOLIC BEVERAGES, IN VIOLATION OF R. S. 33:1-50(e) - LICENSE SUSPENDED FOR FOUR MONTHS.

AUTOMATIC SUSPENSION - R. S. 33:1-31.1 - LICENSEE PAID FINE OF \$150.00 - LICENSE SUSPENDED FOR FOUR MONTHS IN DISCIPLINARY PROCEEDINGS - APPLICATION TO LIFT GRANTED UPON THE EXPIRATION OF FOUR MONTHS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)
JOSEPH A. ALLCROFT, SR.)
T/a JOE'S CAFE)
81 Beach Avenue)
Penns Grove, N. J.,)
Holder of Plenary Retail Consumption License C-14 issued by the)
Borough Council of the Borough of Penns Grove.)
-----)

CONCLUSIONS
AND ORDER

In the Matter of a Petition by)
JOSEPH A. ALLCROFT, SR.)
To Lift the Automatic Suspension)
of Plenary Retail Consumption)
License C-14 issued by the Borough)
Council of the Borough of Penns)
Grove.)
Case No. 45.)
-----)

William R. Smith, Esq., Attorney for Defendant and Petitioner.
Harry Castelbaum, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

On December 30, 1943 Joseph A. Allcroft, Sr. pleaded guilty in the Salem County Court of Special Sessions to a charge of illegal sale of alcoholic beverages and was fined \$150.00. Because of said conviction his Plenary Retail Consumption License C-14 was automatically suspended for the balance of its term. R. S. 33:1-31.1. On January 5, 1944 his license was picked up by an agent of the Department of Alcoholic Beverage Control, and no activities under said license have been conducted since that time.

Thereafter, disciplinary proceedings were instituted by this Department against Joseph A. Allcroft, Sr. The charges therein allege that:

"1. On August 29, 1943 you sold alcoholic beverages at 79 Beach Avenue, Penns Grove, N. J., which premises were not included in your licensed premises, such sale being in violation of R. S. 33:1-2 and R. S. 33:1-50(a).

"2. On August 29, 1943 you possessed on your licensed premises implements and paraphernalia for bottling alcoholic beverages, viz., beer, with intent to use the implements and paraphernalia to bottle beer for sale without requisite license for such bottling, your possession with such intent being in violation of R. S. 33:1-50(c).

"3. On August 29, 1943 you possessed on your licensed premises illicit alcoholic beverages, viz., 19 bottles of illicit beer, in violation of R. S. 33:1-50(e).

The defendant in the disciplinary proceedings has pleaded guilty to the aforesaid charges, and has filed a petition with me requesting the lifting of the automatic suspension of his license.

As the disciplinary proceedings and the petition to lift the automatic suspension involve substantially the same facts, they may be considered together and disposed of in a single order.

An examination of the file discloses that Joseph A. Allcroft, Sr. is the lessee of a building located at 79 Beach Avenue, Penns Grove. No. 79 Beach Avenue adjoins defendant's licensed premises located at 81 Beach Avenue, but is a separate building and is not licensed for the sale of alcoholic beverages. An ordinance of the Borough of Penns Grove prohibits the sale of alcoholic beverages on Sunday.

The file further discloses that on Sunday, August 29, 1943, at about 9:30 P.M., investigators of the Department of Alcoholic Beverage Control, together with members of the Penns Grove Police Department, entered the building at 79 Beach Avenue. They saw three men seated at a table, with full glasses of beer which the three men subsequently admitted they had purchased on said premises from the defendant-petitioner herein. They also saw a half-barrel of beer on another table and found a number of bottles of beer on ice in a box. It is quite apparent that Allcroft was selling beer on unlicensed premises in order to circumvent the effect of the local ordinance prohibiting sales of alcoholic beverages on licensed premises on Sunday.

When the agents subsequently searched the licensed premises at 81 Beach Avenue, they found a pressure gauge, a bottle capper, a quantity of bottle caps and nineteen bottles of beer which bore no labels or other marks of identification. The possession of the paraphernalia for bottling of beer constituted a violation of R. S. 33:1-50(c), and the bottled beer is deemed prima facie an illicit beverage under the provisions of R. S. 33:1-88.

As to penalty in the disciplinary proceedings: Defendant has no prior adjudicated record. The sale of alcoholic beverages on unlicensed premises by a licensee constitutes a very serious violation. The case is aggravated by the fact that paraphernalia for bottling was found on the licensed premises, which paraphernalia presumably was to

be used to bottle draught beer for sale on the adjoining unlicensed premises. Because of the licensee's clear record, and his frank admission of guilt, I shall not revoke his license in this proceeding. The penalty fixed in the disciplinary proceedings will consist of a suspension of the license for a period of four months. The suspension will be considered as having begun on the date the license was picked up, namely, January 5, 1944, and will continue in effect until four months have expired from said date.

As to the petition: The criminal conviction resulted from the sale of alcoholic beverages on unlicensed premises referred to in the disciplinary proceedings. It has been the policy of this Department to lift an automatic suspension when, and only when, the license has been suspended for what appears, in view of all the facts, to be a sufficiently penalizing length of time. Re Solitare, Bulletin 538, Item 4. Considering the facts herein, I shall grant the relief sought in the petition after the automatic suspension herein has been in effect for a period of four months, so that the automatic suspension may be lifted when the suspension imposed in the disciplinary proceedings has been served.

Accordingly, it is, on this 12th day of April, 1944,

ORDERED, that the petition to lift the automatic suspension of License C-14 held by Joseph A. Allcroft, Sr., t/a Joe's Cafe, is granted, effective at 7:00 A. M. May 5, 1944. Until then, the license stands suspended.

Alfred E. Griswold
Commissioner.