

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

BULLETIN 630

AUGUST 4, 1944.

TABLE OF CONTENTS

- ITEM
1. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - DISCREPANCY IN PROOF AND SOLIDS - 10 DAYS' SUSPENSION.
  2. MORAL TURPITUDE - CRIME OF ARSON FOUND TO INVOLVE MORAL TURPITUDE. DISQUALIFICATION - APPLICATION TO LIFT - FAILURE TO PROVE GOOD CONDUCT FOR FIVE YEARS LAST PAST - APPLICATION TO LIFT DENIED.
  3. APPELLATE DECISIONS - DE VIVO v. HIGHLANDS - ORDER OF DISCONTINUANCE.
  4. ELIGIBILITY - CRIME OF RECEIVING STOLEN GOODS FOUND TO INVOLVE MORAL TURPITUDE - APPLICANT HELD INELIGIBLE TO HOLD A LIQUOR LICENSE OR TO BE EMPLOYED BY A LICENSEE IN THIS STATE.
  5. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - SALE OF ALCOHOLIC BEVERAGES BY CLUB LICENSEE TO NON-MEMBERS, IN VIOLATION OF R. S. 33:1-12(5) AND R. S. 33:1-2 - SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SALE OF ALCOHOLIC BEVERAGES BY CLUB LICENSEE FOR OFF-PREMISES CONSUMPTION, IN VIOLATION OF R. S. 33:1-12(5) AND R. S. 33:1-2 - 50 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.
  6. APPELLATE DECISIONS - YONADI v. SPRING LAKE HEIGHTS - ORDER OF DISCONTINUANCE.
  7. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FOR THE FISCAL YEAR 1943-44.
  8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PREVIOUS RECORD - 30 DAYS' SUSPENSION.
  9. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PREVIOUS RECORD - 20 DAYS' SUSPENSION.
  10. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN APPLICATION FOR LICENSE CONCEALING MATERIAL FACTS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR PERIOD OF 10 DAYS.
  11. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR PERIOD OF 15 DAYS, LESS 5 FOR GUILTY PLEA.
  12. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR GUILTY PLEA.
  13. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN APPLICATION FOR LICENSE CONCEALING MATERIAL FACTS (CRIMINAL RECORD) - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR PERIOD OF 90 DAYS.
  14. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - PREVIOUS RECORD - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR GUILTY PLEA.

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

BULLETIN 630

AUGUST 4, 1944.

1. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - DISCREPANCY IN PROOF AND SOLIDS - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against )

MARY RIPER )  
T/a HOTEL WHITE WAY )  
White Horse Pike )  
Waterford Township )  
P. O. Atco, N. J., )

CONCLUSIONS

AND ORDER

Holder of Plenary Retail Consumption License C-1 for the fiscal year 1943-44, and now holder of Plenary Retail Consumption License C-1 for the current (1944-45) year, both issued by the Township Committee of the Township of Waterford. )  
- - - - - )

Frank M. Lario, Esq., Attorney for Defendant-Licensee.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to a charge alleging that, on December 22, 1943, she possessed three 4/5th quart bottles labeled "Carstairs White Seal Blended Whiskey 86.8 Proof" and a 4/5th quart bottle labeled "Calvert Reserve Blended Whiskey 86.8 Proof", containing alcoholic beverages which were not genuine as labeled, in violation of R. S. 33:1-50.

The Department of Alcoholic Beverage Control records disclose that, on December 22, 1943, a Junior Inspector of the Federal Alcohol Tax Unit allegedly found four opened bottles in defendant's premises, which bottles contained a liquor darker than normal for the brands named on the labels attached thereto. Subsequent analysis by a Federal chemist disclosed that the whiskey contained in these bottles was approximately 2° lower in proof and varied substantially in solids from the contents of genuine bottles of the same brand.

There is some dispute between the defendant and the Treasury Department as to whether two or four opened bottles were seized in defendant's premises on the date in question. In any event, defendant's bartender has admitted that he filled two Carstairs bottles with another brand of tax-paid liquor. It is thus apparent that defendant is guilty at least as to two of the bottles mentioned in the charges, and I so find.

The licensee's record is otherwise clear and, under the circumstances, I shall suspend her license for a minimum period of ten days.

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

ORDERED, that Plenary Retail Consumption License C-1, issued for the current fiscal year to Mary Riper, t/a Hotel White Way, for premises on White Horse Pike, Waterford Township, be and the same is hereby suspended for ten (10) days, commencing at 2:00 A. M. July 17, 1944, and terminating at 2:00 A. M. July 27, 1944.

ALFRED E. DRISCOLL  
Commissioner.

2. MORAL TURPITUDE - CRIME OF ARSON FOUND TO INVOLVE MORAL TURPITUDE.

DISQUALIFICATION - APPLICATION TO LIFT - FAILURE TO PROVE GOOD CONDUCT FOR FIVE YEARS LAST PAST - APPLICATION TO LIFT DENIED.

In the Matter of an Application )  
to Remove Disqualification be- )  
cause of a Conviction, Pursuant )  
to R. S. 33:1-31.2. )  
Case No. 344. )  
----- )

CONCLUSIONS  
AND ORDER

BY THE COMMISSIONER:

Petitioner, in this proceeding, prays that his disqualification resulting from a criminal conviction be lifted pursuant to R. S. 33:1-31.2.

Petitioner testified that, in 1929, when he was eighteen years of age, he was convicted of vagrancy in the State of Mississippi, as a result of which he was sentenced to 60 days in a workhouse. On July 12, 1934, upon being adjudged a disorderly person because of his participation in a fight on a public highway, petitioner received a suspended sentence from a local Police Magistrate. On February 1, 1936, petitioner was fined \$25.00 by a Police Judge following his conviction of a charge of being the proprietor of a gambling house. On March 17, 1937 petitioner was convicted of the crime of arson and sentenced to six months in a county jail by a Judge of the Court of Quarter Sessions. After serving three months of this sentence he was placed on parole. On January 21, 1941 petitioner was convicted of simple assault and battery and sentenced to thirty days in the County Jail, which sentence was suspended.

The conviction for the crime of arson involves moral turpitude. Correspondence received from the Department of State Police reveals that petitioner kept watch while a fellow conspirator set fire to a building. Both men were arrested as they were leaving the scene of the fire.

Petitioner produced three character witnesses, a physician, a lawyer and a business man, who have known him for six or more years. All were in agreement that petitioner bears an excellent reputation in the community in which he lives and in so far as they knew, petitioner has rehabilitated himself and has been leading a law-abiding life, especially during the past five years.

The record of petitioner, however, indicates otherwise.

A disqualification resulting from conviction of a crime involving moral turpitude will be removed only where it appears that the petitioner has, for five years last past, been leading a law-abiding life. Re Case No. 62, Bulletin 334, Item 6. The continuity of the five-year period of good behavior is broken if the petitioner is convicted of any crime within that time, even if the crime does not involve moral turpitude. Re Case No. 72, Bulletin 375, Item 6; Re Case No. 78, Bulletin 407, Item 3; Re Case No. 94, Bulletin 411, Item 2. The conviction for assault and battery constitutes a bar to any finding that petitioner has been leading a law-abiding life during the past five years.

Under the circumstances, I shall not at this time exercise my discretionary power to lift petitioner's disqualification. I shall, therefore, deny the present petition, with leave to file a new petition after January 21, 1946.

Accordingly, it is, on this 14th day of July, 1944,

ORDERED, that the petition herein be and the same is hereby dismissed, with leave to renew as aforesaid.

ALFRED E. DRISCOLL  
Commissioner.

3. APPELLATE DECISIONS - DE VIVO v. HIGHLANDS - ORDER OF DISCONTINUANCE.

FANNIE DE VIVO, )

Appellant, )

-vs-

ON APPEAL  
ORDER OF DISCONTINUANCE

BOROUGH COUNCIL OF THE )  
BOROUGH OF HIGHLANDS, )

Respondent )  
----- )

Pearce R. Franklin, Esq., Attorney for Appellant.  
William L. Parker, Esq. and John M. Pillsbury, Esq.,  
Attorneys for Respondent and Objectors.

BY THE COMMISSIONER:

This is an appeal from respondent's refusal to grant appellant's application for a plenary retail consumption license for premises 88 Portland Road, Highlands, N. J. for the fiscal year expiring June 30, 1944.

The appellant has requested that the appeal be discontinued and the attorneys for the respondent and objectors have consented thereto. Since no reason appears to the contrary, the request will be granted.

Accordingly, it is, on this 24th day of July, 1944,

ORDERED, that the within appeal be and the same is hereby discontinued.

ALFRED E. DRISCOLL  
Commissioner.

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4. ELIGIBILITY - CRIME OF RECEIVING STOLEN GOODS FOUND TO INVOLVE MORAL TURPITUDE - APPLICANT HELD INELIGIBLE TO HOLD A LIQUOR LICENSE OR TO BE EMPLOYED BY A LICENSEE IN THIS STATE.

July 24, 1944

Re: Case No. 535.

Applicant herein seeks a determination as to whether or not he is eligible to be employed on premises operated by a liquor licensee.

Applicant's fingerprint returns disclose that he was arrested on December 10, 1943 on the charge of receiving stolen goods. Applicant, upon arraignment for this offense after indictment by a County Grand Jury, pleaded guilty. As a result of this plea, applicant was sentenced by a Judge of a Court of Special Sessions to one year in a county penitentiary and in addition thereto was fined \$100.00. The prison sentence was suspended and applicant was placed on probation for two years.

The crime of receiving stolen goods by its very nature ordinarily involves moral turpitude. Re Case No. 424, Bulletin 506, Item 3; Re Case No. 304, Bulletin 363, Item 7; Re Case No. 231, Bulletin 271, Item 10. Nothing appears in the instant case to free applicant's conviction of that element. Although he claims that he was actually innocent of the fact that the liquor which he purchased had been stolen, he may not here collaterally attack his own confessional plea or the merits of his conviction in the criminal court. See Re Case No. 173, Bulletin 504, Item 7, and cases therein cited.

It is recommended, therefore, that applicant be advised that he is not eligible to hold a liquor license or to be employed in any business capacity by a liquor licensee in the State of New Jersey.

Clarence E. Kremer  
Attorney.

APPROVED:  
ALFRED E. DRISCOLL  
Commissioner.

- 5. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - SALE OF ALCOHOLIC BEVERAGES BY CLUB LICENSEE TO NON-MEMBERS, IN VIOLATION OF R. S. 33:1-12(5) AND R. S. 33:1-2 - SALE OF ALCOHOLIC BEVERAGES FOR OFF-PREMISES CONSUMPTION DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SALE OF ALCOHOLIC BEVERAGES BY CLUB LICENSEE FOR OFF-PREMISES CONSUMPTION, IN VIOLATION OF R. S. 33:1-12(5) AND R. S. 33:1-2 - 50 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against  
 4th WARD ITALIAN REPUBLICAN CLUB  
 464 Royden Street  
 Camden, N. J.,  
 Holder of Club License CB-42 for the 1943-44 fiscal year, and now holder of Club License CB-32 for the current (1944-45) fiscal year, both issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

CONCLUSIONS  
 AND ORDER

4th Ward Italian Republican Club, Pro Se.  
 Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant licensee pleaded guilty to charges that it (1) sold alcoholic beverages on Sunday, in violation of a local ordinance; (2) sold alcoholic beverages to persons other than members or bona fide guests of members, in violation of R. S. 33:1-12(5) and R. S. 33:1-2; (3) sold alcoholic beverages on Sunday, in violation of State Regulations 38, Rule 1; (4) sold alcoholic beverages for off-premises consumption, in violation of R. S. 33:1-12(5) and R. S. 33:1-2.

The record of the investigation shows that the club was apparently running "wide open" at least between the hours of 5:00 and 6:00 P. M. on Sunday, June 11, 1944. When investigators of the State Department of Alcoholic Beverage Control entered, they observed a large number of persons on the licensed premises consuming, ordering and paying for alcoholic beverages. The agents were served though they were not members or guests of members. Subsequently the agents were sold alcoholic beverages to be taken from the licensed premises.

Defendant, in offering its plea, explains that the club was celebrating the fall of Rome. Granted the fall of Rome, the former home of Fascism, offered a temptation to celebrate, it is to be noted that patriotism first requires obedience to the law. It is further to be noted that such celebration, if there was a celebration, was not confined to members and guests of members.

Defendant has a prior record for after-hour sales.

The usual penalty for sales on Sunday is fifteen days. Re Penns Grove Lodge No. 820 Loyal Order of Moose, Bulletin 615, Item 2. The usual penalty for sales to non-members is also fifteen days. Re Penns Grove Lodge No. 820 Loyal Order of Moose, supra. The penalty for sales for off-premises consumption is usually fifteen days. Re 14th Ward Democratic Club, Inc., Bulletin 616, Item 8.



## 7. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FOR THE FISCAL YEAR 1943-44.

To: Alfred E. Driscoll, Commissioner

	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			Total
	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	
<b>ARRESTS:</b>													
Licensees and employees		40		13			25			19			97
Bootleggers		31		55			28			26			140
Total number of persons arrested		71		68			53			45			237
<b>SEIZURES:</b>													
<u>Stills</u>													
1 to 50 gal. daily capacity		1		1			2			5			9
50 gallons and more daily capacity		3		4			3			5			15
Total number of stills seized		4		5			5			10			24
<u>Mash - gallons</u>		1,850		31,636			15,900			28,943			78,329
<u>Motor vehicles</u>													
Trucks		1		8			3			0			12
Passenger cars		10		14			4			7			35
Total number of motor vehicles seized		11		22			7			7			47
<u>Beverage alcohol - gallons</u>		75.63		920			53.75			376			1,425.38
<u>Brewed malt alcoholic beverages (beer, ale, etc.) - gallons</u>		240.48		101.86			139.60			72.03			553.97
<u>Wine - gallons</u>		23.68		3.65			2,559.12			139			2,725.45
<u>Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons</u>		62.97		1,715.29			1,619.56			295.50			3,693.32
<b>RETAIL LICENSEES:</b>													
Total number of premises inspected	4,170			4,226			4,458			4,425			17,279
Total number of bottles gauged	31,029			28,850			31,863			30,361			122,103
Total number of premises where violations were found	319			291			230			204			1,044
Total number of violations found	420			313			286			347			1,366
Types of violations found:													
Illicit (bootleg) liquor	46			24			46			138			254
Gambling devices	6			0			1			6			13
Prohibited signs	16			0			1			0			17
Unqualified employees	184			63			95			94			436
"Fronts" (concealed ownership)	21			12			4			4			41
Improper beer tap markers	17			15			9			6			47
Stock disposal permits necessary	59			18			12			10			99
No sign denoting legal sale hours - off-premises consumption (Reg. 38)	*52			168			85			49			354
Other types of violations	19			13			33			40			105
<b>MILITARY AREA PATROL INSPECTIONS:</b>	1,381			1,516			1,860			1,653			6,410
<b>STATE LICENSEES:</b>													
Premises inspected	212			120			29			36			397
License applications investigated	54			49			48			699			850
<b>COMPLAINTS:</b>													
Investigated, reviewed and closed	1,033			1,245			1,145			1,141			4,564
Investigation assigned, not yet completed	-----			-----			-----			-----			**331

\*Regulations No. 38 became effective August 16, 1943

\*\*Pending at end of fiscal year

## RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FOR THE FISCAL YEAR 1943-44 (CONT'D)

	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			Total
	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	
<u>LABORATORY:</u>													
Analyses made		381		352			405			421			1,559
"Shake-up" cases (alcohol, water and artificial coloring)		18		27			17			19			81
Liquor found to be not genuine as labeled		44		19			19			79			161
<u>IDENTIFICATION BUREAU:</u>													
Criminal fingerprint identifications made		78		69			53			107			307
Persons fingerprinted for non-criminal purposes		1,967		541			535			772			3,815
Identification contacts with other enforcement agencies		1,969		539			615			1,032			4,155
Motor vehicle identifications via N. J. State Police Teletype		30		53			56			60			199
<u>DISCIPLINARY PROCEEDINGS:</u>													
Cases transmitted to municipalities		55		55			49			66			225
Cases instituted at Department		80		76			92			50			298
Cancellation proceedings at Department		2		1			0			0			3
<u>HEARINGS HELD AT DEPARTMENT:</u>													
Total number of hearings held		143		139			147			129			558
Appeals		30		10			10			13			63
Disciplinary proceedings		69		84			86			70			309
Eligibility		38		22			19			28			107
Seizures		6		17			22			11			56
Tax revocations		0		5			8			4			17
Applications for licenses or permits		0		1			2			3			6
<u>PERMITS ISSUED:</u>													
Total number of permits issued		6,426		2,696			1,572			2,181			12,875
Unqualified employees		2,641		516			468			482			4,107
Solicitors		1,870		132			143			85			2,230
Social affairs		452		443			299			473			1,667
Home manufacture of wine		230		1,120			120			3			1,473
Disposal of alcoholic beverages		345		211			250			250			1,056
Miscellaneous permits		888		274			292			888			2,342

Respectfully submitted,  
 Sydney B. White  
 Chief Inspector.

Dated: July 28, 1944.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PREVIOUS RECORD - 30 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against

JOSEPH STEINREICH  
278 Market Street  
Newark, 5, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-378, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Saul C. Schutzman, Esq., Attorney for Defendant-Licensee.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded guilty to a charge alleging that, on June 7, 1944, he possessed two 4/5 quart bottles of "Calvert Reserve Blended Whiskey 86.8 Proof", which contained alcoholic beverages not genuine as labeled, in violation of R. S. 33:1-50.

The defendant's explanation is that, subsequent to the discovery of the violation, he interrogated his porter, who admitted that he had poured other whiskey into both bottles. This fact does not, however, lessen the defendant's complete responsibility for the condition of his liquor stock. Re Kurian, Bulletin 517, Item 2.

In October 1936 the defendant was warned about the presence of off-proof liquor at his tavern. In January 1938 his license was suspended for five days for sale of alcoholic beverages on an Election Day. In January 1941 he pleaded guilty to permitting book-making and gambling on his licensed premises and received a fifteen-day suspension, with five days remitted for the plea. In addition, the defendant's previous record discloses that he was twice warned about gambling violations, once in November 1935 and again in April 1938.

The instant offense, when viewed in the light of the entire record, warrants no less a penalty than thirty days. Any further violation may well result in an outright revocation of the license.

Accordingly, it is, on this 27th day of July, 1944,

ORDERED, that Plenary Retail Consumption License C-378, heretofore issued by the Municipal board of Alcoholic Beverage Control of the City of Newark to Joseph Steinreich for premises 278 Market Street, Newark, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2:00 A. M. August 1, 1944 and terminating at 2:00 A. M. August 31, 1944.

ALFRED E. DRISCOLL  
Commissioner.

9. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PREVIOUS RECORD - 20 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against

MARY ULIKOWSKI  
248 Secaucus Road  
Secaucus, N. J.,

CONCLUSIONS  
A D ORDER

Holder of Plenary Retail Consumption License C-23 issued by the Town Council of the Town of Secaucus.

Archie Elkins, Esq., Attorney for Defendant-Licensee.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads non vult to charge that, on March 25, 1944, she possessed illicit alcoholic beverages at her licensed premises, viz., two 4/5 quart bottles labeled "Imperial Blended Whiskey 86 Proof", one 4/5 quart bottle labeled "Calvert Special Blended Whiskey 86.8 Proof" and one 4/5 quart bottle labeled "Paul Jones A Blend of Straight Whiskies 90 Proof", which bottles contained alcoholic beverages not genuine as labeled, such possession being in violation of R. S. 33:1-50.

The facts in this case disclose that, on March 25, 1944, agents of the Federal Alcohol Tax Unit seized, on defendant's licensed premises, nine bottles of alcoholic beverages. From their preliminary tests it appeared that the liquor therein was not genuine as labeled. Subsequent chemical analysis disclosed that four of these bottles contained illicit liquor.

Defendant has a previous adjudicated record. Her license was suspended by the local issuing authority for five days, commencing January 15, 1940, for selling alcoholic beverages to a minor. In July 1943 the licensee received a stern warning from the Department of Alcoholic Beverage Control against the possession of under proof or illicit alcoholic beverages.

Under all the circumstances, I shall suspend the license of defendant for a period of twenty days.

Accordingly, it is, on this 1st day of August, 1944,

ORDERED, that Plenary Retail Consumption License C-23, heretofore issued by the Town Council of the Town of Secaucus to Mary Ulikowski for premises 248 Secaucus Road, Secaucus, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 A. M. August 4, 1944, and terminating at 2:00 A. M. August 24, 1944.

ALFRED E. DRISCOLL  
Commissioner.

10. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN APPLICATION FOR LICENSE CONCEALING MATERIAL FACTS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR PERIOD OF 10 DAYS.

In the Matter of Disciplinary Proceedings against )  
 )  
 MARIAN HILL )  
 N/E Cor. Harding Highway )  
 and Du Pont Road )  
 Upper Penns Neck Township )  
 P. O. Carney's Point, N. J., )  
 )  
 Holder of Plenary Retail Consumption License C-7 for the 1943-44 )  
 and 1944-45 fiscal years, both )  
 issued by the Township Committee )  
 of the Township of Upper Penns )  
 Neck and transferred during the )  
 pendency of these proceedings to )  
 )  
 JOHN J. HILL and )  
 CYRIL HILL )  
 )  
 for the same premises. )  
 ----- )

CONCLUSIONS  
AND ORDER

Louis F. Di Nicola, Esq., Attorney for Defendant-Licensee.  
Gaylord R. Hawkins, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleaded guilty to charges alleging, in substance, that she was a "front" for the real owners of the licensed business. It appears from the Department's record that Cyril Hill, husband of Marian Hill, and his brother, John Hill, are and always have been, from the time the license was transferred to Marian Hill in 1944, the actual proprietors of the licensed business.

When charges were brought alleging a violation of R. S. 33:1-25 and R. S. 33:1-52 of the Alcoholic Beverage Law, the license was transferred to the Hill brothers.

In view of the character of the "front", the plea, the correction, and the previously clear record, I shall impose a minimum penalty of ten days' suspension. Re Schibell, Bulletin 619, Item 4.

Although this proceeding was instituted during the license period ending June 30, 1944, and the license has meanwhile been transferred, it does not abate but remains fully operative against the license transferred to John J. Hill and Cyril Hill for the current 1944-45 period. State Regulations No. 15.

Accordingly, it is, on this 31st day of July, 1944,

ORDERED, that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Upper Penns Neck to Marian Hill, for premises N/E Cor. Harding Highway and Du Pont Road, Upper Penns Neck Township, and transferred during the pendency of these proceedings to John J. Hill and Cyril Hill, for the same premises, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 A.M. August 7, 1944, and terminating at 7:00 A.M. August 17, 1944.

ALFRED E. DRISCOLL  
Commissioner.

11. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR PERIOD OF 15 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against )

1st WARD ITALIAN DEMOCRATIC CLUB )  
628 N. Front Street )  
Camden, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-11, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden. )  
----- )

1st Ward Italian Democratic Club, Pro Se, by Frank Amatucci, President.  
Milton H. Cooper, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee, through its President, pleads non vult to charge of sale and service of alcoholic beverages on Sunday evening, July 2, 1944, in violation of an ordinance adopted by the Board of Commissioners of the City of Camden which prohibits such sale or service by any licensee after 2:00 A. M. on Sundays.

The file discloses that an investigator of the Department of Alcoholic Beverage Control visited the defendant's licensed premises on Sunday, July 2, 1944 at 10:30 P. M. A drink was refused him when he could not properly identify himself as a club member or a bona fide guest of a club member. While there, however, he observed a number of men, some of whom were being served with and some of whom were drinking beer at a bar in the building or at tables in the rear yard of the premises.

This being the defendant's first offense, I shall suspend the license for a period of fifteen days, with remission of five days for the non vult plea, or a net suspension of ten days. Cf. Germania Mannerchor, Bulletin 570, Item 11.

Accordingly, it is, on this 1st day of August, 1944,

ORDERED, that Club License CB-11, heretofore issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to 1st Ward Italian Democratic Club for premises 628 N. Front Street, Camden, be and the same is hereby suspended for ten (10) days, commencing at 2:00 A. M. August 8, 1944 and terminating at 2:00 A. M. August 18, 1944.

ALFRED E. DRISCOLL  
Commissioner.

12. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against )

WILLIAM & PAULINE L. CALDWELL )  
T/a CHICK & PAULINE'S BAR )  
135 Hamilton Avenue )  
Seaside Heights, N. J., )

CONCLUSIONS AND ORDER

· Holders of Plenary Retail Consump- )  
tion License C-16, issued by the )  
Mayor and Borough Council of the )  
Borough of Seaside Heights. )  
----- )

William & Pauline L. Caldwell, Defendant-Licensees, Pro Se.  
Milton H. Cooper, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensees plead guilty to the charge that alcoholic beverages were sold and served to and permitted to be consumed by a minor upon the licensed premises, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

The file discloses that Eleanor ---, a girl nineteen years of age, accompanied by her husband of legal age, arrived at the defendants' tavern on the evening of June 29, 1944. While there the husband ordered two glasses of beer, one of which was served to his wife, Eleanor ---, the minor.

Since this is defendants' first adjudicated offense and there appear to be no aggravating circumstances, I shall impose the minimum penalty of ten days' suspension. Cf. Re Abrams, Bulletin 562, Item 8. Five days of the suspension will be remitted because of the plea, making a net suspension of five days.

Accordingly, it is, on this 2nd day of August, 1944,

ORDERED, that Plenary Retail Consumption License C-16, heretofore issued by the Mayor and Borough Council of the Borough of Seaside Heights to William & Pauline L. Caldwell, t/a Chick & Pauline's Bar, for premises 135 Hamilton Avenue, Seaside Heights, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 A. M. August 7, 1944, and terminating at 2:00 A. M. August 12, 1944.

ALFRED E. DRISCOLL  
Commissioner.

13. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN APPLICATION FOR LICENSE CONCEALING MATERIAL FACTS (CRIMINAL RECORD) - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR PERIOD OF 90 DAYS.

In the Matter of Disciplinary Proceedings against )

JAMES FIGONE )  
Broad and First Streets )  
Keyport, N. J., )

Holder of Plenary Retail Consumption License C-11 for the fiscal year 1943-44, issued by the Borough Council of the Borough of Keyport; )

-and- )

ALBERT W. SCHWARCK and )  
JAMES FIGONE, )

Holders of Plenary Retail Consumption License C-11 for the fiscal year 1944-45 )

for the same premises. )

CONCLUSIONS  
AND ORDER

George R. Sommer, Esq., Attorney for Defendant-Licensee.  
Milton H. Cooper, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to charges alleging that (1) he falsified his license application by failing to reveal the interest of Anthony Agnellino, and (2) he permitted the said Anthony Agnellino to exercise the rights and privileges of his license.

Anthony Agnellino has a criminal record which includes a conviction for robbery (hold-up) in January 1933 and for possession of an unregistered still in March 1939. For this reason, his partnership interest in the business conducted under the license issued to the defendant was not disclosed.

The interest of Anthony Agnellino has recently been purchased by Albert W. Schwarck and the license for the present fiscal year has been issued in his name and also that of the defendant. So far as appears from the record, therefore, the prior unlawful situation is now corrected.

The suppression of an interest of a person having so serious a criminal record as that involved herein warrants the imposition of a ninety-day penalty. Cf. Re Clinton Cut Rate Drugs, Inc., Bulletin 538, Item 3. It will be so ordered.

Accordingly, it is, on this 2nd day of August, 1944,

ORDERED, that Plenary Retail Consumption License C-11, heretofore issued for the present fiscal year by the Borough Council of the Borough of Keyport to Albert W. Schwarck and James Figone, for premises Broad and First Streets, Keyport, be and the same is hereby suspended for a period of ninety (90) days, commencing at 2:00 A. M. August 7, 1944, and terminating at 12:01 P. M. November 5, 1944.

ALFRED E. DRISCOLL  
Commissioner.

14. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - PREVIOUS RECORD - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary )  
 Proceedings against )

JOHN A. BAHRS )  
 T/a BAHRS' LANDING )  
 2 Bay Avenue )  
 Bahrs Landing )  
 Highlands, N. J., )

CONCLUSIONS  
 AND ORDER

Holder of Plenary Retail Consump- )  
 tion License C-19, issued by the )  
 Borough Council of the Borough )  
 of Highlands. )

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 John A. Bahrs, Pro Se.  
 Milton H. Cooper, Esq., appearing for Department of Alcoholic  
 Beverage Control.

BY THE COMMISSIONER:

The defendant pleads non vult to charges which, in substance, allege that he sold and served alcoholic beverages to a minor on his licensed premises, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

Defendant, as an excuse for the sale, states that the minor definitely assured him that he was more than twenty-one years of age and that the minor's uncle corroborated this oral misrepresentation. Unfortunately, no written statement was obtained from the minor. Defendant, who was apparently in doubt, was satisfied to accept these verbal assurances.

The defendant cannot successfully defend himself against the charge of having sold alcoholic beverages to a minor unless he can show compliance with all of the provisions of R. S. 33:1-77, namely: (a) that the minor falsely represented, in writing, that he was twenty-one years of age or over; (b) that the appearance of the minor was such that an ordinary prudent person would believe him to be twenty-one years of age or over; and (c) that the sale was made in good faith, relying upon such representation and appearance, and in the reasonable belief that the minor was actually twenty-one years of age or over. In the instant case, the ABC agents report that the minor, who was seventeen and one-half years of age at the time of the violation, unmistakably appeared to be under twenty-one years of age.

The licensee has a previous record. On November 9, 1943 his license was suspended for a period of ten days, less five days upon his guilty plea, for a similar violation. Because of this previous record and because of the youthfulness of the minor involved, I shall suspend the defendant's license in the instant proceedings for a period of twenty-five (25) days. Five (5) days will be remitted for the plea.

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

ORDERED, that Plenary Retail Consumption License C-19, heretofore issued by the Borough Council of the Borough of Highlands to John A. Bahrs, t/a Bahrs' Landing, for premises 2 Bay Avenue, Bahrs Landing, Highlands, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 A. M. August 7, 1944, and terminating at 2:00 A. M. August 27, 1944.

*Alfred E. Griswell*  
Commissioner.