

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

BULLETIN 648

JANUARY 24, 1945

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RESTAURANTS - EATING PLACE DOES NOT QUALIFY AS A RESTAURANT UNDER ALCOHOLIC BEVERAGE LAW AND MUNICIPAL ALCOHOLIC BEVERAGE REGULATION UNLESS IT IS A "RESTAURANT" AS DEFINED IN R.S. 33:1-1t.
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STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street, Newark, 2, N. J.

BULLETIN 648

JANUARY 24, 1945

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 - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR A PERIOD OF 45 DAYS, LESS 5 FOR PLEA.

DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS BY PERMITTEE, IN VIOLATION OF R. S. 33:1-77 - PERMIT SUSPENDED FOR A PERIOD OF 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

PIETRO PARZANESE,
t/a The New Palm Garden,
Rt. 22-28 State Highway,
Greenwich Township,
P.O. Stewartsville, R.D.1, N.J.,

Holder of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Greenwich.

CONCLUSIONS

AND

In the Matter of Disciplinary Proceedings against

FLORENCE M. HERR,
318 W. Wilkesbarre,
Easton, Pennsylvania,

Holder of Employment Permit No. 3164, issued by the State Commissioner of Alcoholic Beverage Control.

ORDER

Jacob J. Levey, Esq., Attorney for Defendant-Licensee.
Florence M. Herr, Defendant-permittee, Pro Se.
Edward F. Ambrose, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads non vult to the sale of alcoholic beverages to minors, in violation of R.S. 33:1-77 and Rule 1 of State Regulations No. 20.

Defendant-permittee pleads non vult to the sale of alcoholic beverages to minors, in violation of R.S. 33:1-77.

The file discloses that on the evening of December 9, 1944 and the early morning of the following day, fourteen minors, one being 17 years of age, three 18 years of age, five 19 years of age and five 20 years of age, were sold, served and permitted to consume alcoholic beverages on the defendant's licensed premises. Some of these minors were served by defendant-permittee. At the time that the investigators of the Department of Alcoholic Beverage Control visited the licensed premises six of the minors were consuming beer, two were drinking champagne, two had whiskey and soda and the remaining four were drinking whiskey highballs.

Neither defendant-licensee nor defendant-permittee has a prior adjudicated record.

In view of the aggravating circumstances appearing in the instant case, however, I shall impose a suspension of the license held by the defendant-licensee and also of the permit held by the defendant-permittee for a period of forty-five days. Five days will be remitted for the respective pleas entered herein, making a net suspension of forty days in each case.

Accordingly, it is, on this 18th day of January, 1945,

ORDERED that plenary retail consumption license C-2, issued by the Township Committee of the Township of Greenwich to Pietero Parzanese, t/a The New Palm Garden, for premises Rt. 22-28 State Highway, Greenwich Township, be and the same is hereby suspended for a period of forty (40) days, commencing at 1:00 A.M. January 25, 1945, and terminating at 1:00 A.M. March 6, 1945; and it is further

ORDERED that Employment Permit No. 5164, issued by the State Commissioner of Alcoholic Beverage Control to Florence M. Herr, be and the same is hereby suspended for a period of forty (40) days, commencing at 1:00 A.M. January 25, 1945, and terminating at 1:00 A.M. March 6, 1945.

ALFRED E. DRISCOLL,
Commissioner.

- 2. DISCIPLINARY PROCEEDINGS - LICENSE SUSPENDED FOR THE BALANCE OF ITS TERM WITH PERMISSION GRANTED TO BONA FIDE TRANSFEREE TO PETITION TO LIFT AFTER EXPIRATION OF 10 DAYS' SUSPENSION - BONA FIDE TRANSFER APPROVED BY MUNICIPAL ISSUING AUTHORITY - 10 DAYS' SUSPENSION HAVING EXPIRED, APPLICATION BY BONA FIDE TRANSFEREE TO LIFT THE SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against

CHESTER BOND and GEORGE WUEST,
200 N. 5th Street,
Harrison, New Jersey

On Petition

O R D E R

Holders of Plenary Retail Consumption License C-32, issued by the Town Council of the Town of Harrison.

John J. Murphy, Esq., Attorney for Petitioner, John F. Padavano.

BY THE COMMISSIONER:

On January 2, 1945, I suspended the license of Chester Bond and George Wuest for the balance of its term, effective at 2 A.M. January 8, 1945, after they had pleaded nolo contendere to charges alleging that they falsified their license application and that they had permitted William Hewitt during his life-time to exercise the privileges of their license. Re Bond and Wuest, Bulletin 645, Item 2. In said order it was provided that leave was reserved to apply for the lifting of the suspension upon the submission of proper proof that a bona fide correction had been made, and it was further provided that, in any event, a ten-day

suspension must be served. Pursuant to said leave, John F. Padavano has filed a verified petition wherein it is set forth that the Town Council of the Town of Harrison has duly transferred the license, subject to the suspension heretofore imposed, from Chester Bond and George Wuest to said John F. Padavano.

The petition further sets forth that petitioner has purchased all the right, title and interest of the administrator of the estate of William Hewitt and Chester Bond and George Wuest in and to the business and license, and that he is now the sole owner of the business and license.

It appearing that the suspension has now been in effect for ten days, and it further appearing from the facts set forth in the verified petition that the unlawful situation has been corrected, I shall lift the suspension, effective immediately.

Accordingly, it is, on this 18th day of January, 1945,

ORDERED that the suspension heretofore imposed be lifted, and that plenary retail consumption license C-32, originally issued to Chester Bond and George Wuest and transferred to John F. Padavano, be and the same is hereby restored to full force and operation, effective immediately.

ALFRED E. DRISCOLL,
Commissioner.

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 A PERIOD OF 15 DAYS, LESS 5 FOR PLEA - CHARGE OF BOTTLING ALCOHOLIC BEVERAGES FOR SALE, IN VIOLATION OF R. S. 33:1-78 DISMISSED.

In the Matter of Disciplinary Proceedings against

FRANK MOSCARELLI,
t/a Pioneer Tavern,
Marcone and Seneca Avenues,
Woodbridge Township,
P.O. Iselin, N. J.,

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-38, issued by the Township Committee of the Township of Woodbridge.

Edward J. Santoro, Esq., Attorney for Defendant-Licensee.
Harry Castelbaum, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee is charged (1) with the sale of beer to a minor on October 7, 1944 at about 1:00 A.M. and again on the same day at about 2:00 A.M., in violation of R.S. 33:1-77; (2) with allowing, permitting and suffering the delivery of alcoholic beverages to a minor on the aforesaid occasions, in violation of rule 1 of State Regulations No. 20; and (3) bottling alcoholic beverages for sale (beer), in violation of R.S. 33:1-78.

On the occasions in question several glasses of beer were served to the minor by both the licensee and the bartender at the defendant's premises. The minor was nineteen years of age.

The defendant has never heretofore suffered a suspension of his license. I shall, therefore, in the absence of aggravating circumstances in the instant case, suspend the defendant's license for a period of ten days, with a remission of five days for the plea of non vult, leaving a net suspension of five days. Re Willow Inn, Inc., Bulletin 641, Item 7.

Accordingly, it is, on this 18th day of January, 1945,

ORDERED that plenary retail consumption license C- 50, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Dominic J. Colangelo, t/a Happy Hour Club, for premises 202 South Fourth Street, Camden, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 A.M. January 22, 1945, and terminating at 2:00 A.M. January 27, 1945.

ALFRED E. DRISCOLL,
Commissioner.

COURT DECISIONS - NEW JERSEY SUPREME COURT - GUGLIELMI v. ALFRED E. DRISCOLL, COMMISSIONER - ORDER DISMISSING APPLICATION FOR WRIT OF CERTIORARI - COMMISSIONER SUSTAINED.

NEW JERSEY SUPREME COURT

DOMENIC GUGLIELMI,)
Prosecutor,)
v.)
ALFRED E. DRISCOLL, COMMISS-)
SIONER OF THE STATE DEPARTMENT)
OF ALCOHOLIC BEVERAGE CONTROL,)
Defendant.)
-----)

On Petition for Writ
of Certiorari
ORDER DENYING
APPLICATION

This matter having come on for hearing before the Court at the Court House at Camden, on the 12th day of December, 1944, in the presence of Samuel P. Orlando, Esq., Attorney for the Prosecutor, and Edward F. Hodges, appearing for Hon. Walter D. Van Riper, Attorney General of the State of New Jersey, attorney for Alfred E. Driscoll, Commissioner of the State of New Jersey Department of Alcoholic Beverage Control, defendant, and the Court having heard and considered the proof and arguments presented by counsel herein,

It is, on this 18th day of January, 1945,

ORDERED that the application herein for a writ of certiorari be and hereby is denied.

On motion of
Edward F. Hodges, Ralph W. E. Donges
for Walter D. Van Riper, Attorney Supreme Court Justice.
General, Attorney for Alfred E.
Driscoll, Commissioner.

6. DISCIPLINARY PROCEEDINGS - APPLICATION FOR WRIT OF CERTIORARI HAVING BEEN DENIED BY THE NEW JERSEY SUPREME COURT - SUSPENSION PERIOD REIMPOSED.

In the Matter of Disciplinary)
Proceedings against)

DOMENIC GUGLIELMI,)
t/a Uneeda Cafe,)
2224 Federal Street,)
Camden, New Jersey,)

O R D E R

Holder of Plenary Retail Con-)
sumption License C-5, issued)
by the Municipal Board of)
Alcoholic Beverage Control of)
the City of Camden.)

BY THE COMMISSIONER:

It appearing that by an Order dated October 27, 1944, plenary retail consumption license C-5, issued to Domenic Guglielmi, t/a Uneeda Cafe, was suspended for fifteen days, commencing at 2:00 A. M. November 1, 1944 and terminating at 2:00 A. M. November 16, 1944; and

It further appearing that on October 31, 1944 the operation of said Order was stayed to permit Domenic Guglielmi, t/a Uneeda Cafe, to apply to one of the Justices of the New Jersey Supreme Court for a writ of certiorari to review the above mentioned Conclusions and Order.

The application for the writ was made on December 12, 1944 to Hon. Ralph W. E. Donges, a Justice of the New Jersey Supreme Court, and the Court, having heard and considered the proof and arguments presented by counsel, denied the application for said writ by Order dated January 18, 1945;

It is, therefore, on this 22nd day of January, 1945,

ORDERED that plenary retail consumption license C-5, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Domenic Guglielmi, t/a Uneeda Cafe, for premises 2224 Federal Street, Camden, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 A. M. January 29, 1945, and terminating at 2:00 A. M. February 13, 1945.

ALFRED E. DRISCOLL,
Commissioner.

DISQUALIFICATION - APPLICATION TO LIFT (SEE ALSO BULLETIN 612, ITEM 4) - GOOD CONDUCT FOR FIVE YEARS LAST PAST - APPLICATION TO LIFT GRANTED.

In the Matter of an Application)
to Remove Disqualification be-)
cause of Conviction, Pursuant)
to R. S. 33:1-31.2.)
Case No. 327)
-----)

CONCLUSIONS
AND
ORDER

BY THE COMMISSIONER:

Petitioner herein re-applies to the State Commissioner of Alcoholic Beverage Control to have his statutory disqualification removed in order that he may be eligible to become associated with the alcoholic beverage industry.

It appears from the Conclusions of the State Commissioner, dated April 3, 1944, that petitioner had prematurely filed his petition to lift any statutory disqualification existing by reason of his being convicted of crimes. Leave was granted to renew his application in the matter on or subsequent to December 5, 1944, at which time five years would have elapsed since petitioner had been released from a county workhouse. See Re Case No. 327, Bulletin 612, Item 4.

It appears that the last conviction of petitioner for a crime involving moral turpitude occurred on December 6, 1931, as a result of which he was imprisoned for approximately a year in a State reformatory. Since that time he was convicted on three other occasions for disorderly conduct for which he was either fined or sentenced by a Police Magistrate to a penal institution. From the evidence herein, it appears that he has not been convicted of any crime since his release from the workhouse on December 5, 1939.

Three character witnesses, all neighbors of petitioner, who have known him for five or more years, testified that he bears a good reputation in the community in which he lives. They were in agreement that petitioner has rehabilitated himself and has become a law-abiding citizen during the five years last past.

In view of the testimony produced herein, I find that petitioner has conducted himself in a law-abiding manner for the five years immediately past and I believe that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 19th day of January, 1945,

ORDERED that petitioner's statutory disqualification resulting from the convictions described herein, be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2.

ALFRED E. DRISCOLL,
Commissioner.

8. AUTOMATIC SUSPENSION - R.S. 33:1-31.1 - LICENSEE SERVED JAIL SENTENCE OF 13 DAYS - PREMISES CLOSED FOR A PERIOD OF 77 DAYS - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition)
by)

URIAH D. DAVIS,)
Route S-41 and Collings Road,)
Berlin Township,)
P.O. East Berlin, Camden County,)
New Jersey)

CONCLUSIONS)
AND)
ORDER)

To Lift the Automatic Suspension of)
Plenary Retail Consumption License C-3,)
issued by the Township Committee of)
Berlin Township.)
-----)

In the Matter of the Eligibility of)

URIAH D. DAVIS,)
Route S-41 and Collings Road,)
Berlin Township,)
P.O. East Berlin, Camden County,)
New Jersey)

CONCLUSIONS)

To Hold a Liquor License or to be)
Employed by a Liquor Licensee.)
-----)

Frank M. Laris, Esq., Attorney for Petitioner, Uriah D. Davis.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

It appears from a petition filed herein that on July 12, 1944, the licensee, having waived indictment and trial by jury, pleaded non vult in the Court of Special Sessions of Camden County to a charge of selling alcoholic beverages to minors in violation of R.S. 33:1-77. The court imposed a sentence confining him to the county jail for a term of three months. On July 25, 1944, however, the court reconsidered its sentence, suspended the balance of the same and ordered the licensee released from the county jail after he had served thirteen days.

It further appears from the petition and from the records of the Department of Alcoholic Beverage Control that the Township Committee of the Township of Berlin, in disciplinary proceedings involving the same minors and the same sale, following a plea of non vult to a charge of sales to minors in violation of R.S. 33:1-77 and Rule 1 of State Regulations No. 20, suspended the petitioner's license for a period of five days beginning June 26, 1944, at 2:00 A.M. and terminating July 1, 1944, at 2:00 A.M.

The conviction in the criminal proceedings resulted in the automatic suspension of petitioner's license for the balance of its term. R.S. 33:1-31.1. Accordingly, on July 12, 1944, agents of the Department of Alcoholic Beverage Control required the petitioner to close his premises and removed the license.

The present petition is filed pursuant to the provisions of R.S. 33:1-31.1 and prays for an order lifting the automatic suspension.

When the petition to lift the automatic suspension was filed petitioner was notified that a hearing would also be held to determine whether the crime of which he had been convicted involved moral turpitude. Both the application to lift the automatic suspension and the eligibility proceedings were heard at the same time.

From the evidence presented, it appears that on April 30, 1944, three youths, two of whom were fifteen years of age and one sixteen years of age, entered the defendant's premises at about 7:00 P.M. and remained there for a period of about two hours. These youths testified that the licensee served them about thirteen glasses of beer and six glasses of whiskey. The licensee admitted that the three youths had been present on his premises on the evening of April 30, 1944. He testified that he sold three glasses of beer to one of the young men who appeared to him to be over the age of twenty-one years, and that upon discovering that the purchaser had taken the beer to the men's room, he thereafter refused to make any further sales to any members of this party.

Quite frankly, I do not believe the whole story told by either the minors or the licensee. If the boys had consumed the liquor that they testify they purchased, they would have been, in my judgment, incapable of thereafter conducting themselves in the manner reported. I believe their story was colored and enlarged as a result of some animosity they apparently have against the licensee. On the other hand, there is no question in my mind that they were served alcoholic beverages on the licensed premises.

A single violation of the Alcoholic Beverage Law may or may not involve moral turpitude, depending upon the facts of the case. In Re Case No. 422, Bulletin 505, Item 9, which involved a conviction for selling alcoholic beverages to minors, I held that the crime was so aggravated as to warrant a finding that it involved the element of moral turpitude. In the instant case, I have had an opportunity to observe the two minors who testified at the hearing. The fifteen year old youth is six feet tall. He and his companion appeared to be much older than they actually are, although, in my opinion, a prudent licensee, before serving these youths, would have requested them to comply with the provisions of R.S. 33:1-77. Had the licensee followed the provisions of Section 77, it is quite probable that the sale and service of alcoholic beverages would not have been made and that the youths in question would have been saved from the folly of their subsequent misconduct. Further, the licensee would have avoided the notoriety of disciplinary and criminal proceedings.

After having carefully studied the entire record, I have reached the conclusion that the violation, while highly reprehensible, was not so aggravated that the crime involved the element of moral turpitude. In reaching this conclusion, I have not been unmindful of the position taken by the judge of the Court of Special Sessions, who, having first imposed a very severe penalty, later reconsidered and released the licensee from jail.

As to the petition: It has been my policy 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 sufficient length of time to adequately punish the licensee for his violation of the law.

In the instant case, the Township Committee apparently thought a five day suspension was a sufficient length of time to punish the licensee for his violation of R.S. 33:1-77 and Rule 1 of State

Regulations No. 20. The shocking leniency of the Township indicates that the Township Committee is not greatly concerned when licensees sell to minors in violation of the law and the regulations. I do not agree with this point of view.

The licensed premises have now been closed since July 12, 1944, a total of 72 days - this, in addition to the five day suspension imposed by the Township Committee. Petitioner served thirteen days in jail as a result of his conviction in criminal proceedings. Under the circumstances, I believe that he has been sufficiently punished. The relief prayed for will be granted.

Accordingly, it is, on this 22d day of September, 1944,

ORDERED that the automatic suspension of License C-3, held by Uriah D. Davis, for premises on Route S-41 and Collings Road, Berlin Township, be and the same is hereby lifted, effective immediately. The license certificate may be returned to the licensee.

ALFRED E. DRISCOLL,
Commissioner.

9. MORAL TURPITUDE - CRIME OF ROBBERY INVOLVES MORAL TURPITUDE.

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

CONCLUSIONS
AND
ORDER

Case No. 402
-----)

BY THE COMMISSIONER:

Petitioner herein, pursuant to and by virtue of R.S.33:1-31.2, seeks removal of any disqualification that may exist because of prior convictions of crime.

It appears from the testimony of petitioner that on May 14, 1931, he was convicted of robbery and possession of a dangerous weapon as a result of which he was sentenced, on May 21, 1931, to an indeterminate term in a State reformatory. Thereafter, on October 3, 1935, petitioner was convicted for possession of lottery slips and on October 4, 1935 received a suspended sentence. Again, on June 19, 1942, upon conviction of accepting bets on horses, petitioner was fined \$250.00 by a Judge of a Court of Special Sessions. All of the aforesaid convictions are corroborated by criminal records received at the Department of Alcoholic Beverage Control.

The facts upon which the initial conviction in 1931 was based disclose that petitioner, with the assistance of an accomplice, held up a merchant at the point of a gun and forcibly robbed the victim of a small amount of money which he was carrying on his person. The crime of robbery, per se, involves the element of moral turpitude. It is, therefore, unnecessary to determine whether or not petitioner's subsequent convictions involve moral turpitude.

As evidence of his reputation and character, petitioner produced three witnesses. A police lieutenant of the municipality in which he resides and two businessmen testified that they knew petitioner for eight or more years and that he bears a reputation

of being a law-abiding citizen in the community in which he lives. That may be so since June 19, 1942. At that time, however, the petitioner was convicted of accepting bets on horses. In view of the fact that this conviction occurred within the past five years, the present petition for removal of his disqualification is prematurely filed. 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. See Case No. 344, Bulletin 630, Item 2.

Accordingly, it is, on this 19th day of January, 1945,

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

ALFRED E. DRISCOLL,
Commissioner.

10. MUNICIPAL REGULATIONS - CLOSING HOUR FOR LICENSED PREMISES - ORDINANCE EXCEPTING RESTAURANTS FROM CLOSING OF PREMISES REQUIREMENT - ENFORCEMENT PROBLEM UNDER SUCH RESTAURANT EXCEPTION, - HEREIN POSSIBILITY OF AMENDING ORDINANCE TO REMOVE FROM THE EXCEPTION RESTAURANT ROOMS CONTAINING A PUBLIC BAR OR COUNTER OVER WHICH ALCOHOLIC BEVERAGES ARE SOLD TO CONSUMERS.

RESTAURANTS - EATING PLACE DOES NOT QUALIFY AS A RESTAURANT UNDER ALCOHOLIC BEVERAGE LAW AND MUNICIPAL ALCOHOLIC BEVERAGE REGULATION UNLESS IT IS A "RESTAURANT" AS DEFINED IN R. S. 33:1-1t.

January 22, 1945

Hon. Edward Boyko,
Deputy Chief of Police,
Passaic, New Jersey

Dear Chief Boyko:-

I have your letter of January 11th reading:

"Several retail plenary consumption licensees in this city combine their business with restaurants and lunch-rooms, and as such, remain open for business as eating establishments after the closing hour of 3 a.m., as regulated by city ordinance for plenary retail consumption licensees. Some of these places of business are conducted in one room of the premises in which they are located.

"In view of the above mentioned regulation, will you kindly advise me what action, if any, can be taken to require such combined establishments to also close at 3 a.m., which would insure a closer check on the conduct of their business."

I am familiar with the enforcement problem raised in your letter. One solution, of course, would be to change the City's ordinance so as to require that all plenary retail consumption licensed restaurants must close at 3 a.m. the same as is required of taverns. This, however, I suspect would go farther than the Board of Commissioners desire. In any event, it appears that a change along the lines contemplated can be legally effected only pursuant to an amendment of the existing ordinance. I suggest for your careful consideration that sub-section C of Section Four of the City's ordinance adopted July 15, 1941, might be amended to read in the following manner:

Ordinance of the City of Camden which prohibits any such activity after 2 A.M. on Sunday.

Shortly before noon on Sunday, December 17, 1944, ABC investigators observed several people entering and leaving the licensed premises. Thereafter two investigators entered the premises and observed eighteen to twenty persons being served with beer drawn from a tap.

As to penalty: On June 15, 1944, I suspended defendant's license for fifteen days, less five days for a guilty plea, after it had pleaded guilty to a similar charge. Re First Ward Republican Club of Camden, N.J., Bulletin 624, Item 7. Since this is the second violation of a similar character, I shall suspend defendant's license for sixty days, with a warning that any future violations of any kind may well result in a revocation of the license. There will be no remission for the plea because it was not entered until the date of the hearing and the Department was thus put to the trouble and expense of bringing its witnesses from the City of Camden. Re Free Bridge Tavern Inc., Bulletin 591, Item 12.

Accordingly, it is, on this 22d day of January, 1945,

ORDERED that Club License CB-41, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to First Ward Republican Club of Camden, N.J., for premises 47 York Street, Camden, be and the same is hereby suspended for sixty days commencing at 2 A.M. January 26, 1945, and terminating at 2 A.M. March 27, 1945.

ALFRED E. DRISCOLL,
Commissioner.

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

In the Matter of Disciplinary Proceedings against

JOSEPH MIRAGLIA, MICHAEL MIRAGLIA & ANTHONY MIRAGLIA, by JOSEPH MIRAGLIA, Atty-in-Fact, t/a Miraglia's Cafe, 302 Stevens Street, Camden, N.J.

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-143, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

Frank M. Lario, Esq., Attorney for Defendant-Licensees.
Edward F. Ambrose, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to charges alleging the sale, service and delivery of alcoholic beverages to two twenty-year-old minors on various dates between July 1 and September 14, 1944.

Since these licensees have not heretofore been cited in disciplinary proceedings, I shall suspend the license for the usual ten-day period. Five days will be remitted because of the plea, leaving a net suspension of five days.

Accordingly, it is, on this 22d day of January, 1945,

ORDERED that plenary retail consumption license C-143, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Joseph Miraglia, Michael Miraglia and Anthony Miraglia, by Joseph Miraglia, Attorney-in-Fact, t/a Miraglia's Cafe, for premises 302 Stevens Street, Camden, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 A.M. January 29, 1945, and terminating at 2:00 A.M. February 3, 1945.

ALFRED E. DRISCOLL,
Commissioner.

13. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

EDWIN GAVLAK, t/a GAVVIES INN,
105 Midland Avenue,
Wallington, New Jersey)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-10, issued by the Mayor and Council of the Borough of Wallington)

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Edwin Gavlak, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded guilty to a charge alleging that on Thursday, December 28, 1944, at about 12:45 A.M., he sold a pint bottle of whiskey for consumption off the licensed premises in violation of Rule 1 of State Regulations No. 38, which prohibits such sales before 9 A.M. or after 10 P.M. on any weekday.

At about the time mentioned in the charge, agents of the Department of Alcoholic Beverage Control, investigating a complaint, entered the licensed premises. When one of the agents attempted to purchase a pint bottle of whiskey, the licensee at first refused to make the sale because it was after 10 P.M., but shortly thereafter the licensee apparently changed his mind and made the sale.

Defendant has no prior adjudicated record. I shall suspend his license for a period of fifteen days, less five days for the plea, making a net suspension of ten days.

Accordingly, it is, on this 22d day of January, 1945,

ORDERED that plenary retail consumption license C-10, issued by the Mayor and Council of the Borough of Wallington to Edwin Gavlak, t/a Gavvies Inn, for premises 105 Midland Avenue, Wallington, be and the same is hereby suspended for ten days, commencing at 3 A.M. January 29, 1945, and terminating at 3 A.M. February 8, 1945.

ALFRED E. DRISCOLL,
Commissioner.

14. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES FOR CONSUMPTION OFF THE LICENSED PREMISES IN OTHER THAN ORIGINAL CONTAINER - BOTTLING IN VIOLATION OF R.S. 33:1-78 - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against MAX KOHN, 598 Communipaw Avenue, Jersey City 4, N.J. Holder of Plenary Retail Consumption License C-525, issued by the Board of Commissioners of the City of Jersey City

CONCLUSIONS AND ORDER

Irving Solomon, Esq., and Abraham Miller, Esq., Attorneys for Defendant-Licensee. Harry Castelbaum, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleads non vult to the following charge:

"On or about December 20, 1944, you, not being the holder of any license so to do, bottled an alcoholic beverage for sale, in that you refilled a 12 ounce 'Pepsi-Cola' bottle with 'Carstairs' whiskey and sold said bottle of whiskey; such bottling being in violation of R.S. 33:1-78."

On the date in question, two agents of the Department of Alcoholic Beverage Control, investigating a complaint against the defendant that he was selling alcoholic beverages in violation of R.S. 33:1-78 whenever the words "Jimmy the Butch sent me" were mentioned, entered the licensed premises. One of them had in his possession a twelve-ounce empty Pepsi-Cola bottle. He approached the bartender, stated "Jimmy the Butch sent me", and requested that it be filled with Carstairs whiskey. The bartender called the licensee, who approved the sale and personally filled the bottle with Carstairs, charging the agent \$1.80 for the same. Thereafter, the agents disclosed their identities.

In Re Simandl, Bulletin 27, Item 2, the late Commissioner Burnett emphasized the evil of such a practice, and on later occasions I stated that it might become necessary to increase the minimum penalty if this type of violation became prevalent. I clearly expressed my position in Re Orlando, Bulletin 504, Item 4, when I said:

"The statutory prohibition against selling alcoholic beverages (other than beer) in other than original containers for off-premises consumption must be adhered to scrupulously."

Present conditions only tend to make me more determined to enforce this provision.

Licensee has no prior adjudicated record. I have decided to increase the minimum suspension in cases of this kind from ten to fifteen days. I shall, therefore, suspend defendant's license for a period of fifteen days, less five days for the plea, making a net suspension of ten days. The licensee had better forget all about "Jimmy the Butch" if he wants to stay in business.

Accordingly, it is, on this 22d day of January, 1945,

ORDERED that plenary retail consumption license C-525, issued by the Board of Commissioners of the City of Jersey City to Max Kohn, for premises 598 Communipaw Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 A.M. January 29, 1945, and terminating at 2:00 A.M. February 8, 1945.

ALFRED E. DRISCOLL,
Commissioner.

15. 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 A PERIOD OF 10 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against

RAYMOND F. JACKSON, t/a Ray's Cafe,
41 S. Burlington Street,
Gloucester City, N. J.

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-27, issued by the Common Council of the City of Gloucester City.

Raymond F. Jackson, Defendant-Licensee, Pro Se.
Edward F. Ambrose, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded guilty to charges alleging that he sold, served and delivered alcoholic beverages to a minor, in violation of R.S. 33:1-77 and Rule 1 of State Regulations No. 20.

On September 28, 1944, a nineteen-year-old female was served several glasses of beer at the defendant's tavern.

Since the defendant has no previous record, and no aggravating circumstances appear to have attended the violation, I shall impose the usual penalty of ten days, with five days remitted for the plea, leaving a net suspension of five days.

Accordingly, it is, on this 22d day of January, 1945,

ORDERED that plenary retail consumption license C-27, issued by the Common Council of the City of Gloucester City to Raymond F. Jackson, t/a Ray's Cafe, for premises 41 S. Burlington Street, Gloucester City, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 A.M. January 29, 1945, and terminating at 2:00 A.M. February 3, 1945.

Alfred E. Driscoll
Commissioner.