

26 Rose Avenue,  
Madison,  
Morris County, New Jersey.  
STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

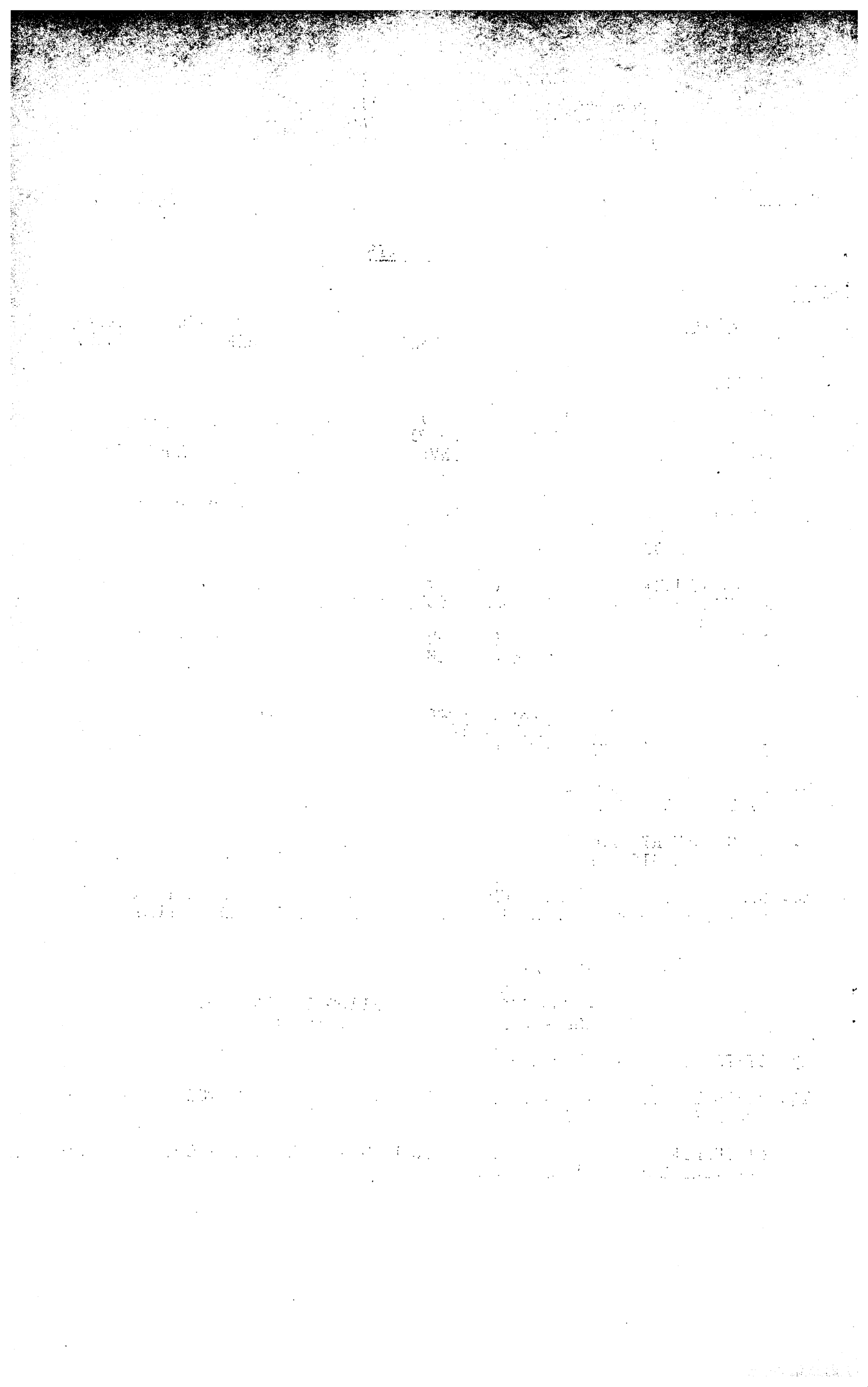
BULLETIN 878

JUNE 12, 1950.

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DISQUALIFICATION - APPLICATION TO LIFT - FIVE YEARS' GOOD CONDUCT-  
APPLICATION HEREIN GRANTED.



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

BULLETIN 878

JUNE 12, 1950.

1. APPELLATE DECISIONS - REAMER v. EAST AMWELL TOWNSHIP AND COLLIGAN;  
FIESS v. EAST AMWELL TOWNSHIP AND COLLIGAN.

SOPHIE REAMER,

)  
Appellant,  
)

-vs-

TOWNSHIP COMMITTEE OF THE TOWNSHIP )  
OF EAST AMWELL, and JOHN P. COLLIGAN,  
trading as RINGOES TAVERN, )

) Respondents. )

ON APPEAL

-----  
WILLIAM FIESS,

)  
Appellant,  
)

CONCLUSIONS AND ORDER

-vs-

TOWNSHIP COMMITTEE OF THE TOWNSHIP )  
OF EAST AMWELL, and JOHN P. COLLIGAN,  
trading as RINGOES TAVERN, )

) Respondents. )

-----  
Herr & Fisher, Esqs., by Lloyd C. Fisher, Esq., Attorneys for  
Appellant Reamer.

Italo M. Tarantola, Esq., Attorney for Appellant Fiess.

Horace G. Prall, Esq., Attorney for Respondent Township Committee.

Hunt & Faherty, Esqs., by Philip J. Faherty, Jr., Esq., Attorneys  
for Respondent Colligan.

BY THE DIRECTOR:

Appellant, Sophie Reamer, appealed from the action of respondent Township Committee whereby it transferred a plenary retail consumption license held by John P. Colligan from premises known as the Ringoes Hotel to premises located on State Highway #29, and, in the same proceeding, she also appealed from the action of the Township Committee whereby it denied her application for a new plenary retail consumption license for the Ringoes Hotel.

Appellant, William Fiess, appealed only from the action of respondent Township Committee whereby it transferred the Colligan license from place to place, as set forth above.

By stipulation of counsel, the two cases were heard together.

The evidence herein discloses that in December 1941 respondent John P. Colligan leased a portion of the property known as the Ringoes Hotel, and obtained from the Township Committee a plenary retail consumption license for said premises. Thereafter he renewed his lease from time to time and obtained renewals of his liquor license from year to year to and including the present licensing year. In March 1949 appellant Sophie Reamer and her husband purchased the Ringoes Hotel. The present difficulties arose because the lease which John P. Colligan then held for a portion of the hotel property was due to expire on December 31, 1949, and the landlord and tenant were apparently unable to agree on terms for a further renewal of the lease. On November 7, 1949, Colligan applied to the Township Committee for a transfer of his license to other premises on Route #29, and at about the same time appellant Sophie Reamer applied to

the Township Committee for a new license for the Ringoes Hotel. The Township Committee granted the transfer of the Colligan license from place to place, and denied the application filed by Sophie Reamer for a new license.

Appellant Sophie Reamer contends that the application for transfer of the license and the application for the new license "stand on the same footing" and that it was "the duty of the Township Committee to make a fair and impartial choice between the two applications, within the well established principles of justice and fair play". This contention is unsound. P.L. 1947, c. 94, Section 2, provides:

"Except as otherwise provided in this act, no new plenary retail consumption or seasonal retail consumption license shall be issued in a municipality unless and until the combined total number of such licenses existing in the municipality is fewer than one for each one thousand of its population as shown by the last then preceding federal census\*\*\*."

It was stipulated that the Township of East Amwell had a population of 1,218 according to the 1940 federal census. The record herein does not disclose that the application filed by Sophie Reamer for a new license is within any of the exceptions set forth in P.L. 1947, c. 94. The fact that John P. Colligan lost the right of possession of the licensed premises at the Ringoes Hotel did not void his license. Re Argenti, Bulletin 200, Item 9, and cases therein cited. Hence, while the Colligan license remained in effect, the Township Committee was without jurisdiction to issue a second plenary retail consumption license. The case of Giberti v. Franklin Township, Bulletin 150, Item 3, cited in the memorandum of law filed on behalf of appellant, is not in point. In that case one new license was lawfully issuable and the issuing authority granted one application for such new license and denied the other. In the instant case one plenary retail consumption license was issued and outstanding and issuance of a new and second such license was prohibited. The action of respondent Township Committee, in denying a new license to Sophie Reamer, must, therefore, be affirmed.

This leaves for consideration the question raised in both appeals as to whether or not the transfer of the Colligan license was erroneous under the circumstances of the case. It is fundamental that the right to transfer a license is not inherent in the license. It is a matter confided to the sound discretion of the issuing authority, and the burden is upon the appellants in both appeals to show that the action of the township was erroneous.

The evidence herein discloses that the property located on State Highway #29, to which the Colligan license was transferred, consists of a ten-room house located on a tract of ground containing approximately two and one-half acres. The house is known as the "Wittelsey House" and many years ago it was apparently used as a girls' boarding school. The land to the rear of the property is undeveloped. Adjoining the Wittelsey House property on one side is a small cemetery on State Highway #29, and on the other side is the home occupied by Appellant William Fiess, which is also located on State Highway #29. The house occupied by William Fiess is approximately one hundred fifty feet from the Wittelsey House. The evidence further shows that on State Highway #29 there is a service station and restaurant within one-quarter of a mile from the Wittelsey House in one direction, and another service station and restaurant within one-quarter of a mile of

the same premises in the opposite direction. There is also a chicken farm in the immediate vicinity. From the evidence I conclude that the section is rural in character, with the usual types of business developing along the highway. The evidence produced by appellants as to an alleged traffic hazard is not convincing. No zoning ordinance has been adopted by the Township of East Amwell affecting this section of the township.

Appellants further contend that the Township Committee prejudged the application to transfer the license because on April 1, 1949, the Township Clerk sent to respondent Colligan the following letter:

"The following is a motion that was passed, at the March 18th meeting.

A motion was regularly made and carried that the Committee go on record as being agreeable to the transfer of the liquor license of John Colligan from the Ringoes Tavern to a new location, if the new place of business is made suitable for such business and the general setup meets the approval of the Committee."

On March 18, 1949, no application to transfer the license was pending and, as indicated above, no such application was filed until November 7, 1949. The most that the resolution indicates is that the Township Committee would have no objection to transferring the license, as it had a right to do, from the Ringoes Hotel to another suitable place of business. There is nothing in the record to indicate that the subsequent application to transfer the license was not considered on its merits.

Appellants have failed to sustain the burden of proof in showing that the action of the Township Committee, in transferring the Colligan license from place to place, was arbitrary, unreasonable or otherwise in abuse of discretionary authority. Hence, the action of the Township Committee must be affirmed.

Accordingly, it is, on this 31st day of May, 1950,

ORDERED that the action of the Township Committee in both cases be and the same is hereby affirmed, and the appeals herein be and the same are hereby dismissed.

ERWIN B. HOCK  
Director.

2. APPELLATE DECISIONS - GARRIGUES v. WILDWOOD.

OSCAR GARRIGUES, )  
 )  
 Appellant, )  
 )  
 -vs- )  
 )  
 BOARD OF COMMISSIONERS OF THE )  
 CITY OF WILDWOOD, )  
 )  
 Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

-----)  
 David L. Horuvitz, Esq., Attorney for Appellant.  
 Irving Shenberg, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from respondent's denial of an application for transfer to appellant of a plenary retail consumption license held by Lola G. Riley, and for transfer of such license from premises at 501 Dock Street to premises at appellant's Hotel Dayton and additional premises proposed to be constructed in enlargement thereof.

The Petition of Appeal sets forth, as grounds for reversal:

- "(a). There was no evidence produced or presented to the Respondent that public convenience and necessity was being amply served.
- "(b). It was unlawfully presumed by the Respondent that the Appellant would be noisy in the operation of the premises and that Appellant would violate the laws regarding the proper conduct of licensed premises or cause disturbance to the neighborhood.
- "(c). That the street to which license was sought to be transferred by the Appellant was and is a business street and it is not unnatural or unusual that such businesses should be concentrated in one place and on such a business street.
- "(d). That the license sought to be transferred was an existing license in the same general area and that the number of licenses in the business section of the City of Wildwood would not be increased by such transfer.
- "(e). That the action of the Board of Commissioners was arbitrary and capricious and not founded upon proper evidence and without substance and the reasons given for such action are without substance.
- "(f). That public convenience and necessity require that said license be transferred to the Appellant for the reason, inter alia, that the premises intended to be licensed will consist, among other things, of a dining room intended to be part of a proposed building to be erected on the said premises, accommodating approximately five hundred people; that Wildwood is a resort town which seeks in the summertime conventions, etc., and does not have at the present time facilities such as would be available if the license in question were issued."

The evidence discloses that the premises from which transfer is sought are approximately three-fourths of a mile distant from the proposed new premises and that the two premises are in entirely different neighborhoods. The Appeal Petition's allegation "(d)" is not sustained.

The other grounds advanced for reversal relate essentially to the question of public convenience and necessity and, particularly in such regard, to whether respondent's action was abusive of its discretionary power granted by the Alcoholic Beverage Law.

The burden of proof is upon appellant, not upon respondent. (Rule 6, State Regulations No. 15.) Appellant and five witnesses in his behalf expressed the opinion that the granting of the transfer is called for in terms of a public need. The emphasis in this testimony was upon appellant's proposed construction of a large restaurant which it was alleged would, in conjunction with a liquor license, attract large conventions to Wildwood. Respondent, in its denial of the application referred to in the proximity of existing licensed premises and expressed its "conviction that public convenience and necessity is at present being amply served by said existing nearby licensed premises."

Prior to its denial of the application, respondent received petitions, in objection to the transfer, signed by 77 Wildwood residents and property owners. The petitions set forth the subscribers' belief that there are sufficient licensed premises amply to serve public convenience and necessity in the neighborhood of the premises sought to be licensed. Twelve witnesses, eleven resident in the neighborhood and one the owner of property therein, testified to like effect at the hearing on appeal.

There are seven plenary retail consumption licenses within a radius of 500 feet, and within two city blocks, of appellant's proposed premises.

As hereinabove stated, the burden of proving that public convenience and necessity require the granting of a license rests with the appellant. Appellant herein has fallen far short of sustaining such burden of proof or the burden of proving that respondent's action was arbitrary or capricious or otherwise in abuse of its discretionary power. (See Berman v. Wildwood, Bulletin 642, Item 7; Adelphi Witte Hotel Co. v. Wildwood, Bulletin 685, Item 10; Szczesna v. Wildwood, Bulletin 852, Item 1.) Respondent's action is, therefore, affirmed.

Accordingly, it is, on this 29th day of May, 1950,

ORDERED that respondent's action denying appellant's application be and the same is hereby affirmed and that the appeal herein be and the same is hereby dismissed.

ERWIN B. HOCK  
Director.

3. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL REGULATION - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary Proceedings against )

NEWFOUNDLAND AMERICAN ASS'N )  
1361 and part of 1359 Whitman Ave. )  
Camden, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-25, issued )  
by the Municipal Board of Alcoholic )  
Beverage Control of the City of )  
Camden. )

----- )  
Ralph W. Wescott, Esq., Attorney for Defendant-licensee. )  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic )  
Beverage Control. )

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

- "1. On Sunday, April 23, 1950, between 10:30 A.M. and 11:45 A.M., you sold, served and delivered and suffered and permitted the sale, service and delivery of alcoholic beverages upon your licensed premises; in violation of Section 5 of an Ordinance adopted by the Board of Commissioners of the City of Camden on December 27, 1934, which section prohibits any such activity after 2:00 A.M. on Sunday.
- "2. On Sunday, April 23, 1950, between 11:45 A.M. and 1:00 P.M., while investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety were conducting an investigation at your licensed premises you hindered and failed to facilitate such investigation; in violation of R.S. 33:1-35."

The file herein discloses that on Sunday, April 23, 1950, at about 10:30 a.m., two ABC agents stationed themselves in the vicinity of defendant's premises and observed a number of persons entering the premises by the front door. At 11:45 a.m. they went to the front door and rang the bell. William Kehoe, a member of defendant Association who was in charge of the licensed premises at the time, looked through the glass at the top of the door but refused to admit the investigators although they identified themselves and showed their credentials to him. While one of the ABC agents remained at the front door, the other proceeded to a door on the side of the building which leads into the barroom, and heard noises and voices in the barroom. After a period of about ten minutes, William Kehoe opened the front door and admitted the ABC agent who had remained stationed at the front door. This ABC agent reported that the front door led into a large room in which there were about thirty-five persons at the time of his entry. He attempted to enter the barroom which is located to the rear of this large room but found that the door to the barroom had been padlocked. Neither this agent, nor the other agent who entered a short time later, received any cooperation from William Kehoe or any other person in the large room, and they were unable to obtain entry into the barroom at any time during the course of their investigation.

On April 27, 1950, during the course of a subsequent investigation, William Kehoe admitted that he had been in full charge of the barroom on the previous Sunday and that, while he was in charge of the barroom, he had admitted members and sold beer to a number of members. He also admitted that, after the ABC agents had identified themselves, he hurried to get the members out of the barroom. I find defendant guilty of both charges.

Defendant has no prior record. Under all the circumstances, and considering the plea entered herein, I shall suspend defendant's license for the balance of its term.

Accordingly, it is, on this 29th day of May, 1950,

ORDERED that Club License CB-25, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Newfoundland American Ass'n, for premises 1361 and part of 1359 Whitman Avenue, Camden, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. June 5, 1950, and terminating at the expiration of the license, namely, at Midnight, June 30, 1950.

ERWIN B. HOCK  
Director.

4. DISCIPLINARY PROCEEDINGS - ORDER SUSPENDING LICENSE STAYED BY AUTHORIZATION OF JUDGE OF APPELLATE DIVISION PENDING PROCEEDINGS TO REVIEW.

In the Matter of Disciplinary Proceedings against )  
HOTEL TRAYMORE COMPANY )  
T/a HOTEL TRAYMORE )  
Illinois Avenue & Boardwalk )  
Atlantic City, N. J., )  
Holder of Plenary Retail Consumption License C-185, issued by the Board of Commissioners of the City of Atlantic City, and transferred during the pendency of these proceedings to )  
TRAYMORE OF ATLANTIC CITY, INC. )  
T/a HOTEL TRAYMORE, )  
for the same premises. )

O R D E R

BY THE DIRECTOR:

It appearing that the defendant has appealed to the Superior Court, Appellate Division, from the Conclusions and Order entered herein on May 23, 1950, suspending the plenary retail consumption license of the defendant for a period of ten days, commencing May 31, 1950; and it further appearing that application was made, pursuant to Rule 3:81-12, for an ad interim stay before a single Judge of said court; and the said Judge having authorized the Director to enter an order staying the effect of said suspension upon condition that the defendant perfect its application for a pendente lite stay to be made before the said court at Newark on Monday, June 5, 1950;

It is, on this 26th day of May, 1950,

ORDERED that the aforesaid suspension be and the same is hereby stayed upon condition that the defendant perfect its application for a pendente lite stay to be made before the Superior Court, Appellate Division, at Newark, on Monday, June 5, 1950, and that said stay shall continue until a further order is entered herein.

ERWIN B. HOCK  
Director.

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ISADORE KNAPP & MEYER KNAPP )  
1725 Hudson Blvd. )  
Jersey City 5, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-516, issued by the Board of Commissioners of the City of Jersey City. )

-----  
Defendant-licensee, by Meyer Knapp, partner.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they possessed on their licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe the contents thereof, in violation of Rule 28 of State Regulations No. 20.

On April 27, 1950, an agent of the State Division of Alcoholic Beverage Control seized on defendants' licensed premises one 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky" when his field tests indicated a variance between the label on the bottle and the contents thereof. An analysis by the Division Chemist established that the said bottle had been at least partially refilled with another liquid and that the contents thereof were not as described on the label. See Rule 28 of State Regulations No. 20.

Defendants have no previous adjudicated record. I shall suspend the license for the minimum period in "refill" cases, fifteen days. Re Rudolph, Bulletin 680, Item 1. Remitting five days for the plea will leave a net suspension of ten days.

Accordingly, it is, on this 25th day of May, 1950,

ORDERED that Plenary Retail Consumption License C-516, issued by the Board of Commissioners of the City of Jersey City to Isadore Knapp and Meyer Knapp, 1725 Hudson Blvd., Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. June 5, 1950, and terminating at 2:00 a.m. June 15, 1950.

ERWIN B. HOCK  
Director.

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against KINNEY WINE & LIQUOR, INC. 147 Prince Street Newark 3, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-106, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Kinney Wine & Liquor, Inc., by Carl Kaplan, Sec'y-Treas. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold alcoholic beverages at retail for a price below the minimum consumer price, in violation of Rule 5 of State Regulations No. 30.

On May 6, 1950, the licensee, through its secretary-treasurer and agent, sold three 4/5 quart bottles of Kinsey Gold Label Blended Whiskey to ABC agents for the total sum of \$11.00. The minimum consumer price for the said beverage, as listed in the then current "List of Minimum Resale Prices", effective April 1, 1950, was \$3.99 per 4/5 quart, making the minimum resale price for the three bottles \$11.97.

Defendant has no prior adjudicated record. I shall suspend the license for ten days. Remitting five days for the plea will leave a net suspension of five days. Re Alevras, Bulletin 858, Item 7.

Accordingly, it is, on this 26th day of May, 1950,

ORDERED that Plenary Retail Distribution License D-106, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Kinney Wine & Liquor, Inc., for premises 147 Prince Street, Newark, be and the same is hereby suspended for a period of five (5) days, commencing at 9:00 a.m. June 5, 1950, and terminating at 9:00 a.m. June 10, 1950.

ERWIN B. HOCK Director.

7. DISCIPLINARY PROCEEDINGS - ADVERTISING AND SELLING ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

EMILE DeMEYER )  
85 Water Street )  
Paterson 2, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-247, issued by the Board of Alcoholic Beverage Control of the City of Paterson. )  
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Emile DeMeyer, Defendant-licensee, Pro Se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he advertised for sale and sold alcoholic beverages at retail below the minimum consumer price, in violation of Rule 5 of State Regulations No. 30.

On May 12, 1950, two ABC agents observed in the window of defendant's establishment a price tag of \$3.50 on a 4/5 quart bottle of "Mr. Boston's Pinch Bottle Blended Whiskey". One of the ABC agents entered defendant's licensed premises and purchased from an employee of defendant a 4/5 quart bottle of "Mr. Boston's Pinch Bottle Blended Whiskey" for \$3.50. The minimum consumer price of said item, as disclosed in list of prices effective April 1, 1950, is \$3.60.

Defendant has no previous adjudicated record. I shall, therefore, suspend his license for a minimum period of ten days. Five days will be remitted because of the plea entered herein, leaving a net suspension of five days. Re Becker, Bulletin 865, Item 1.

Accordingly, it is, on this 29th day of May, 1950,

ORDERED that Plenary Retail Consumption License C-247, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Emile DeMeyer, for premises 85 Water Street, Paterson, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. June 5, 1950, and terminating at 3:00 a.m. June 10, 1950.

ERWIN B. HOCK  
Director.

8. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against )

VITTORIO VENETO LODGE, INC. )  
905 South 4th St. )  
Camden, N. J., )

ON PETITION  
O R D E R

Holder of Club License No. CB-18, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden. )

-----  
Bruce A. Wallace, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

On May 17, 1950, the license held by petitioner-defendant was suspended for the balance of its term, commencing at 2:00 a.m. May 22, 1950.

Petitioner has filed a verified petition wherein it appears that on January 15, 1950, it contracted for the use of its lodge room for a wedding reception to be held on May 28, 1950, with the understanding that the person contracting for the use of the lodge room could bring his own alcoholic beverages and serve them to his guests. It further appears that on May 6, 1950, invitations were mailed to a large number of persons inviting them to be present at the aforesaid wedding reception, and that there does not now remain sufficient time to arrange to hold the reception elsewhere. It further appears from said petition that petitioner will not dispense any alcoholic beverages on its own behalf on May 28, 1950. The petition requests that the suspension mentioned above be stayed for one day, and that one day be added to the end of the suspension period.

Giving due consideration to the allegations in the verified petition, and finding that numerous innocent persons would be inconvenienced if the consumption of alcoholic beverages is prohibited at the wedding reception,

It is, on this 25th day of May, 1950,

ORDERED that the suspension heretofore imposed herein, and now in effect, shall be lifted from 2:00 a.m. May 28, 1950, until 2:00 a.m. May 29, 1950, solely for the purpose of permitting consumption of alcoholic beverages at the aforesaid wedding reception, and that the suspension shall again become effective at 2:00 a.m. May 29, 1950, and continue in effect until the expiration of the license, namely, at midnight, June 30, 1950; and

It is FURTHER ORDERED that, if any license be issued to petitioner-defendant or to any other person for the premises in question for the 1950-51 licensing year, such license shall be under suspension until 2:00 a.m. July 2, 1950.

ERWIN B. HOCK  
Director.

9. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATE FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING OF BUSINESS.

ST. MORITZ RESTAURANT, INC., )

Appellant, )

-vs-

ON APPEAL  
O R D E R

TOWNSHIP COMMITTEE OF THE )  
TOWNSHIP OF SPARTA, )

Respondent. )

----- )

BY THE DIRECTOR:

It appearing that on August 17, 1949, Conclusions and Order were entered herein affirming the suspension of five days imposed by the respondent upon appellant's license and directing the suspension to commence August 29, 1949 (Bulletin 852, Item 4); and

It further appearing that upon appeal to the Superior Court, Appellate Division, the Court stayed the suspension after one day of the suspension had been served; and

It further appearing that said appeal has been dismissed by stipulation of the attorneys for all the respective parties thereto; and

It further appearing that the license in question has recently been transferred to Conahay Enterprises, Incorporated, subject to the penalty imposed herein, and that the suspension may now be reimposed;

It is, on this 29th day of May, 1950,

ORDERED that the balance of four days of the suspension of five days heretofore imposed upon Plenary Retail Consumption License C-5, issued to St. Moritz Restaurant, Inc., for premises at White Deer Plaza, Sparta, and since transferred to Conahay Enterprises, Incorporated, t/a St. Moritz on the Plaza, for the same premises, be and the same is hereby reimposed to commence at 2:00 a.m. June 5, 1950, and to terminate at 2:00 a.m. June 9, 1950.

ERWIN B. HOCK  
Director.

10. DISQUALIFICATION - MISCONDUCT OF APPLICANT WITHIN FIVE YEARS LAST PAST (LIVING IN ADULTERY) - LENGTHY CRIMINAL RECORD - APPLICATION TO LIFT DENIED.

In the Matter of an Application )  
to Remove Disqualification )  
because of a Conviction, Pursuant )  
to R. S. 33:1-31.2. )  
Case No. 845. )  
----- )

CONCLUSIONS  
AND ORDER

BY THE DIRECTOR:

In 1929 petitioner was convicted in a criminal court of another state on a charge of attempted burglary, and received a suspended sentence. In 1931 he was arrested on a charge of rape and subsequently convicted in a criminal court of the same state on a charge of "endangering the life and health of a child". As a result he was sentenced to a Reformatory for an indefinite term and was paroled after he had remained there about eighteen months. In 1938 he was arrested on a charge of attempted rape, and subsequently pleaded guilty in a criminal court of the same state to a charge of assault in the second degree. He was sentenced to serve from two and one-half to five years in a State Prison and was paroled in July 1942. Upon his release from prison he was turned over to a Deputy Sheriff and thereafter served six months in a County Jail as a result of a conviction, prior to his entry to the State Prison, on a charge of assault in the third degree. It clearly appears that petitioner has been convicted of at least two crimes which involve moral turpitude.

In 1944 petitioner was again arrested on a charge of attempted rape, but the case was nolle prossed. In April 1945 he was convicted of drunken driving, and was fined \$212.00 and costs.

At the hearing petitioner admitted that for a number of years he has been living with a woman who is not his lawful wife.

Although five years have elapsed since his last conviction, I cannot conclude that petitioner has been law-abiding during that period of time because of his unlawful cohabitation. See Case No. 704, Bulletin 820, Item 8. Moreover, his criminal record is so bad that I would hesitate, in any event, to grant him permission to engage in the alcoholic beverage industry in New Jersey. In the exercise of my discretion, I shall deny his application for relief.

Accordingly, it is, on this 31st day of May, 1950,

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

ERWIN B. HOCK  
Director.

June 1, 1950

11.

ACTIVITY REPORT FOR MAY 1950

<b>ARRESTS:</b>		
Total number of persons arrested - - - - -		12
Licensees and employees - - - - -	3	
Bootleggers - - - - -	9	
<b>SEIZURES:</b>		
Motor vehicles - trucks - - - - -		1
Stills - over 50 gallons - - - - -		2
- 50 gallons or under - - - - -		2
Alcohol - gallons - - - - -		3.00
Mash - gallons - - - - -		425.00
Distilled alcoholic beverages - gallons - - - - -		2.40
Wine - gallons - - - - -		361.00
Brewed malt alcoholic beverages - gallons - - - - -		13.87
<b>RETAIL LICENSEES:</b>		
Premises inspected - - - - -		1,049
Premises where alcoholic beverages were gauged - - - - -		1,014
Bottles gauged - - - - -		17,522
Premises where violations were found - - - - -		32
Violations found - - - - -		37
Type of violations found:		
Unqualified employees - - - - -	11	Gambling devices - - - - - 5
Reg. #38 sign not posted - - - - -	6	Disposal permit necessary - - - - - 3
Other mercantile business - - - - -	6	Other violations - - - - - 6
<b>STATE LICENSEES:</b>		
Premises inspected - - - - -		23
License applications investigated - - - - -		10
<b>COMPLAINTS:</b>		
Complaints assigned for investigation - - - - -		317
Investigations completed - - - - -		384
Investigations pending - - - - -		108
<b>LABORATORY:</b>		
Analyses made - - - - -		135
"Shake-up" cases (alcohol, water and artificial color) - bottles - - - - -		8
Liquor found to be not genuine as labeled - bottles - - - - -		2
<b>IDENTIFICATION BUREAU:</b>		
Criminal fingerprint identifications made - - - - -		20
Persons fingerprinted for non-criminal purposes - - - - -		245
Identification contacts made with other enforcement agencies - - - - -		190
Motor vehicle identifications via N. J. State Police Teletype - - - - -		4
<b>DISCIPLINARY PROCEEDINGS:</b>		
Cases transmitted to municipalities - - - - -		8
Violations involved:		
Sale to minors - - - - -	4	Permitting slot machines on premises - - - - - 1
Sale during prohibited hours - - - - -	2	Permitting lottery activity on premises (punch boards) - - - - - 1
Sale to intoxicated persons - - - - -	1	Possessing gambling devices on premises - - - - - 1
Sale to non-members by clubs - - - - -	1	
Cases instituted at Division - - - - -		23*
Violations involved:		
Sale during prohibited hours - - - - -	5	Purchase from improper source - - - - - 1
Sale to minors - - - - -	3	Unauthorized transportation - - - - - 1
Possessing illicit liquor - - - - -	3	Permitting bookmaking - - - - - 1
Hindering investigation - - - - -	3	Peddling alcoholic beverages from vehicle - - - - - 1
Fraud and front - - - - -	3	Failure to file notice of change in application - - - - - 1
Permitting immoral activity - - - - -	3	
Delivery without bona fide invoices - - - - -	2	Sale to intoxicated persons - - - - - 1
Sale outside scope of license - - - - -	2	Permitting brawls - - - - - 1
Permitting hostesses - - - - -	2	Conducting business as a nuisance - - - - - 1
Sale under Fair Trade price - - - - -	2	Failure to afford view into premises during prohibited hours - - - - - 1
*1 includes cancellation proceeding		
Cases brought by municipalities on own initiative and reported to Division - - - - -		7
Violations involved:		
Sale on Election Day - - - - -	4	Sale during prohibited hours - - - - - 1
Sale to minors - - - - -	1	Permitting brawls on premises - - - - - 1
<b>HEARINGS HELD AT DIVISION:</b>		
Total number of hearings held - - - - -		48
Appeals - - - - -	2	Tax revocation - - - - - 2
Disciplinary proceedings - - - - -	29	Application for license - - - - - 2
Eligibility - - - - -	10	Application for permit - - - - - 1
Seizures - - - - -	2	
<b>PERMITS ISSUED:</b>		
Total number of permits issued - - - - -		921
Employment - - - - -	157	Social affairs - - - - - 462
Solicitors - - - - -	102	Miscellaneous - - - - - 89
Disposal of alcoholic beverages - - - - -	111	

## 12. MORAL TURPITUDE - COMMERCIALIZED GAMBLING INVOLVED MORAL TURPITUDE UNDER FACTS OF CASE - FALSE TESTIMONY AT HEARING.

May 25, 1950

Re: Case No. 618

Subject pleaded non vult to a charge of bookmaking, in violation of R.S. 2:135-3, and as a result thereof, on June 24, 1949, was fined \$2,000.00 and sentenced to from two to five years in a state prison. The operation of the prison sentence imposed was suspended and subject was placed on probation for a period of five years.

Subject testified that he was the operator of a gambling establishment and accepted bets on horses. According to the record received from the law-enforcement authority which participated in the matter, "the raid resulted in the arrest of more than two dozen persons, who were in the place, as material witnesses and considerable evidence was seized".

The crime of bookmaking may or may not involve moral turpitude, depending upon the facts in each case. After careful review of the evidence in the instant case, I am satisfied that subject operated the gambling establishment as a principal and that the crime of bookmaking of which subject was convicted did involve moral turpitude.

On March 6, 1950, subject attended a hearing at this Division to determine his eligibility to be associated with the alcoholic beverage industry. Subject testified that he has not been employed in over a year, and, further, that he has not worked for a liquor licensee since his conviction of a crime. Subsequent investigation disclosed, however, that subject has been employed as a bartender since January 1, 1950. When subject was confronted with this fact, he admitted that he testified falsely at the hearing to determine his eligibility.

I recommend, therefore, that subject and his employer be advised that, in the opinion of the Director, he is not presently eligible to hold a liquor license in this state or to be employed by or connected in any business capacity whatsoever with the holder of such a license, within the meaning of R.S. 33:1-25, 26.

APPROVED:  
ERWIN B. HOCK  
Director.

Clarence E. Kremer  
Attorney.

## 13. STATE LICENSES - NEW APPLICATIONS FILED.

Frank Danner  
Longwood Valley Road, Jefferson Township, Oak Ridge R.D., N. J.  
Application for Wine Wholesale License for 1950-51 fiscal year  
filed May 31, 1950.

Carmine Del Palazzo, t/a Neptune Beverage Distributors  
3 Cooper Street, Westmont, N. J.  
Application filed June 6, 1950 for transfer (1949-50) of State Beverage Distributor's License SBD-121 from Max Milask,  
t/a Neptune Distributors.

ERWIN B. HOCK  
Director.

14. MORAL TURPITUDE - COMMERCIALIZED GAMBLING INVOLVED MORAL TURPITUDE UNDER FACTS OF CASE.

DISQUALIFICATION - APPLICATION TO LIFT - FIVE YEARS' GOOD CONDUCT - APPLICATION HEREIN GRANTED.

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

CONCLUSIONS  
AND ORDER

Case No. 846.  
- - - - - )

BY THE DIRECTOR:

On December 14, 1938, petitioner pleaded guilty to a charge of maintaining a disorderly house (gambling resort) and as a result thereof a sentence of six months in prison or a fine of \$350.00 was imposed. Petitioner testified that he paid the \$350.00 fine and did not serve any time in the penal institution. Petitioner further testified that he was the operator of a pool room and in connection therewith accepted bets on horses. At the time of the raid, according to petitioner's testimony, there were supposed to be about 100 persons present.

After careful review of the evidence in the instant case, I am satisfied that subject operated the gambling establishment as a principal and that the crime of maintaining a disorderly house (gambling resort) to which subject pleaded guilty involved moral turpitude.

Petitioner testified that he has never been associated in any capacity with the alcoholic beverage industry. He worked in the shipyards during the war and for the past five years has conducted his own business as a plumber and jobber.

Petitioner produced three character witnesses (an attorney, a lithographer and a businessman) who testified that they have known petitioner fifteen or more years and that he bears a reputation for being a law-abiding person in the community in which he resides.

The acting police chief of petitioner's home municipality has advised this Division that there are no complaints, charges or investigations now pending involving the petitioner.

I find that the petitioner has conducted himself in a law-abiding manner during the past five years and that his association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 25th day of May, 1950,

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

*Erwin J. Hoek*

Director.

New Jersey State Library