

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

BULLETIN 423

SEPTEMBER 24, 1940.

1. DISCIPLINARY PROCEEDINGS - BRAWL AND DISTURBANCE - INSUFFICIENT EVIDENCE - CHARGE DISMISSED.

In the Matter of Disciplinary Proceedings against)

ALBERT FINKEL,)
457-59 High Street,)
Newark, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License No. C-908 for the)
licensing year expiring June 30,)
1940, and now holder of Plenary)
Retail Consumption License No.C-820)
for the current (1940-41) licensing)
year, issued by the Municipal Board)
of Alcoholic Beverage Control of)
the City of Newark.)
-----)

Sidney Simandl, Esq., Attorney for Defendant-Licensee.
Richard E. Silberman, Esq., Attorney for Department of
Alcoholic Beverage Control.

The defendant is charged with permitting a brawl and disturbance at his tavern in violation of Rule 5 of State Regulations No. 20.

Shortly before midnight on May 3, 1940, while David J. Ryan and Marie Stronko were at the bar, a drunken patron entered the tavern and asked for (but apparently was not served) a drink. Such patron made an indecent remark to Ryan about Miss Stronko. As Ryan pushed this man, the defendant, who was then busy tending bar, immediately came over, sat the drunken man down in a different part of the tavern and informed Ryan that he would try to "ease" the man out.

However, a few minutes later this patron came over to Miss Stronko and repeated his indecent remark. Ryan knocked the man down, whereupon the defendant again came over, brought the drunken man into a side room, there revived him and, so the defendant claims, ordered him to leave. In the interim, Joseph Frisco, apparently employed at the tavern as a clean-up man, suggested to Ryan that he and Miss Stronko leave.

What happened thereafter is in dispute. Ryan testified that he and Miss Stronko were preparing to leave when the defendant returned from the side room and asked why Ryan had struck the drunken man; that Ryan replied that he would do the same to anyone who said the same thing about Miss Stronko; that the defendant thereupon, for some reason which he does not know, struck him a grazing blow; that, when Miss Stronko then remonstrated with the defendant, he called her a "bum"; that a "flurry" resulted between Miss Stronko and the defendant in which the latter struck Miss Stronko, giving her a "black" eye; that, however, such blow apparently was not intentional; that he (Ryan) and Miss Stronko

finally left the tavern at about fifteen or twenty minutes past midnight. Miss Stronko testified to a similar effect, except stating that an actual fight had occurred between Ryan and the defendant and that the defendant, when she remonstrated, had deliberately struck her twice.

The defendant denies that he struck either Miss Stronko or Ryan. He claims that, when he returned from the side room and asked why Ryan had struck the drunken man, Ryan belligerently "challenged" the house; that he (the defendant) thereupon told Ryan to leave and tried to push him out; that, when Miss Stronko remonstrated, he called her a "trouble maker" and perhaps other names in his excitement; that, as he continued to push Ryan out, Miss Stronko and another patron, Miss Marion Fort, got into an altercation in which they struck blows at each other and which was stopped by Frisco, the clean-up man.

The defendant's story is corroborated by Frisco; by one Frank Appleby, a patron at the tavern (who also lives at the hotel which adjoins it); and by Miss Fort, who testified that the fight between Miss Stronko and herself resulted when Miss Stronko kicked her in the stomach as she was picking up Miss Stronko's fallen coat. Both Ryan and Miss Stronko deny any such altercation with Miss Fort.

Although it was indubitably poor policy for the defendant to permit the drunken patron to remain, albeit with the intention of "easing" him out, after he had already been troublesome, I cannot, as the case stands, see adequate evidence that the defendant actually permitted any brawl or disturbance on the premises, at least up to the time of his return from the side room.

As to what occurred thereafter, the evidence is squarely in conflict. Were I to accept the testimony of Ryan and Miss Stronko, it would appear that the defendant himself caused or was responsible for a brawl with these persons. However, if I accept the testimony of the defense, the defendant did nothing untoward and reasonably endeavored throughout to preserve peace.

In seeking to determine which version to believe, I cannot overlook that, on the one hand, the testimony of Ryan and Miss Stronko must be viewed cautiously since such testimony may perchance be colored by angry feeling against the defendant; that, on the other hand, the testimony of Finkel, his helper Frisco, his patron Appleby who lives at the adjoining hotel, and Miss Fort who allegedly had a scuffle with Miss Stronko, may also be prejudiced.

In such posture of the case I cannot say that the Department has sustained the burden of proving that the defendant had permitted or caused a brawl or disturbance at the tavern.

Accordingly, it is, on this 11th day of September, 1940,

ORDERED, that the present proceeding be and is hereby dismissed.

E. W. GARRETT,
Acting Commissioner.

2. DISCIPLINARY PROCEEDINGS - FRONT - REAL OWNER DISQUALIFIED BECAUSE NOT A RESIDENT OF STATE FOR FIVE YEARS - LICENSE SUSPENDED BALANCE OF TERM - LEAVE TO LICENSEE TO PETITION TO LIFT SUSPENSION.

In the Matter of Disciplinary Proceedings against

THOMAS BOWE, T/a Town Tavern, State Highway 34, 1/2 mile north of Collingwood Circle, Howell Township, Monmouth County, P.O. R. D. Farmingdale, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-18, issued by the Township Committee of the Township of Howell.

Robert R. Hendricks, Esq., Attorney for the Department of Alcoholic Beverage Control. Thomas Bowe, Pro Se.

The licensee has pleaded guilty to charges of (1) falsifying his application for license for the year 1939-40 in that he concealed the interest of Michael Bus in the license applied for and in the business to be conducted thereunder, and (2) aiding and abetting Bus, a non-licensee, to exercise the rights and privileges of his license.

It appears that some time in September 1939 Michael Bus, a person disqualified from holding a license by reason of the fact that he has not been a resident of the State of New Jersey for the statutory five year period, purchased the tavern at the above address. Finding that he was disqualified because of his non-residence, he induced his friend, Thomas Bowe, to take the license in Bowe's name in order that some protection might be afforded his investment. Bowe frankly admits that he has no financial interest in the license or the business conducted thereunder.

Continuance of the unlawful situation cannot be permitted.

Accordingly, it is, on this 11th day of September, 1940,

ORDERED, that Plenary Retail Consumption License C-18, heretofore issued to Thomas Bowe by the Township Committee of the Township of Howell, be and the same is hereby suspended for the balance of its term, effective immediately.

Thomas Bowe has requested an opportunity to purchase the entire interest of Michael Bus in the licensed business. In cases involving violation of the five year residence requirement, where no aggravating circumstances appear, where the licensee makes frank disclosure and where the situation has been fully corrected, it has been my policy to impose a ten day suspension. Re Silver Palm Corporation, Bulletin 422, Item 8.

Accordingly, leave will be granted to Thomas Bowe to present to me a verified petition for an order lifting the suspension imposed herein, which petition must be accompanied by

proper proof that he has acquired all of the interest of Michael Bus in said license and licensed business. In no event shall the suspension be lifted prior to the expiration of ten (10) days from the date hereof.

E. W. GARRETT,
Acting Commissioner.

3. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES -
5 DAYS ON GUILTY PLEA.

In the Matter of Disciplinary)
Proceedings against)
MRS. PETRONE ROMEYKO,)
141 Schuyler Ave.,)
Kearny, N. J.,)
Holder of Plenary Retail Consump-)
tion License C-22, issued by the)
Town Council of the Town of)
Kearny.)
-----)

CONCLUSIONS
AND ORDER

Richard E. Silberman, Esq., Attorney for Department of
Alcoholic Beverage Control.
Carl Olsan, Esq., Attorney for Defendant-Licensee.

The licensee has pleaded guilty to a charge of selling liquor at less than the Fair Trade price at the licensed premises on August 13, 1940, in violation of Rule 6 of State Regulations 30.

The usual penalty for this violation is ten days.

By entering this plea in ample time before the date fixed for hearing, the Department has been saved the time and expense of proving its case. The license will, therefore, be suspended for five days instead of ten days.

Accordingly, it is, on this 13th day of September, 1940,

ORDERED, that Plenary Retail Consumption License C-22, heretofore issued to Mrs. Petrone Romeyko by the Town Council of the Town of Kearny, be and the same is hereby suspended for a period of five (5) days, effective September 16, 1940, at 2:00 A.M. (DST).

E. W. GARRETT,
Acting Commissioner.

4. DISQUALIFICATION - APPLICATION TO LIFT - GRANTED.

In the Matter of an Application)	
to remove disqualification be-)	
cause of a Conviction, pursuant)	CONCLUSIONS
to R. S. 33:1-31.2 (as amended by)	AND ORDER
Chapter 350, P.L. 1938).)	
Case No. 108)	
-----)	

Petitioner was convicted in 1934 on a charge of embezzlement and was sentenced to imprisonment from one to three years. After serving some nine months in a penitentiary, petitioner was released on July 31, 1935.

In Case No. 40, Bulletin 151, Item 2, it was determined that the above mentioned crime, of which the petitioner stands convicted, involved moral turpitude and his application for a solicitor's permit was therein denied.

In Case No. 71, Bulletin 368, Item 2, petitioner's application for removal of disqualification was denied because his application was filed prior to the expiration of the five-year period, as required by statute. Leave to reapply on or after July 31, 1940 (five years after the date of his release from prison) was therein granted.

Five years having elapsed since his discharge from prison on July 31, 1935, petitioner now seeks removal of his statutory disqualification under R. S. 33:1-31.2 (as amended by Chapter 350, P.L. 1938).

Since his release from prison in 1935, petitioner has resided with his wife in the municipality where he now lives. From the time that he was released from prison he has been and still is steadily employed on the W.P.A. except for a period of a few months when he sold soft drinks.

On behalf of the petitioner, six character witnesses - a Chief of Police, a minister, two businessmen and two W.P.A. supervisors, who have known the petitioner for a period of from two to thirty-five years, testified that his reputation is good and that he has been leading an honest and law-abiding life during the past five years.

Petitioner's fingerprint record shows that he has neither been arrested nor convicted of any crime since 1934. Report from the police department of the municipality wherein he resides discloses that there are no pending complaints or investigations against him.

It is concluded that petitioner has been law-abiding for the past five years, and that his association with the alcoholic beverage industry will not be contrary to public interest.

It is, therefore, on this 14th day of September, 1940,

ORDERED, that his statutory disqualification because of the conviction described herein be and the same is hereby lifted in accordance with the provisions of R. S. 33:1-31.2 (as amended by Chapter 350, P.L. 1938).

E. W. GARRETT,
Acting Commissioner.

5. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES - 5 DAYS ON GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

AUGUSTA FRAZIER,)
269 Jackson Avenue,)
Jersey City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-92, issued by the Board of Commissioners of the City of Jersey City.)

Augusta Frazier, Pro Se.
Charles Basile, Esq., Attorney for the State Department of Alcoholic Beverage Control.

The licensee has pleaded guilty to a charge of selling liquor at less than the Fair Trade price at the licensed premises on August 25, 1940, in violation of Rule 6 of State Regulations No. 30.

The usual penalty for this violation is ten days.

By entering this plea in ample time before the day fixed for hearing, the Department has been saved the time and expense of proving its case. The license will, therefore, be suspended for five (5) days instead of ten (10) days.

Accordingly, it is, on this 12th day of September, 1940,

ORDERED, that Plenary Retail Distribution License D-92, heretofore issued to Augusta Frazier by the Board of Commissioners of the City of Jersey City, be and the same is hereby suspended for a period of five (5) days, effective September 16, 1940, at 2:00 A.M., Daylight Saving Time.

E. W. GARRETT,
Acting Commissioner.

6. DISCIPLINARY PROCEEDINGS - CHARGES AGAINST CORPORATION DISMISSED WHERE IT APPEARED THAT PERSON MAKING THE SALE WAS NOT, ON ANY THEORY OF THE LAW, AN AGENT OR EMPLOYEE OF CORPORATION.

In the Matter of Disciplinary)
 Proceedings against)
)
 PURE WINES, INC.,)
 500 - 40th Street,)
 North Bergen, N. J.,)
)
 Holder of Plenary Winery License)
 V-38 and Limited Winery License)
 VL-98, issued by the Commissioner)
 of Alcoholic Beverage Control for)
 the fiscal year 1939-40.)
 -----)

CONCLUSIONS
AND ORDER

Alexander White, Esq., Attorney for Licensee.
 J. Garry Keely, Esq., Attorney for State Department of
 Alcoholic Beverage Control.

The following charges were served on the licensee:

- "1. On or about February 17, 1940, you sold alcoholic beverages to Joseph Schapers and Angelo Grande, minors, in violation of R. S. 33:1-77.
- "2. On or about February 17, 1940, you sold, served and delivered alcoholic beverages to Joseph Schapers and Angelo Grande, persons under the age of twenty-one (21) years, in violation of Rule 1 of State Regulations No. 20.
- "3. On or about February 17, 1940, you sold alcoholic beverages; to wit: fortified wines to a consumer, not pursuant to and within the terms of your licenses, in violation of R. S. 33:1-2.
- "4. On or about February 17, 1940, you knowingly employed and had connected with you in a business capacity, Angelo Innocenti, a person who failed to qualify as a licensee by reason of non-citizenship, in violation of Rule 1 of State Regulations No. 11."

The evidence shows that on February 17, 1940, Angelo Innocenti, who is regularly employed in Wallabout Market, New York City, but who was then present upon the licensed premises, sold a gallon of muscat wine, a gallon of riesling wine, a gallon of sherry wine, and a gallon of vermouth for the sum of \$5.25, to Joseph Shapers and Angelo Grande, both of whom were then nineteen years of age. If, on any theory of the law, these sales were made by an agent of licensee corporation, the licensee would be guilty on the first three charges under the doctrine of respondeat superior. The question to be decided, therefore, is whether, under the evidence hereafter considered, it has been established that the sale was made by an agent of licensee corporation.

Angelo Innocenti testified that he was never employed by Pure Wines, Inc.; that on Saturday, February 17, 1940, he called at the winery to obtain the salary due to his wife who was an employee of the winery but who was confined to her home on that day because

of sickness; that while he was in the outer room of the licensed premises, the two boys came in; that he sold the wine to them and placed the money on the cash register; that nobody connected with the winery knew anything about the sale and that he had never previously sold wine in the licensed premises. Angelo Grande testified that they had purchased the wine from Angelo Innocenti.

Anthony Parachini, President of Pure Wines, Inc., testified that on the afternoon of February 17, 1940, he was in the office of the licensed premises working on the books of the corporation with an accountant and that he knew nothing of the alleged sale until questioned by investigators from this Department two or three days later; that the only other employee of the corporation then on the premises was a girl who was also in the office; that Angelo Innocenti had never been employed by the corporation and had never had any authority to sell or deliver any of the wines of the Pure Wines, Inc. Licensee, in business since Repeal, has a clear record. Parachini testified that he has been in the wine business since 1908 and has never had any previous charges preferred against him.

This is a close question because if Innocenti was permitted to be in charge of the licensed premises it would be immaterial whether or not, in a technical sense, he was employed. On the other hand, if Innocenti merely acted on his own initiative without any authorization by the corporation and without any evidence that his acts were ratified, it could not be said that the sale was made by the corporation. In view of all the evidence, I conclude that it has not been established that the sale to the minors was made by the corporation, and hence I shall dismiss the first three charges.

Angelo Innocenti is an Italian national, but since I conclude that he was not employed by or connected in any business capacity with the licensee, the fourth charge is also dismissed.

Accordingly, it is, on this 16th day of September, 1940,

ORDERED, that the charges herein be dismissed.

E. W. GARRETT,
Acting Commissioner.

7. DISCIPLINARY PROCEEDINGS - FRONT FOR PERSON APPARENTLY DISQUALIFIED BY CRIMINAL RECORD - LICENSEE NOW SOLE OWNER OF BUSINESS - 30 DAYS' SUSPENSION ON PLEA OF GUILT.

In the Matter of Disciplinary Proceedings against)

ALFRED LUKER,)
26 Reid Street,)
South River, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of South River.)

Robert R. Hendricks, Esq., Attorney for the Department of Alcoholic Beverage Control.
Alfred Luker, Pro Se.

The licensee has pleaded guilty to charges of (1) falsifying his application for license for the year 1939-40 in that he concealed the interest of Albin Bogucki in the license applied for and in the business to be conducted thereunder, and (2) aiding and abetting Bogucki, a non-licensee, to exercise the rights and privileges of his license.

It appears that Alfred Luker, the licensee, secured the license in his name although, in fact, Albin Bogucki was a partner in, or, perhaps, the real owner of the business. Apparently, the interest of Bogucki was not disclosed because he has a criminal record. The licensee has since severed all business relations with Bogucki; has purchased Bogucki's interest in the licensed business; and now conducts the same as his own business.

It thus appears that the unlawful situation has been effectively corrected.

In cases of the instant type, where the licensee is a front for a person with a disqualifying criminal record, even though the licensee has made full and frank disclosure and has completely corrected the situation, a substantial penalty is indicated. Re Silver Palm Corporation, Bulletin 422, Item 8.

Accordingly, it is, on this 14th day of September, 1940,

ORDERED, that Plenary Retail Consumption License C-2, heretofore issued to Alfred Luker by the Borough Council of the Borough of South River for premises at 26 Reid Street, be and the same is hereby suspended for a period of thirty (30) days, effective September 16, 1940, at 2:00 A.M. (Eastern Daylight Time).

E. W. GARRETT,
Acting Commissioner.

8. DISCIPLINARY PROCEEDINGS - POSSESSION OF SLOT MACHINE OR DEVICE IN NATURE THEREOF - 5 DAYS' SUSPENSION ON PLEA OF GUILT.

In the Matter of Disciplinary Proceedings against

MORRISEY & WALKER, INC., T/a SEA HORSE TAVERN, Bayside Parkway and Ocean Ave., Middletown Township, P.O. East Keansburg, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License No. C-2, issued by the Township Committee of the Township of Middletown.

Robert R. Hendricks, Esq., Attorney for Department of Alcoholic Beverage Control. Morrisey & Walker, Inc., by Samuel D. Walker, Secretary and Treasurer.

The licensee has pleaded guilty to a charge that, on July 27, 1940, it possessed, allowed, permitted or suffered on its licensed premises a slot machine or device in the nature of a slot machine which may be used for the purpose of playing for money or other valuable thing, in violation of Rule 8 of State Regulations No. 20.

The penalty for this type of violation will be ten days.

By entering this plea in ample time before the date fixed for hearing, the Department has been saved the time and expense of proving its case. The license will, therefore, be suspended for five days instead of ten.

Accordingly, it is, on this 18th day of September, 1940,

ORDERED, that Plenary Retail Consumption License No. C-2, heretofore issued to Morrisey & Walker, Inc., t/a Sea Horse Tavern, by the Township Committee of the Township of Middletown, be and the same is hereby suspended for five (5) days, effective September 23, 1940, at 2:00 A.M. (Daylight Saving Time).

E. W. GARRETT, Acting Commissioner.

9. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR (REFILLS) - 10 DAYS' SUSPENSION ON PLEA OF NON VULT.

In the Matter of Disciplinary Proceedings against)

MRS. RAYNER FRISH, T/a Empire Bar, 266 Washington St., Newark, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-481, issued for the fiscal year 1939-40 by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Richard E. Silberman, Esq., Attorney for the State Department of Alcoholic Beverage Control. Lindabury, Steelman, Zink & Lafferty, Esqs., by Alfred R. Gessinger, Esq., Attorneys for the Defendant-Licensee.

Licensee is charged with possessing illicit alcoholic beverages in violation of R. S. 33:1-50.

Six bottles of liquor were seized at the licensed premises by Federal agents. The Federal chemist testified that the contents of all of the bottles were not genuine as labeled, and that five of the bottles, with various labels, were refilled with the same kind of liquor.

Subsequent to the hearing, licensee, who was unable to furnish any explanation of the violation, changed her plea from "not guilty" to "non vult".

No aggravating circumstances appear. Cf. Re Orbach, Bulletin 406, Item 10; Re La Corte, Bulletin 420, Item 4. The license will, therefore, be suspended for ten days. Cf. Re Novack, Bulletin 406, Item 11; Re Wildwood Golf Club, Bulletin 409, Item 8.

The license in effect at the institution of these proceedings has expired and has been renewed by issuance of plenary retail consumption license C-393 for the present fiscal year.

Accordingly, it is, on this 19th day of September, 1940,

ORDERED, that Plenary Retail Consumption License C-393, heretofore issued to Mrs. Rayner Frish by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of ten (10) days, effective September 23, 1940, at 3:00 A.M. (D.S.T.)

E. W. GARRETT, Acting Commissioner.

10. DISCIPLINARY PROCEEDINGS - FRONT FOR NON-RESIDENT - LICENSE SUSPENDED FOR BALANCE OF TERM -- LEAVE TO APPLY, AFTER 10 DAYS, FOR LIFTING SUSPENSION IF LICENSE TRANSFERRED.

In the Matter of Disciplinary Proceedings against
 WILLIAM E. MARGRIE,
 W. S. Fort Dix Road,
 Wrightstown, N. J.,
 Holder of Plenary Retail Consumption License C-3, issued by the Borough Council of the Borough of Wrightstown.

CONCLUSIONS AND ORDER

Richard E. Silberman, Esq., Attorney for Department of Alcoholic Beverage Control.
 William E. Margrie, Pro Se.

The licensee has pleaded guilty to charges of making false statements in his license applications for the periods 1939-40 and 1940-41 in that he denied that any individual other than himself had any interest in the business; and aiding and abetting a non-licensee to exercise the rights and privileges of the license.

The license was taken in his name because the undisclosed person is disqualified from personally holding a license by reason of non-residence.

In accordance with Re King, Bulletin 404, Item 5, the license will be suspended for the balance of the term, with leave to the licensee to apply to transfer the license to a duly qualified applicant. The minimum period of suspension is fixed at ten (10) days. Cf. Silver Palm Corporation, Bulletin 422, Item 8.

Accordingly, it is, on this 20th day of September, 1940,

ORDERED, that Plenary Retail Consumption License C-3, heretofore issued to William E. Margrie by the Borough Council of the Borough of Wrightstown, County of Burlington, be and the same is hereby suspended for the balance of the term, effective September 23, 1940, at 6:00 A.M. (Eastern Standard Time); and it is further

ORDERED, that if and when transfer of said license is granted by the local issuing authority to a duly qualified applicant, upon proper proof shown, the suspension herein ordered will be vacated, provided, however, that in no event shall said suspension be vacated prior to the expiration of ten (10) days from the effective date hereof.

E. W. GARRETT,
 Acting Commissioner.

11. SOLICITORS' PERMITS- MORAL TURPITUDE - FACTS EXAMINED -
CONCLUSIONS.

September 20, 1940

Re: Case No. 342

In his application for solicitor's permit, applicant denied that he had ever been convicted of a crime. Investigation by this Department, however, disclosed that in 1919 applicant had been found guilty of entering and larceny and had been given a suspended sentence; that in 1921 and again in 1934 he had been convicted of disorderly conduct, each time receiving a suspended sentence; that in 1936 he had been convicted of assault and battery and had been given a suspended sentence; and that in 1937 he had been convicted of the same offense and had been fined \$10.00.

Applicant, at the time he was adjudged guilty of entering and larceny in 1919, was fifteen years old. At the hearing he testified that he and four other minors had been apprehended while in the act of pilfering an old kitchen stove and other scrap from an empty house. In view of applicant's extreme youth at the time the crime was committed, I do not believe that moral turpitude was involved. See Re Case No. 36, Bulletin 149, Item 1.

The convictions in 1921 and 1934 on charges of disorderly conduct are not convictions of crimes within the meaning of R. S. 33:1-25, 26. Re Case No. 318, Bulletin 394, Item 17; Re Case No. 329, Bulletin 412, Item 9.

As regards the two subsequent convictions for assault and battery, it appears that both convictions resulted from applicant's participation in ordinary fist fights growing out of verbal altercations. Applicant testified that no weapons were involved and that no one was injured. Under these circumstances, which are, in large part, corroborated by the fact that no punishment was imposed other than a small fine in the latter instance, neither crime involved moral turpitude. Re Case No. 166, Bulletin 180, Item 7; Zicherman v. Newark, Bulletin 227, Item 7; Re Case No. 213, Bulletin 232, Item 6; Re Case No. 216, Bulletin 238, Item 10; Re Case No. 257, Bulletin 304, Item 9.

In explanation of his false affidavit and failure to disclose the above convictions, applicant testified that he had filled in the application at the brewery and that he had feared his job would be placed in jeopardy if his employer learned of his criminal record. While applicant's apprehension concerning the possible effect that disclosure of his past record might have upon his chance of gaining employment is readily understandable, it constitutes no excuse for deliberately falsifying his application. Re Case No. 205, Bulletin 226, Item 8.

It is recommended that applicant be declared eligible to hold a solicitor's permit but that issuance of said permit be withheld for a further period of ten (10) days because of the false statement.

Robert R. Hendricks,
Attorney.

APPROVED:
E. W. GARRETT,
Acting Commissioner.

12. APPELLATE DECISIONS - MOTTA v. BRIDGETON.

ANTONINO MOTTA,)	
)	
Appellant,)	
)	CONCLUSIONS
-vs-)	AND ORDER
)	
CITY COUNCIL OF THE CITY OF)	
BRIDGETON,)	
)	
Respondent)	
-----))	

David Horuvitz, Esq., Attorney for the Appellant.
Samuel Iredell, Esq., Attorney for the Respondent.

This appeal is from the refusal of respondent to renew appellant's plenary retail distribution license.

The testimony establishes that respondent's action was based solely on a written report of its Chief of Police that, on three occasions, intoxicated persons were observed drinking alcoholic beverages on the licensed premises. No evidence in substantiation of the report was heard by respondent.

At the appeal hearing a police officer testified that on the three occasions referred to in the report, the intoxicated persons were drinking some distance away from the licensed premises, and that he did not know whether the liquor was purchased from appellant or elsewhere. That was the extent of the proof offered by respondent in defense of its action.

In that posture of the case, respondent, through its attorney, admitted that such proof was insufficient upon which to deny appellant a renewal of his license, and thereupon consented that its action be reversed and that it be directed to grant appellant's application.

No reason appears why this should not be done. There was no evidence whatsoever against appellant individually, the manner in which his business was conducted, or the suitability of his licensed premises. No other objections were received by respondent to the renewal of appellant's license, nor did any other persons appear at the appeal hearing to testify against such renewal. Cf. Tobey v. Newark, Bulletin 345, Item 4.

Accordingly, it is, on this 21st day of September, 1940,

ORDERED, that the action of respondent be reversed, and that it issue the license as applied for.

E. W. GARRETT,
Acting Commissioner.

13. DISQUALIFICATION - APPLICATION TO LIFT - DENIED.

In the Matter of an Application)	
to Remove Disqualification because)	
of a Conviction, pursuant to)	CONCLUSIONS
R. S. 33:1-31.2 (as amended by)	AND ORDER
Chapter 350, P.L. 1938).)	
Case No. 109)	

In a petition filed with this Department, petitioner asked removal of her disqualification resulting from her conviction, in 1930, on a charge of unlawful cohabitation.

At the first hearing held herein, petitioner denied that she had ever been convicted of any other crime, or that, on any other occasion, had she ever been arrested (except once for driving without lights) or questioned by police authorities concerning the commission of any crime. At the same hearing petitioner further testified that she had never worked on the licensed premises previously operated by her sister, Lena, or had a financial interest in said business.

Subsequent investigation by this Department disclosed, however, that petitioner in 1929 had been convicted on a charge of being a disorderly person (prostitution) and given a suspended sentence; that in 1931 she had been convicted of violating the Prohibition Enforcement Act and sentenced to pay a fine of \$100.00; that in 1932 she had been convicted on a charge of violating a gambling ordinance and fined \$50.00; and that in 1936 she had been convicted on a charge of being a disorderly person and fined \$25.00. Her criminal record further shows that petitioner had been arrested and held as a material witness in 1921 and again in 1935; that in 1934 she had been arrested on a charge of being a disorderly person and held for the Board of Health; and that in 1927 she had been tried on a charge of keeping a disorderly house and acquitted.

The same investigation raised inference that the petitioner, despite her testimony to the contrary, had been connected in a proprietary manner with the tavern business that had been licensed in the name of her sister, Lena. The records of this Department show that said license was revoked in June 1940 on charges of permitting hostesses to stand at the bar and sit at tables with patrons in violation of municipal ordinance, permitting lewdness and immoral activities upon the licensed premises, and serving an alcoholic beverage, other than ordered, to a customer.

In view of the information uncovered by the investigation, supplemental hearing on the petition was held. At the supplemental hearing the petitioner was able to give no satisfactory explanation for her false statements at the earlier hearing regarding her criminal record. As regards her connection with the premises licensed in the name of her sister, petitioner, when confronted with the State officers who had conducted the investigation of the alleged immoral activities committed thereon, admitted that she had "loaned her (sister) the money to go into business"; that she had tended bar and otherwise conducted said licensed business whenever her sister was ill (her sister testified that she was ill "most of the time"); that she "sometimes" hired the tavern employees; and that she had represented herself as being her sister, the owner of record of the tavern. Petitioner further admitted that, in the course of the

investigation which led to the revocation of her sister's license, she had falsely held herself out to investigators of this Department and to police officers as the licensee and had signed her sister's name to a statement given to those officers.

Review of the investigation reports which comprise the record of the disciplinary proceedings instituted by the local issuing authority against said license discloses that petitioner was intimately involved in the immoral and thoroughly reprehensible activities which led to revocation of that license.

Petitioner's false statement to officers of this Department as regards her true identity, her personal part in the immoral activities which took place on the licensed premises, coupled with her deliberate and brazen attempt in this proceeding, by means of false statements under oath, to hide her full criminal record and her past connection with the tavern business licensed in the name of her sister, brand her as an unfit person to hold a license or to be employed on licensed premises.

The petition is denied.

E. W. Garrett

Acting Commissioner.

Dated: September 21, 1940.