

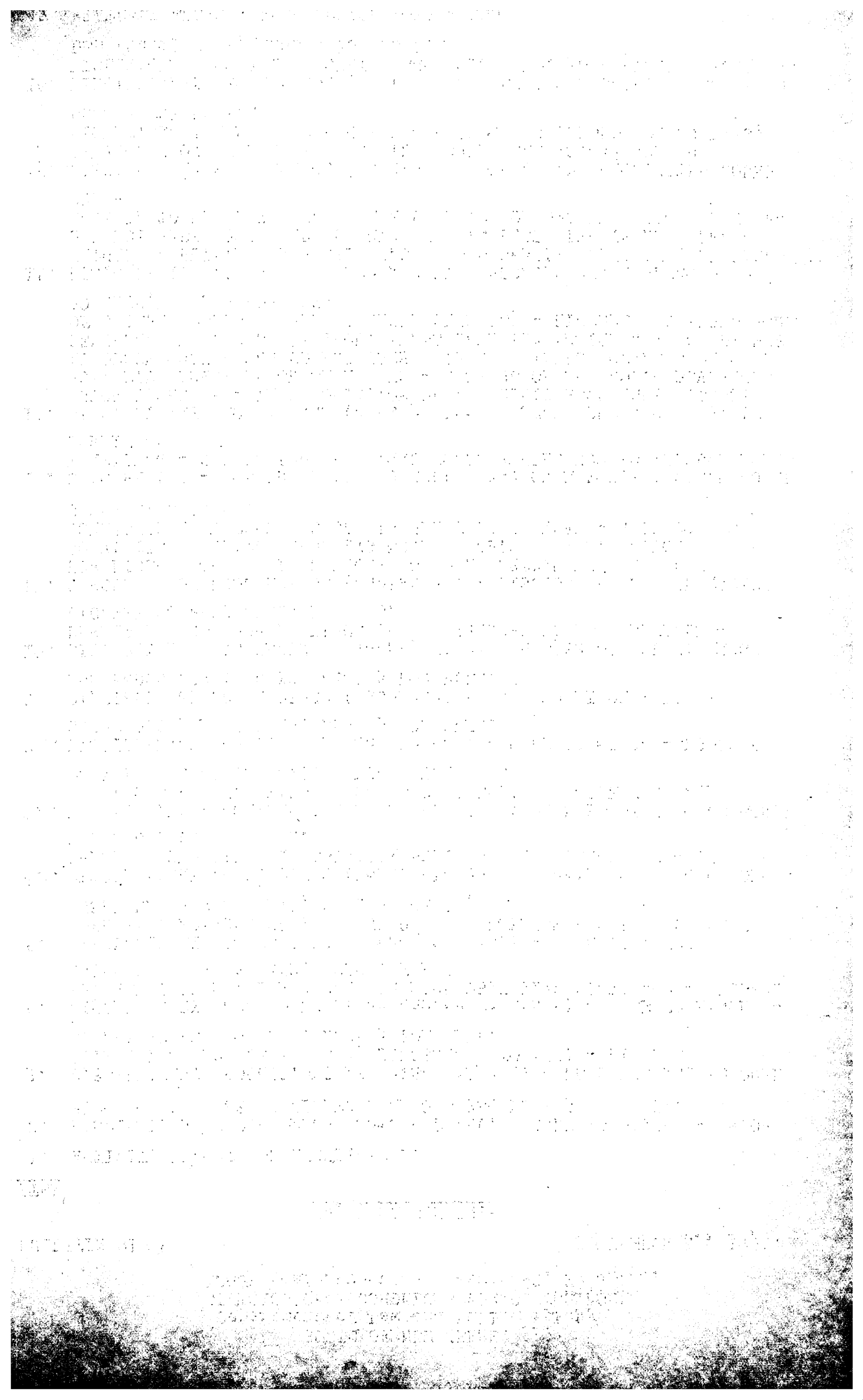
STATE OF NEW JERSEY
 Department of Law and Public Safety
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL
 1060 Broad Street Newark 2, N. J.

BULLETIN 916

SEPTEMBER 13, 1951.

TABLE OF CONTENTSITEM

1. ACTIVITY REPORT FOR AUGUST 1951.
2. DISCIPLINARY PROCEEDINGS (Somers Point) - SALE TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.
3. DISCIPLINARY PROCEEDINGS (Seaside Heights) - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE, SONGS AND STORIES) - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Egg Harbor Township) - SALE TO MINORS - PRIOR RECORD SIMILAR VIOLATION MORE THAN FIVE YEARS AGO - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Barnegat Light) - SALE TO MINORS - EMPLOYING NON-RESIDENT WHO HELD NO EMPLOYMENT PERMIT - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Point Pleasant Beach) - SALE TO MINORS - PRIOR RECORD SIMILAR VIOLATION MORE THAN TEN YEARS AGO - LICENSE SUSPENDED FOR 10 DAYS.
7. ELIGIBILITY - COMMERCIALIZED GAMBLING MAY OR MAY NOT INVOLVE MORAL TURPITUDE - CONVICTION OF CRIME OF OPERATING LOTTERY AS A PRINCIPAL HELD TO INVOLVE MORAL TURPITUDE.
8. DISCIPLINARY PROCEEDINGS (Sea Bright) - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Paterson) - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Jersey City) - HOLDER OF SOLICITOR'S PERMIT AIDING AND ABETTING ILLEGAL TRANSPORTATION AND SALE - LICENSE SUSPENDED FOR 15 DAYS.
11. CANCELLATION PROCEEDINGS (Carlstadt) - DISCLOSURE IN APPLICATION FOR LICENSE OF CRIMINAL RECORD OF ONE PARTNER WHO HAD BEEN CONVICTED OF CRIME INVOLVING MORAL TURPITUDE - SITUATION CORRECTED BY WITHDRAWAL OF DISQUALIFIED PARTNER - RULE TO SHOW CAUSE DISCHARGED.
12. ELIGIBILITY - COMMERCIALIZED GAMBLING MAY OR MAY NOT INVOLVE MORAL TURPITUDE - CONVICTION AS "STAKE HOLDER" HELD NOT TO INVOLVE MORAL TURPITUDE.
13. DISCIPLINARY PROCEEDINGS (Jersey City) - STATE BEVERAGE DISTRIBUTOR LICENSEE - TRANSPORTATION OF ALCOHOLIC BEVERAGES WITHOUT BONA FIDE INVOICES OR MANIFESTS - STORAGE OF ALCOHOLIC BEVERAGES AT OTHER THAN LICENSED PREMISES - TRANSPORTATION OF ALCOHOLIC BEVERAGES IN VEHICLE WITHOUT TRANSPORTATION INSIGNIA - ACCEPTANCE OF ORDERS AT OTHER THAN LICENSED PREMISES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
14. DISQUALIFICATION - APPLICATION DENIED BECAUSE OF THE LENGTH AND NATURE OF PETITIONER'S CRIMINAL RECORD DESPITE FACT THAT APPLICANT HAD NOT BEEN CONVICTED OF CRIME WITHIN PAST FIVE YEARS - LEAVE GRANTED TO REAPPLY AFTER THE EXPIRATION OF ONE YEAR FROM DATE OF ORDER.
15. DISCIPLINARY PROCEEDINGS (Camden) - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 AND IN VIOLATION OF A LOCAL ORDINANCE - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
16. DISCIPLINARY PROCEEDINGS (Lodi) - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
17. STATE LICENSES - NEW APPLICATIONS FILED.



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

BULLETIN 916

SEPTEMBER 13, 1951.

ACTIVITY REPORT FOR AUGUST 1951

1. ARRESTS:		
Total number of persons arrested - - - - -		20
Licensees and employees - - - - -	4	
Bootleggers - - - - -	16	
SEIZURES:		
Motor vehicles - cars - - - - -		1
Stillis - 50 gallons or under - - - - -		3
Alcohol - gallons - - - - -		375.00
Mash - gallons - - - - -		1.56
Distilled alcoholic beverages - gallons - - - - -		7.91
Wine - gallons - - - - -		13.53
Brewed malt alcoholic beverages - gallons - - - - -		
RETAIL LICENSEES:		
Premises inspected - - - - -		999
Premises where alcoholic beverages were gauged - - - - -		775
Bottles gauged - - - - -		13, 575
Premises where violations were found - - - - -		275
Violations found - - - - -		292
Type of violations found:		
Unqualified employees - - - - -	43	Disposal permit necessary - - - - -
Reg. #38 sign not posted - - - - -	18	Prohibited signs - - - - -
Other mercantile business - - - - -	8	Gambling devices - - - - -
		Other violations - - - - -
		216
STATE LICENSEES:		
Premises inspected - - - - -		48
License applications investigated - - - - -		13
COMPLAINTS:		
Complaints assigned for investigation - - - - -		433
Investigations completed - - - - -		344
Investigations pending - - - - -		211
LABORATORY:		
Analyses made - - - - -		149
Refills (from licensed premises) - bottles - - - - -		4
Bottles from unlicensed premises - - - - -		25
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made - - - - -		22
Persons fingerprinted for non-criminal purposes - - - - -		284
Identification contacts made with other enforcement agencies - - - - -		203
Motor vehicle identifications via N. J. State Police Teletype - - - - -		3
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities - - - - -		20
Violations involved:		
Sale during prohibited hours - - - - -	11	Failure to afford view into premises during prohibited hours - - - - -
Sale to minors - - - - -	6	Sale to non-members by club - - - - -
Permitting bookmaking on premises - - - - -	2	
Cases instituted at Division - - - - -		13
Violations involved:		
Sale to minors - - - - -	5	Permitting pinball machine on premises - - - - -
Sale during prohibited hours - - - - -	3	Sale below minimum resale price - - - - -
Permitting immoral activity on premises - - - - -	3	Sale beyond scope of license - - - - -
Cases brought by municipalities on own initiative and reported to Division - - - - -		8
Violations involved:		
Permitting brawls on premises - - - - -	4	
Permitting bookmaking on premises - - - - -	2	
Sale to minors - - - - -	2	
Sale to intoxicated persons - - - - -	1	
Unqualified employee - - - - -	1	
CANCELLATION PROCEEDINGS instituted at Division - - - - -		1
Violation involved:		
License issued in excess of statutory limitation - - - - -		
HEARINGS HELD AT DIVISION:		
Total number of hearings held - - - - -		29
Appeals - - - - -	2	Seizures - - - - -
Disciplinary proceedings - - - - -	14	Tax revocation - - - - -
Eligibility - - - - -	8	Applications for license - - - - -
PERMITS ISSUED:		
Total number of permits issued - - - - -		1,026
Employment - - - - -	267	Social affairs - - - - -
Solicitors - - - - -	89	Special wine - - - - -
Disposal of alcoholic beverages - - - - -	122	Miscellaneous - - - - -
		133

Dated: September 4, 1951.

ERWIN B. HOCK, DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

RICHARD K. McCLAIN)
T/a BAY SHORES)
998 Bay Avenue)
Somers Point, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-13, issued by the Common Council of the City of Somers Point.)

Benjamin A. Rimm, 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 a charge alleging that he sold, served and delivered alcoholic beverages to minors at his licensed premises, and permitted the consumption thereof by said minors, in violation of Rule 1 of State Regulations No. 20.

On July 25, 1951, ABC agents observed a party of three minors, later identified as William ---, 17 years of age, Robert ---, also 17 years of age, and Clyde ---, aged 18, enter defendant's licensed premises. Each of said minors was sold and served a glass of beer by the bartender on duty, one Francesco Gattuso. Part of the beer was consumed by said minors. The agents then observed a party of four enter the licensed premises. The members of this party were later identified as Walter ---, aged 18; Daniel ---, aged 18; Gertrude ---, aged 19, and another girl, aged 21. Each member of this party was served a glass of beer by the aforesaid bartender.

Defendant has a prior adjudicated record, including the suspension of his license by the local authority for three days, effective June 10, 1947, because of a mislabeled beer tap, and a suspension of his license by the local authority, after a confessional plea on a charge of "sale to minors", for fifteen days, effective June 14, 1949. The instant case is further aggravated because two of the minors were 17 years of age and because of the large number of minors involved. In view of the aggravating circumstances in the instant case and the prior similar record, I shall suspend defendant's license for a period of forty days. Five days will be remitted because of the plea, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 10th day of September, 1951,

ORDERED that Plenary Retail Consumption License C-13, issued by the Common Council of the City of Somers Point to Richard K. McClain, t/a Bay Shores, for premises 998 Bay Avenue, Somers Point, be and the same is hereby suspended for thirty-five (35) days, commencing at 3:00 a.m. September 17, 1951, and terminating at 3:00 a.m. October 22, 1951.

ERWIN B. HOCK
Director.

3. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(INDECENT DANCE, SONGS AND STORIES) - LICENSE SUSPENDED FOR 30
DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

CARMELO PRIMICERI)
T/a HAMILTON HOTEL)
Bayview & Hamilton Avenues)
Seaside Heights, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-18, issued by the)
Mayor and Council of the Borough)
of Seaside Heights.)

Leo J. Berg, 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 a charge alleging that he allowed, permitted and suffered lewdness and immoral activity (an indecent dance by a female entertainer, and the singing of songs and recitation of stories which were indecent, filthy and disgusting, by male and female entertainers) on his licensed premises, in violation of Rule 5 of State Regulations No. 20.

On Sunday morning, July 8, 1951, at about 12:30 a.m., ABC agents were present in defendant's licensed premises. They observed a female entertainer, who wore only a bra and a scanty pair of panties, perform a dance which included "bumps and grinds". At one point this entertainer raised her right leg over a corner of the stage while moving her body in such a fashion as to simulate sexual intercourse. During the course of this "entertainment", a master of ceremonies, his "straight man" and another female entertainer sang songs and recited stories which were vulgar, indecent and broadly suggestive in their context. Such "shows" have no place on licensed premises. Re Bajewicz, Bulletin 902, Item 4. Entertainment, if presented upon licensed premises, must be of such character as not to be inimical to the public welfare and morals or the best interests of the industry. Re DiAngelo, Bulletin 753, Item 4.

The licensee contends that he had hired the show from a theatrical agency, and that he did not know that the entertainers were to present a performance of this character. The file herein indicates that he was present during the performance and, in any event, he is fully responsible for the conduct of the entertainers upon his licensed premises. Guastamachio v. Brennan, 128 Conn. 356, 23 A. 2nd 140 (Sup. Ct. of Err. Conn. 1941).

Defendant has no prior record. I shall suspend defendant's license for a period of thirty days. Remitting five days for the plea will leave a net suspension of twenty-five days. Re Bajewicz, supra.

Accordingly, it is, on this 29th day of August, 1951,

ORDERED that Plenary Retail Consumption License C-18, issued by the Mayor and Council of the Borough of Seaside Heights to Carmelo Primiceri, t/a Hamilton Hotel, for premises at Bayview & Hamilton Avenues, Seaside Heights, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. September 6, 1951, and terminating at 2:00 a.m. October 1, 1951.

ERWIN B. HOCK
Director.

4. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD SIMILAR VIOLATION MORE THAN FIVE YEARS AGO - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ETHEL HOFFMANN)
Poplar Ave. & Steelmanville Rd.)
Bargaintown, Egg Harbor Township)
P.O. R.D. 1, Linwood, N.J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-27, issued by the Township Committee of the Township of Egg Harbor.)

-----)
Paul M. Salsburg, 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 a charge alleging that she sold, served and delivered alcoholic beverages to four minors, and permitted the consumption of said beverages by the minors, in violation of Rule 1. of State Regulations No. 20.

An examination of the file in the present case discloses that on Saturday, August 11, 1951, four minors -- 17, 18, 18 and 19 years of age respectively, were sold, served and permitted to consume alcoholic beverages on defendant's licensed premises.

Defendant has a previous adjudicated record. Effective July 8, 1945, her license was suspended for five days by the local issuing authority for sale of alcoholic beverages to minors. However, since more than five years elapsed between these violations, I shall suspend defendant's license in this case for twenty-five days, instead of doubling the penalty for a second similar violation. Five days will be remitted because of the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 10th day of September, 1951,

ORDERED that Plenary Retail Consumption License C-27, issued by the Township Committee of the Township of Egg Harbor to Ethel Hoffmann, for premises at Poplar Ave. & Steelmanville Road, Bargaintown, Egg Harbor Township, be and the same is hereby suspended for twenty (20) days, commencing at 7:00 a.m. September 18, 1951, and terminating at 7:00 a.m. October 8, 1951.

ERWIN B. HOCK
Director.

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - EMPLOYING NON-RESIDENT WHO HELD NO EMPLOYMENT PERMIT - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ADAM and HELEN KUBELCZIKAS)
T/a KUBEL'S BAR & GRILL)
7th Street and Bay View Avenue)
Barnegat Light, N. J.,)

CONCLUSIONS AND ORDER

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

Adam and Helen Kubelczikas, Defendant-licensees, by Adam Kubelczikas. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to charges alleging that they (1) sold, served and permitted the consumption of alcoholic beverages on their licensed premises to four minors, in violation of Rule 1 of State Regulations No. 20; and (2) knowingly employed on their licensed premises a person who was a non-resident of New Jersey, without the requisite employment permit, in violation of Rule 4 of State Regulations No. 13.

On Friday, July 20, 1951, or early on the succeeding Saturday morning, one Helen Russell served, sold and delivered four glasses of beer -- one each to Elizabeth ---, aged 20; Mary ---, aged 19; David ---, aged 19, and Edwin ---, aged 20. The said waitress (a daughter of the licensees) was a resident of the State of Pennsylvania; she held no permit entitling her to the employment as provided by State regulations. No inquiry was made of the minors as to their age.

Defendants have no prior adjudicated record. Under all of the circumstances, I shall suspend their license for twenty days. Five days will be remitted because of the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 29th day of August, 1951,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Barnegat Light to Adam and Helen Kubelczikas, t/a Kubel's Bar & Grill, for premises at 7th Street and Bay View Avenue, Barnegat Light, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. September 5, 1951, and terminating at 2:00 a.m. September 20, 1951.

ERWIN B. HOCK
Director.

6. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD SIMILAR VIOLATION MORE THAN TEN YEARS AGO - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against)

IRVING BLOCK)
T/a RIP TIDE BAR)
Central Avenue & Boardwalk)
Point Pleasant Beach, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-14, issued by the Mayor and Borough Council of the Borough of Point Pleasant Beach.)

Jack Wildman, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On July 3, 1951, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to James ---, U. S. Marine Corps, Jean --- and William ---, persons under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing held herein, William ---, eighteen years of age, testified that on July 3, 1951, at about 8:30 p.m., he and a companion, twenty-two years of age, entered defendant's premises; that they went to the bar where his companion ordered two glasses of beer; that the bartender placed the two glasses of beer on the bar -- one in front of him and one in front of his companion -- and that he drank the contents of the glass which was placed in front of him after his companion had paid for the drinks. Jean ---, twenty years of age, testified that she and her girl friend, who was twenty-one years of age, entered defendant's premises at about the same time. Jean says that she ordered a glass of beer; that the bartender placed a glass of beer on the bar in front of her; that she paid for the drink, and that she had partly consumed the contents of the glass when ABC agents, who were then present on defendant's premises, took the drink away from her. Both of these witnesses testified that, on the evening of July 3, no one questioned them as to their respective ages, although Jean admitted that she had visited defendant's premises on the previous evening and had then told another bartender that she was twenty-one years of age. Neither of these witnesses had signed a written statement of their age. By consent, a statement given by James --- to ABC agents on July 3, 1951, was admitted in evidence. In this statement James ---, twenty years of age, testified that he entered defendant's premises on the evening of July 3, 1951; that, after he entered, he met a "buddy" who ordered a glass of beer for him; that the bartender placed the glass of beer on the bar, but that the ABC agents seized the glass before he had consumed any of its contents. He also stated that the bartender did not make any inquiry as to his age before serving the glass of beer.

On behalf of defendant, Irwin Kaplus testified that he was acting as bartender in defendant's premises on the evening of July 3, 1951, and that he had been employed by defendant only three days before that date. Kaplus did not deny that he sold or served the drinks to any of the three minors, but stated that the licensed premises were crowded on that evening. The licensee was not present when the sale and service was made, but testified that since 1939 (outside

of the war years) he has continuously employed a Mr. Newcombe as a checker to stand at the door and ask for proof as to the age of anyone who appears to be a minor. The licensee testified that, on the evening in question, Mr. Newcombe was on duty but was temporarily absent, to obtain something to eat, when the minors entered the licensed premises.

On the evidence presented, I find defendant guilty as charged.

As indicated above, defendant has operated the licensed premises for thirteen years. It appears that, shortly after he, and a partner who has since withdrawn, obtained the license, disciplinary proceedings were instituted by the local issuing authority which resulted in a suspension of the license for ten days, effective October 25, 1938, after defendants had been found guilty of selling alcoholic beverages to minors. Apparently it was shortly after this time that the defendant employed a checker in order to avoid future violations. In view of all of the attendant circumstances, I shall suspend the license for the minimum period of ten days.

Accordingly, it is, on this 29th day of August, 1951,

ORDERED that Plenary Retail Consumption License C-14, issued by the Mayor and Borough Council of the Borough of Point Pleasant Beach to Irving Block, t/a Rip Tide Bar, for premises at Central Avenue and Boardwalk, Point Pleasant Beach, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. September 5, 1951, and terminating at 2:00 a.m. September 15, 1951.

ERWIN B. HOCK
Director.

7. ELIGIBILITY - COMMERCIALIZED GAMBLING MAY OR MAY NOT INVOLVE MORAL TURPITUDE - CONVICTION OF CRIME OF OPERATING LOTTERY AS A PRINCIPAL HELD TO INVOLVE MORAL TURPITUDE.

September 5, 1951.

Re: Case No. 630

On December 4, 1942, subject was fined \$175.00 by a Police Judge, as a result of his plea of guilty to the charge of possession of lottery slips.

On September 27, 1949, subject was charged, pursuant to a municipal ordinance, with possession of material pertaining to a lottery (slips). As a result of his plea of guilty to this charge, a Municipal Magistrate sentenced subject to three months in prison and imposed a fine of \$200.00. The operation of the prison sentence was suspended.

After indictment by a Grand Jury, subject pleaded guilty on October 4, 1950 to the operation of a lottery and was sentenced to a county penitentiary for a period of six months. Subject was discharged from the penal institution on March 14, 1951.

The crime of conducting or operating a lottery as a principal is one that ordinarily involves the element of moral turpitude. From the evidence before me, I am satisfied that subject's conviction on October 4, 1950 was a conviction of a crime involving moral turpitude. It is unnecessary to determine the status of subject's former convictions.

I recommend, therefore, that subject be advised that, in the opinion of the Director, he has been convicted of a crime involving moral turpitude and that, in the opinion of the Director, any licensee who employs him or permits him to be associated in any capacity with the alcoholic beverage industry will subject his license to suspension or revocation. R. S. 33:1-25, 26.

Clarence E. Kremer
Attorney.

APPROVED:
ERWIN B. HOCK
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN GILBERT TOBIAS)
T/a OCEAN FRONT BAR)
1056 Ocean Avenue)
Sea Bright, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Mayor and Council of the Borough of Sea Bright.)

A. Henry Giordano, 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 a charge alleging that he sold, served and delivered an alcoholic beverage to a minor, in violation of Rule 1 of State Regulations No. 20.

On Saturday, June 30, 1951, an ABC agent observed two soldiers being sold and served a glass of beer each on defendant's premises by the defendant-licensee. One of the soldiers was nineteen years of age.

Defendant has no previous adjudicated record. Finding no aggravating circumstances, I shall suspend the license for the minimum of ten days. Re Hotel Traymore Company, Bulletin 877, Item 5. Remitting five days for the plea will leave a net suspension of five days.

Accordingly, it is, on this 29th day of August, 1951,

ORDERED that Plenary Retail Consumption License C-2, issued by the Mayor and Council of the Borough of Sea Bright to John Gilbert Tobias, t/a Ocean Front Bar, for premises 1056 Ocean Avenue, Sea Bright, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. September 5, 1951, and terminating at 3:00 a.m. September 10, 1951.

ERWIN B. HOCK
Director.

9. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MICHAEL FERRAZZANO &)
HAROLD F. JONES)
417 Marshall Street)
Paterson, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-227, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)

Michael Ferrazzano & Harold F. Jones, Defendant-licensees, by Harold F. Jones, Partner. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded guilty to a charge alleging that they sold, served and delivered, and allowed, permitted and suffered the service and delivery of an alcoholic beverage to a minor on their licensed premises, in violation of Rule 1 of State Regulations No. 20.

On July 31, 1951, a girl, twenty years of age, was served two glasses of beer by one of the licensees at defendants' licensed premises.

Defendants have no previous adjudicated record. In the absence of aggravating circumstances, I shall suspend defendants' license for a period of ten days. Re Crawley, Bulletin 876, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 5th day of September, 1951,

ORDERED that Plenary Retail Consumption License C-227, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Michael Ferrazzano & Harold F. Jones, 417 Marshall Street, Paterson, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. September 10, 1951, and terminating at 3:00 a.m. September 15, 1951.

ERWIN B. HOCK
Director.

10. DISCIPLINARY PROCEEDINGS - HOLDER OF SOLICITOR'S PERMIT AIDING AND ABETTING ILLEGAL TRANSPORTATION AND SALE - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against)

JOSEPH BIVIANO)
237 Monticello Avenue)
Jersey City 4, N. J.,)

CONCLUSIONS AND ORDER

Holder of Solicitor's Permit No. 1800, issued by the Director of the Division of Alcoholic Beverage Control.)

Samuel M. Honig, Esq., Attorney for Defendant-permittee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On June 25, 1951, you knowingly aided and abetted Colonial Mineral Waters, Inc., holder of a New Jersey State Beverage Distributor's License, to transport alcoholic beverages not pursuant to and within the terms of a license or as expressly authorized by R. S. 33:1-28 and State Regulations No. 17, contrary to R. S. 33:1-2, in that you transported and delivered alcoholic beverages for and on behalf of said Colonial Mineral Waters, Inc., in your automobile not bearing a transportation insignia issued by the Director of the Division of Alcoholic Beverage Control; in violation of R. S. 33:1-52.
- "2. On June 25, 1951, you, as holder of a solicitor's permit authorizing your employment by Colonial Mineral Waters, Inc., holder of a New Jersey State Beverage Distributor's License, sold alcoholic beverages otherwise than to the extent duly allowed and permitted by law and by the license of said Colonial Mineral Waters, Inc., in that you accepted an order for alcoholic beverages at premises other than the licensed premises, warehouse or salesroom of said Colonial Mineral Waters, Inc.; in violation of Rule 5 of State Regulations No. 14."

The facts constituting the basis for the charges filed herein are sufficiently set forth in the charges to obviate the necessity of further repetition.

As to penalty, I shall, keeping in mind the non vult plea, suspend the permit of defendant for a period of fifteen days.

Accordingly, it is, on this 6th day of September, 1951,

ORDERED that Solicitor's Permit No. 1800, issued by the Director of the Division of Alcoholic Beverage Control to Joseph Biviano, 237 Monticello Avenue, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 7:00 a.m. October 2, 1951, and terminating at 7:00 a.m. October 17, 1951.

ERWIN B. HOCK
Director.

11. CANCELLATION PROCEEDINGS - DISCLOSURE IN APPLICATION FOR LICENSE OF CRIMINAL RECORD OF ONE PARTNER WHO HAD BEEN CONVICTED OF CRIME INVOLVING MORAL TURPITUDE - SITUATION CORRECTED BY WITHDRAWAL OF DISQUALIFIED PARTNER - RULE TO SHOW CAUSE DISCHARGED.

In the Matter of Disciplinary Proceedings against

DOMINICK POALILLO, VICTOR POALILLO, MICHAEL P. SECOLA and FRANCES POALILLO T/a WHITE HOUSE TAVERN 643 Paterson Avenue Carlstadt, N. J.,

Holder of Plenary Retail Consumption License C-14 for the 1950-51 and 1951-52 licensing years, issued by the Mayor and Council of the Borough of Carlstadt, and transferred during the pendency of these proceedings to

FRANCES and VICTOR POALILLO, and MICHAEL SECOLA T/a WHITE HOUSE BAR & RESTAURANT,

for the same premises.

Guy W. Calissi, Esq., Attorney for Defendant-licensees. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants were served with an order to show cause why their plenary retail consumption license should not be cancelled because of the following allegation:

"Said license was improvidently issued in violation of R. S. 33:1-25 in that your partnership was disqualified from obtaining such license by reason of the fact that Dominick Poalillo, a partner, had been convicted of crimes involving moral turpitude as follows: On or about February 1, 1939 in the Bergen Oyer and Terminer (Bergen County, New Jersey) of the crime of burglary and on or about December 1, 1948 in the Criminal Judicial District Court of the County of Bergen (New Jersey) of the crime of conspiracy to make book."

Defendants, by their attorney, admitted that Dominick Poalillo had been convicted of the crimes set forth above.

It is clear that these convictions were fully set forth in the application filed in June 1949, and it is claimed that the same information was fully disclosed in application filed earlier in said year upon which the license then held by Frances Poalillo, individually, was transferred to the partnership. It is further claimed that the June 1950 application disclosed the same facts about the criminal convictions of Dominick Poalillo.

This permits either one of two conclusions -- (1) that the local issuing authority did not examine the application in its investigation (certainly the first requisite of its duty "to investigate applicants", R.S. 33:1-24), or (2) that the local issuing authority determined that said convictions did not disqualify Dominick Poalillo under the statute R. S. 33:1-25. Since the conviction for burglary unquestionably involved moral turpitude, any finding of the local issuing authority to the contrary cannot be accepted.

In any event, the licensed partnership depended upon the license issued after full disclosure of all the pertinent facts requested.

CONCLUSIONS AND ORDER

The illegal situation has been corrected by the withdrawal of Dominick Poalillo from the partnership and by prompt notification to the local issuing authority thereof. The license continues in the names of the remaining partners. It appears that no fraud was practiced by any of the defendants.

In view of all the facts set forth above, the order to show cause will be discharged.

Accordingly, it is, on this 6th day of September, 1951,

ORDERED that the rule to show cause herein be and the same is hereby discharged.

ERWIN B. HOCK
Director.

12. ELIGIBILITY - COMMERCIALIZED GAMBLING MAY OR MAY NOT INVOLVE MORAL TURPITUDE - CONVICTION AS "STAKE HOLDER" HELD NOT TO INVOLVE MORAL TURPITUDE.

September 6, 1951.

Re: Case No. 631

On March 20, 1951, applicant pleaded guilty in a Municipal Court to a charge of possession of lottery slips under the "Disorderly Persons Law", R.S. 2:202-16, and was fined \$50.00. On April 16, 1951, he pleaded guilty in a County Court of this state to a charge of "Holding Stakes on Horse Races" as defined by R. S. 2:135-7. He was fined the maximum statutory fine of \$100.00. Both charges arose out of the one transaction.

The conviction under the "Disorderly Persons Law" is not the conviction of a crime within the intendment of the Alcoholic Beverage Law. Re Case No. 593, Bulletin 739, Item 14.

As to applicant's conviction in the County Court, it is indicated by the terms of R. S. 2:135-7 that the "stakeholder" is distinguishable from the "gamester". Usually the stakeholder has little, if any, interest in the outcome of the event wagered upon. State v. Dudley, 127 N.J.L. 127. Accordingly, it would appear that the "stakeholder" conviction in the instant case is not the conviction of a crime involving moral turpitude. Re Case No. 378, Bulletin 460, Item 1.

It is recommended that applicant be advised that he is not disqualified under the statute R.S. 33:1-26 from being employed by the holder of a liquor license in this state by reason of the aforesaid conviction.

Edward F. Hodges
Attorney.

APPROVED:
ERWIN B. HOCK
Director.

- 13. DISCIPLINARY PROCEEDINGS - STATE BEVERAGE DISTRIBUTOR LICENSEE - TRANSPORTATION OF ALCOHOLIC BEVERAGES WITHOUT BONA FIDE INVOICES OR MANIFESTS - STORAGE OF ALCOHOLIC BEVERAGES AT OTHER THAN LICENSED PREMISES - TRANSPORTATION OF ALCOHOLIC BEVERAGES IN VEHICLE WITHOUT TRANSPORTATION INSIGNIA - ACCEPTANCE OF ORDERS AT OTHER THAN LICENSED PREMISES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

COLONIAL MINERAL WATERS, INC.)
 375 Second Street)
 Jersey City 2, N. J.,)

CONCLUSIONS AND ORDER

Holder of State Beverage Distributor's License SBD-220, issued by the Director of the Division of Alcoholic Beverage Control.)

-----)
 Samuel M. Honig, 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 charges alleging that (1) it transported alcoholic beverages in a motor vehicle without accompanying bona fide invoices, in violation of Rule 3 of State Regulations No. 17; (2) it stored alcoholic beverages at premises other than its licensed premises without special permit, in violation of Rule 25 of State Regulations No. 20; (3) it transported alcoholic beverages in a vehicle which did not bear a transportation insignia, such transportation being in violation of R. S. 33:1-2; and (4) it accepted orders for alcoholic beverages at premises other than its licensed premises, in violation of R. S. 33:1-2.

On June 25, 1951, according to an examination of the file in the case under consideration, one Joseph Biviano, an employee of defendant corporate-licensee, received an order on the telephone of his home. The order was for a case of beer to be delivered by him to a place located within the municipality. The said Joseph Biviano transferred the case of beer from a truck of defendant to his automobile which did not bear a transportation insignia. The truck was parked by Joseph Biviano in front of his residence because there was no room to park same in the garage or warehouse of defendant. The case of beer in question was subsequently delivered to the address given by the purchaser over the telephone in Joseph Biviano's car.

Defendant has no prior adjudicated record. I shall suspend its license for a period of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 6th day of September, 1951,

ORDERED that State Beverage Distributor's License SBD-220, issued by the Director of the Division of Alcoholic Beverage Control to Colonial Mineral Waters, Inc., for premises 375 Second Street, Jersey City, be and the same is hereby suspended for fifteen (15) days, commencing at 7:00 a.m. September 17, 1951, and terminating at 7:00 a.m. October 2, 1951.

ERWIN B. HOCK
 Director.

14. DISQUALIFICATION - APPLICATION DENIED BECAUSE OF THE LENGTH AND NATURE OF PETITIONER'S CRIMINAL RECORD DESPITE FACT THAT APPLICANT HAD NOT BEEN CONVICTED OF CRIME WITHIN PAST FIVE YEARS - LEAVE GRANTED TO REAPPLY AFTER THE EXPIRATION OF ONE YEAR FROM DATE OF ORDER.

In the Matter of an Application)
to Remove Disqualification)
because of a Conviction, Pursuant)
to R. S. 33:1-31.2.)
Case No. 914.)
-----)

CONCLUSIONS
AND ORDER

BY THE DIRECTOR:

Petitioner, who was born in 1912, has a long criminal record. In 1929, when seventeen years of age, he was convicted in a criminal court on a charge of breaking, entering and larceny and was sentenced to a reformatory. Apparently, he remained there for about one and one-half years. Shortly after his release, he was arrested on a similar charge and again sentenced to the reformatory. He was paroled after he had remained there for a period of eight or nine months. In August 1934, he was convicted in a court of criminal jurisdiction on a charge of atrocious assault and battery. He was paroled from the reformatory in September 1935, but twice thereafter within a period of four years he was returned to the reformatory for violating his parole. In December 1944, he pleaded guilty in a court of criminal jurisdiction to the crime of atrocious assault and battery and was sentenced to serve from one to two years in State Prison. He was paroled from State Prison in November 1945 and has no subsequent record, except that in March 1946 he was convicted as a disorderly person and received a suspended sentence.

Petitioner has been employed in various cleaning establishments during the past five years but does not appear to have been very steadily employed. In 1948 he accepted employment by a retail licensee and was employed on licensed premises for a period of more than two months. The licensee, who alleged he had no knowledge of petitioner's criminal record, discharged him after ABC agents during the course of an investigation called the attention of the licensee to the fact that the petitioner had a criminal record.

The mere fact that five years have elapsed since petitioner's last conviction does not automatically entitle him to relief in this proceeding. Under the circumstances of this case, I am unable to conclude that petitioner's association with the alcoholic beverage industry would not be contrary to the public interest. It will be necessary for petitioner to demonstrate by a further period of good conduct that he has rehabilitated himself before I shall grant him any relief. I shall deny the present petition, with leave to reapply after the expiration of one year from the date hereof.

Accordingly, it is, on this 6th day of September, 1951,

ORDERED that the petition herein be and the same is hereby denied with leave to reapply as aforesaid.

ERWIN B. HOCK
Director.

15. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 AND IN VIOLATION OF A LOCAL ORDINANCE - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ANTHONY S. BIEDRZYCKI and MARY K. BIEDRZYCKI T/a ERIE CAFE 952 N. Front Street Camden, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-138, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

Anthony S. Biedrzycki and Mary K. Biedrzycki, Defendant-licensees, Pro Se. Vincent T. Flanagan, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendants have pleaded non vult to charges alleging that (1) on Sunday, August 5, 1951, they sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38, and (2) on said date they sold alcoholic beverages during prohibited hours, in violation of a local ordinance.

On the date aforesaid, at 12:00 noon, ABC agents apprehended a man with a pint bottle of whiskey and six quart bottles of beer as he came out of the defendants' licensed premises. The local ordinance prohibits the sale of alcoholic beverages on Sunday, and State Regulations No. 38 prohibits the sale of alcoholic beverages in original containers for off-premises consumption on Sunday.

Defendants have no prior record. I shall suspend defendants' license for twenty days, less five days' remission for the plea entered herein, leaving a net suspension of fifteen days. Cf. Re Wasiluk, Bulletin 608, Item 10.

Accordingly, it is, on this 6th day of September, 1951,

ORDERED that Plenary Retail Consumption License C-138, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Anthony S. Biedrzycki and Mary K. Biedrzycki, t/a Erie Cafe, 952 N. Front Street, Camden, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. September 12, 1951, and terminating at 2:00 a.m. September 27, 1951.

ERWIN B. HOCK Director.

16. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against PETER DELLA RODOLFA & JOSEPH DELLA RODOLFA T/a RODOLFA'S 10-12 Nicholson Street Lodi, N. J. Holders of Plenary Retail Consumption License No. C-9, issued by the Mayor and Council of the Borough of Lodi.

CONCLUSIONS AND ORDER

Gerald P. Lo Proto, Esq., Attorney for Defendant-licensees. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they sold alcoholic beverages at retail during prohibited hours, in violation of Rule 1 of State Regulations No. 38.

On Wednesday, July 25, 1951, at about 8:30 a.m., Peter Della Rodolfa sold a pint bottle of Schenley whiskey in its original container for off-premises consumption to a customer, and then sold two quart bottles of Ballantine beer in original containers for off-premises consumption to an ABC agent. Rule 1 of State Regulations No. 38 prohibits inter alia such sales before 9:00 a.m. on any weekday.

Defendants have no prior adjudicated record. I shall impose the minimum suspension for violations of this type -- fifteen days. Re Bernstein, Bulletin 884, Item 12. Remitting five days because of the plea will leave a net suspension of ten days.

Accordingly, it is, on this 6th day of September, 1951,

ORDERED that Plenary Retail Consumption License C-9, issued by the Mayor and Council of the Borough of Lodi to Peter Della Rodolfa & Joseph Della Rodolfa, t/a Rodolfa's, for premises 10-12 Nicholson Street, Lodi, be and the same is hereby suspended for ten (10) days, commencing at 4:00 a.m. September 10, 1951, and terminating at 4:00 a.m. September 20, 1951.

ERWIN B. HOCK Director.

17. STATE LICENSES - NEW APPLICATIONS FILED.

High Grade Beverage Upper Jersey Ave., New Brunswick, N. J. Application filed August 23, 1951 for additional warehouse at Route 6, Kenil, N. J. (State Beverage Distributor)

James Vetri 260 - 39th St., Brooklyn 32, N. Y. Application filed August 29, 1951 for Transportation License.

Sunshine Brewing Co. West Elm and Gordon St., Reading, Pa. Application filed September 4, 1951 for Limited Wholesale License.

Three Towns Beverage Corporation 27 N. J. State Highway 17, East Rutherford, N. J. Application filed September 5, 1951 for Limited Wholesale License.

Erwin B Hock