

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

BULLETIN 578

AUGUST 4, 1943.

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS - CHARGE OF PERMITTING AND SUFFERING GAMBLING ON LICENSED PREMISES, IN VIOLATION OF RULE 7 OF STATE REGULATIONS NO. 20, DISMISSED - VIOLATION OF R. S. 33:1-34 - FAILURE TO FILE NOTICE OF CHANGE IN FACTS SET FORTH IN APPLICATION - ILLEGAL SITUATION CORRECTED - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R.S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 25 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.
2. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FOR THE FISCAL YEAR 1942-43.
3. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN APPLICATION FOR LICENSE CONCEALING MATERIAL FACT - AIDING AND ABETTING NON-LICENSEE TO EXERCISE RIGHTS AND PRIVILEGES OF LICENSE - ILLEGAL SITUATION CORRECTED - PERMITTING AND SUFFERING LEWD ACTIVITIES ON LICENSED PREMISES - 30 DAYS' SUSPENSION, LESS 5 FOR PLEA.
4. APPELLATE DECISIONS - THE PARK AVENUE METHODIST CHURCH v. EAST ORANGE and LAIFER AND SCHAFMAN.
5. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - FAILING TO KEEP PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - SALE OF ALCOHOLIC BEVERAGES CONTRARY TO TERMS OF LICENSE IN VIOLATION OF R. S. 33:1-2 - 90 DAYS' SUSPENSION.
6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO PERSON ACTUALLY OR APPARENTLY INTOXICATED IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 20 - REBOTTLING IN VIOLATION OF R.S. 33:1-78 - 30 DAYS' SUSPENSION, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS IN VIOLATION OF R.S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS IN VIOLATION OF R.S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN APPLICATION FOR LICENSE IN VIOLATION OF R.S. 33:1-25 - VIOLATION OF R.S. 33:1-34 - FAILURE TO FILE CHANGE IN STOCK OWNERSHIP - 15 DAYS' SUSPENSION.
11. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINOR IN VIOLATION OF R.S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 30 - PREVIOUS RECORD - 15 DAYS' SUSPENSION.
12. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - DISCREPANCY IN PROOF, ACIDS AND SOLIDS - 10 DAYS' SUSPENSION.

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

BULLETIN 578

AUGUST 4, 1943.

1. DISCIPLINARY PROCEEDINGS - CHARGE OF PERMITTING AND SUFFERING GAMBLING ON LICENSED PREMISES, IN VIOLATION OF RULE 7 OF STATE REGULATIONS NO. 20, DISMISSED - VIOLATION OF R. S. 33:1-34 - FAILURE TO FILE NOTICE OF CHANGE IN FACTS SET FORTH IN APPLICATION - ILLEGAL SITUATION CORRECTED - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 25 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

ALPS, INC.)
T/a ALPS RESTAURANT)
178 Smith Street)
Perth Amboy, N. J.,)

Holder of Plenary Retail Consumption License C-83 for fiscal year 1942-43 and now holder of Plenary Retail Consumption License C-83 for fiscal year 1943-44, both issued by the Board of Commissioners of the City of Perth Amboy;)

CONCLUSIONS
AND ORDER

-and-)

BEN (or BENJAMIN) POLAN)
237 Water Street)
Perth Amboy, N. J.,)

Holder of Employment Permit No. 4799, issued by the State Commissioner of Alcoholic Beverage Control.)
-----)

John E. Toolan, Esq., Attorney for Defendant-Licensee and Defendant-Permittee.
Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleaded guilty to charges which may be summarized as follows: (1) failure to file a true statement of the change in shareholdings, in violation of R. S. 33:1-34; (2) fronting for a person disqualified by reason of the lack of five years' residence, in violation of R. S. 33:1-12.1; (3) and (4) sale to a minor, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20; and not guilty to charge (5) of allowing, permitting and suffering gambling on the licensed premises, in violation of Rule 7 of State Regulations No. 20.

Charges 1 and 2 were preferred when it appeared that Ben Polan, the beneficial owner of all of the stock of Alps, Inc., was at the time disqualified by reason of the fact that he had not lived in New Jersey for five years, continuously, immediately prior to the date of securing his interest in the corporation.

While this violation would have warranted a substantial penalty in accordance with my warning of June 1, 1942, Bulletin 512, Item 9, the Legislature, by amendment to R. S. 33:1-25, approved March 27, 1943 (chapter 48, P.L. 1943), removed the five year residence requirement, leaving as the only requirement with respect to residence that retail licensees or beneficial owners of more than 10% of the stock of retail licensed corporations must be residents at the time the application is made and continue as such during the enjoyment of the license privileges. The front has been corrected. However, from August 1942 until March 1943 the front violation did exist. I shall impose a penalty on the first two charges of fifteen days' suspension of the license.

The third and fourth charges involve sale of beer to a young man nineteen years of age. No aggravating circumstances appear. The minimum penalty for this charge is ten days.

As to the fifth charge, there is no doubt from the evidence that a gambling game, to wit, "Three-card Monte", was played on the licensed premises as alleged in the charge. While gambling will not be tolerated on licensed premises, there is no evidence before me that the licensee "allowed, permitted and suffered" the game. Even the witness for the Department could not be sure that the licensee was aware that he, the witness, was being "fleeced" by other patrons in the premises. I shall therefore dismiss charge No. 5 and, from the total penalty of twenty-five days, allow five days' remission thereof for the guilty plea.

Although this proceeding was instituted during the license period ending June 30, 1943, it does not abate but remains fully operative against the defendant's renewal license for the current 1943-44 period. State Regulations No. 15.

I shall take no action concerning Polan's employment permit because he is a resident of New Jersey, and hence, by virtue of the recent amendment to R. S. 33:1-25 referred to, no longer requires an employment permit to enable him to work upon licensed premises. Re Chini, Bulletin 568, Item 6. Therefore, suspension or revocation of such permit will seemingly serve no useful purpose.

Accordingly, it is, on this 16th day of July, 1943,

ORDERED, that Plenary Retail Consumption License C-83, issued by the Board of Commissioners of the City of Perth Amboy to Alps, Inc., t/a Alps Restaurant, for premises 178 Smith Street, Perth Amboy, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 A. M. July 21, 1943, and terminating at 2:00 A. M. August 10, 1943.

ALFRED E. DRISCOLL
Commissioner.

2. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FOR THE FISCAL YEAR 1942-43

To: Alfred E. Driscoll, Commissioner

| | 1st Quarter | | | 2nd Quarter | | | 3rd Quarter | | | 4th Quarter | | | TOTAL |
|--|-------------|--------|-------|-------------|------|-----------------|-------------|------|------|-------------|-----|------|----------|
| | Jul. | Aug. | Sept. | Oct. | Nov. | Dec. | Jan. | Feb. | Mar. | Apr. | May | June | |
| <u>ARRESTS:</u> | | | | | | | | | | | | | |
| Licenses and employees | | 36 | | 6 | | | 28 | | | 31 | | | 101 |
| Bootleggers | | 35 | | 15 | | | 19 | | | 25 | | | 94 |
| Total number of persons arrested | | 71 | | 21 | | | 47 | | | 56 | | | 195 |
| <u>SEIZURES:</u> | | | | | | | | | | | | | |
| <u>Stills</u> | | | | | | | | | | | | | |
| 1 to 50 gal. daily capacity | | 2 | | 5 | | | 2 | | | 0 | | | 9 |
| 50 gal. and more daily capacity | | 0 | | 0 | | | 1 | | | 1 | | | 2 |
| Total number of stills seized | | 2 | | 5 | | | 3 | | | 1 | | | 11 |
| <u>Mash - gallons</u> | | 10 | | 215 | | | 1,300 | | | 20 | | | 1,545 |
| <u>Motor vehicles</u> | | | | | | | | | | | | | |
| Trucks | | 5 | | 0 | | | 1 | | | 3 | | | 9 |
| Passenger cars | | 2 | | 1 | | | 2 | | | 4 | | | 9 |
| Total number of motor vehicles seized | | 7 | | 1 | | | 3 | | | 7 | | | 18 |
| <u>Beverage alcohol - gallons</u> | | 1.50 | | 3 | | | 55 | | | 14 | | | 73.50 |
| <u>Brewed malt alcoholic beverages</u> (beer, ale, etc.) - gallons | | 103.02 | | 10.78 | | | 73.90 | | | 99.19 | | | 286.89 |
| <u>Wine - gallons</u> | | 225.65 | | 1,116.13 | | | 1,602.97 | | | 450.74 | | | 3,395.49 |
| <u>Distilled alcoholic beverages</u> (whiskey, brandy, etc.) - gallons | | 60.29 | | 1,271.14 | | | 696.89 | | | 217.08 | | | 2,245.40 |
| <u>RETAIL LICENSEES:</u> | | | | | | | | | | | | | |
| Number of premises inspected | | 4,497 | | 5,373 | | | 5,523 | | | 5,086 | | | 20,479 |
| Total number of bottles gauged | | 30,868 | | 36,960 | | | 39,651 | | | 39,598 | | | 147,077 |
| Total number of premises where violations were found | | 369 | | 324 | | | 313 | | | 164 | | | 1,170 |
| Number and type of violations found: | | | | | | | | | | | | | |
| Illicit (bootleg) liquor | | 12 | | 35 | | | 26 | | | 39 | | | 112 |
| Gambling devices | | 16 | | 1 | | | 13 | | | 3 | | | 33 |
| Prohibited signs | | 7 | | 2 | | | 15 | | | 2 | | | 26 |
| Unqualified employees | | 500 | | 335 | | | 226 | | | 140 | | | 1,201 |
| "Fronts" (concealed ownership) | | 12 | | 10 | | | 35 | | | 17 | | | 74 |
| Improper beer tap markers | | 4 | | 0 | | | 4 | | | 0 | | | 8 |
| Stock disposal permits necessary | | 33 | | 34 | | | 23 | | | 16 | | | 106 |
| Other types of violations | | 44 | | 51 | | | 34 | | | 29 | | | 158 |
| <u>MILITARY AREA PATROL INSPECTIONS:</u> | | | | 529 | | (Nov. and Dec.) | 1,467 | | | 1,886 | | | 3,882 |
| <u>STATE LICENSEES:</u> | | | | | | | | | | | | | |
| Premises inspected | | 49 | | 155 | | | 300 | | | 239 | | | 743 |
| License applications investigated | | 32 | | 27 | | | 37 | | | 612 | | | 708 |
| <u>COMPLAINTS:</u> | | | | | | | | | | | | | |
| Investigated, reviewed and closed | | 848 | | 989 | | | 1,325 | | | 987 | | | 4,149 |
| Investigation assigned, not yet completed | | --- | | --- | | | --- | | | --- | | | 288* |
| <u>LABORATORY:</u> | | | | | | | | | | | | | |
| Analyses made | | 330 | | 363 | | | 411 | | | 351 | | | 1,455 |
| "Shake-up" cases (alcohol, water and artificial coloring) | | 41 | | 43 | | | 35 | | | 24 | | | 143 |
| Liquor found to be not genuine as labeled | | 12 | | 35 | | | 28 | | | 49 | | | 124 |

*Pending at end of fiscal year

RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FOR THE FISCAL YEAR 1942-43 (Cont'd)

| | 1st Quarter | | | 2nd Quarter | | | 3rd Quarter | | | 4th Quarter | | | TOTAL |
|---|-------------|------|-------|-------------|------|------|-------------|------|------|-------------|-----|------|--------|
| | Jul. | Aug. | Sept. | Oct. | Nov. | Dec. | Jan. | Feb. | Mar. | Apr. | May | June | |
| <u>IDENTIFICATION BUREAU:</u> | | | | | | | | | | | | | |
| Criminal fingerprint identifications made | 84 | | | 27 | | | 61 | | | 46 | | | 218 |
| Persons fingerprinted for non-criminal purposes | 686 | | | 271 | | | 257 | | | 620 | | | 1,834 |
| Identification contacts with other enforcement agencies | 410 | | | 210 | | | 318 | | | 788 | | | 1,726 |
| Motor vehicle identifications via N. J. State Police Teletype | 17 | | | 4 | | | 6 | | | 33 | | | 60 |
| <u>DISCIPLINARY PROCEEDINGS:</u> | | | | | | | | | | | | | |
| Cases transmitted to municipalities | 43 | | | 50 | | | 47 | | | 78 | | | 218 |
| Cases instituted at Department | 65 | | | 94 | | | 71 | | | 86 | | | 316 |
| Cancellation proceedings | 2 | | | 2 | | | 5 | | | 4 | | | 13 |
| <u>HEARINGS HELD AT DEPARTMENT:</u> | | | | | | | | | | | | | |
| Number of hearings held | 169 | | | 153 | | | 137 | | | 168 | | | 627 |
| Appeals | 41 | | | 14 | | | 18 | | | 10 | | | 83 |
| Disciplinary proceedings | 66 | | | 101 | | | 82 | | | 101 | | | 350 |
| Eligibility | 34 | | | 22 | | | 24 | | | 21 | | | 101 |
| Seizures | 24 | | | 10 | | | 7 | | | 13 | | | 54 |
| Tax revocations | 0 | | | 6 | | | 4 | | | 21 | | | 31 |
| Application for club license | 1 | | | 0 | | | 0 | | | 0 | | | 1 |
| Application for warehouse (hearing on objections) | 1 | | | 0 | | | 0 | | | 0 | | | 1 |
| Investigatory hearing | 2 | | | 0 | | | 0 | | | 0 | | | 2 |
| Objection to transfer of license | 0 | | | 0 | | | 1 | | | 0 | | | 1 |
| Objection to issuance of State license | 0 | | | 0 | | | 1 | | | 0 | | | 1 |
| Application for license | 0 | | | 0 | | | 0 | | | 2 | | | 2 |
| <u>PERMITS ISSUED:</u> | | | | | | | | | | | | | |
| Total number of permits issued | 9,593 | | | 5,348 | | | 2,152 | | | 1,704 | | | 18,797 |
| Unqualified employees | 5,208 | | | 1,234 | | | 916 | | | 695 | | | 8,053 |
| Solicitors | 2,336 | | | 162 | | | 148 | | | 132 | | | 2,778 |
| Social affairs | 626 | | | 530 | | | 216 | | | 373 | | | 1,745 |
| Home manufacture of wine | 226 | | | 2,765 | | | 295 | | | 3 | | | 3,289 |
| Disposal of alcoholic beverages | 243 | | | 161 | | | 168 | | | 173 | | | 745 |
| Miscellaneous permits | 954 | | | 496 | | | 409 | | | 328 | | | 2,187 |

Respectfully submitted,

SYDNEY B. WHITE
Chief Inspector.

3. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN APPLICATION FOR LICENSE CONCEALING MATERIAL FACT - AIDING AND ABETTING NON-LICENSEE TO EXERCISE RIGHTS AND PRIVILEGES OF LICENSE - ILLEGAL SITUATION CORRECTED - PERMITTING AND SUFFERING LEWD ACTIVITIES ON LICENSED PREMISES - 30 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

FRANK MELCHIORRE)
487 - 18th Avenue)
Newark, N. J.,)

Holder of Plenary Retail Consumption License C-903 for the fiscal year 1942-43, and transferred during pendency of these proceedings in said year to)

ANTHONY STORINO)
for the same premises,)

and renewed by the said Anthony Storino, now holding Plenary Retail Consumption License C-903 for the fiscal year 1943-44, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

CONCLUSIONS AND ORDER

I. Arthur Levy, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant-licensee pleads non vult to the following charges:

"1. In your application, filed with the Municipal Board of Alcoholic Beverage Control of the City of Newark and upon which you obtained your current plenary retail consumption license for premises at 487 - 18th Avenue, Newark, N. J., you stated 'No' in answer to Question 30, which asks: 'Has any individual...other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?', whereas in truth and fact Anthony Storino was the real and beneficial owner of the said business; such false statement being in violation of R. S. 33:1-25.

"2. From April 8, 1942 until the present time, you knowingly aided and abetted Anthony Storino to exercise, contrary to R. S. 33:1-26, the rights and privileges of your successive plenary retail consumption licenses for the aforesaid premises, in violation of R. S. 33:1-52.

"3. On and about February 15, 1943, and on divers other dates during the said month of February, you allowed, permitted and suffered lewdness and immoral activity upon your licensed premises in that you allowed, permitted and suffered indecent and obscene moving picture exhibitions on the said dates at your licensed premises, in violation of Rule 5 of State Regulations No. 20."

The file discloses that defendant-licensee was the brother-in-law of one Anthony Storino, who was the real and beneficial owner of the said tavern. There is nothing to indicate that Anthony Storino is in any way disqualified from holding a license. The plenary retail consumption license was taken out in the name of the present licensee, according to the respective statements of both the nominal and the real owner, in order to safeguard the interest in the licensed premises from attack by judgment creditors of said Anthony Storino. The proper correction has now been made.

On several occasions during February 1943, the defendant herein exhibited to various persons moving pictures of a woman posing in the nude. The exhibition of this type of picture on the licensed premises is not conducive to good morals and its display will not be tolerated.

As to penalty: On the first two charges, I will suspend the license for twenty days, and for ten days, less five for the non vult plea, on the third charge, thus making a total suspension of twenty-five days.

Accordingly, it is, on this 21st day of July, 1943,

ORDERED, that Plenary Retail Consumption License C-903, heretofore issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Anthony Storino, for premises 487 - 18th Avenue, Newark, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 A.M. July 26, 1943, and terminating at 2:00 A.M. August 20, 1943.

ALFRED E. DRISCOLL
Commissioner.

4. APPELLATE DECISIONS - THE PARK AVENUE METHODIST CHURCH v. EAST ORANGE AND LAIFER AND SCHAFMAN.

THE PARK AVENUE METHODIST CHURCH,)
Appellant,)

ON APPEAL
ORDER

-vs-

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF EAST ORANGE, and SAMUEL LAIFER and JOSEPH SCHAFMAN,)
Respondents.)

BY THE COMMISSIONER:

This is an appeal from the issuance of a plenary retail distribution license to Samuel Laifer and Joseph Schafman for premises 271 North Grove Street, East Orange.

Since the institution of this appeal, the respondent Board has accepted a surrender of the license from Samuel Laifer and Joseph Schafman. In view thereof, the appellant has requested that the appeal be discontinued. No reason appears why the request should not be granted.

Accordingly, it is, on this 29th day of July, 1943,

ORDERED, that the petition of appeal be and the same is hereby dismissed.

ALFRED E. DRISCOLL
Commissioner.

5. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - FAILING TO KEEP PREMISES CLOSED DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - SALE OF ALCOHOLIC BEVERAGES CONTRARY TO TERMS OF LICENSE IN VIOLATION OF R. S. 33:1-2 - 90 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against JACOB ADDIS Westfield Avenue and Brant Lane Clark Township P.O. R.F.D. 2 Rahway, N. J., Holder of Plenary Retail Consumption License C-2 for the fiscal years 1942-43 and 1943-44, issued by the Township Committee of the Township of Clark.

CONCLUSIONS AND ORDER

Richard M. Glassner, Esq., Attorney for Defendant-Licensee. Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult to charges alleging that (1) on Sunday, September 27, 1942, he sold alcoholic beverages during prohibited hours, in violation of local ordinance; (2) on that day, he failed to keep his premises closed during the hours sales were prohibited, in violation of local ordinance; and (3) on November 27, 1942 he sold alcoholic beverages not pursuant to and within the terms of his license, in violation of R. S. 33:1-2.

As to (1) and (2): It appears that, on the day in question, two ABC agents visited the licensed premises at 3:25 A.M., or twenty-five minutes past the closing hour, and purchased several bottles of beer from the defendant's bartender.

As to (3): Defendant's licensed premises are confined to the first floor of a two-story frame building, which he operates as a hotel. On November 27, 1942 an ABC agent, accompanied by a female companion, entered the barroom and were there each served several drinks by the bartender. Thereafter, they were served alcoholic beverages by the bartender on the second floor, which is not part of the licensed premises.

This violation is seriously aggravated by the manner in which the defendant has conducted his hotel business. Although no probative evidence of immorality was available as a basis for further charges, it is apparent that the defendant took little or no pains to guard against the possibility of any such activity. It was ascertained that very few hotel guests were required to register, no baggage was necessary to secure a room, and no effort was made to determine whether any of the couples were married.

This lax method of operating the hotel in conjunction with the licensed premises warrants a substantial increase in the penalty normally imposed for the violation herein. Indeed, if no corrective measures had been taken by defendant, the license might well have been revoked. However, the defendant has advised me that, pending these

proceedings, "operation of the hotel has been entirely suspended", and has further given me his "firm assurance that in the event that the operation of the hotel shall in the future be resumed, it will be operated solely and only as a hotel for men." Moreover, the defendant, who has held a license for the past five years, has no previous record. Under all of the circumstances, I shall impose a suspension of ninety days for the violations herein.

Although these proceedings were instituted during the last licensing year (1942-43), they do not abate but remain fully effective against the defendant's renewal license. State Regulations No. 15.

Accordingly, it is, on this 22nd day of July, 1943,

ORDERED, that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Clark to Jacob Addis, for premises Westfield Avenue and Brant Lane, Clark Township, for the fiscal year 1943-44, be and the same is hereby suspended for a period of ninety (90) days, commencing at 3:00 A.M. July 27, 1943, and terminating at 3:00 A.M. October 25, 1943.

ALFRED E. DRISCOLL
Commissioner.

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO PERSON ACTUALLY OR APPARENTLY INTOXICATED, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 20 - REBOTTLING IN VIOLATION OF R. S. 33:1-78 - 30 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN J. O'DONNELL)
169 Hobart Avenue)
Bayonne, N. J.,)

Holder of Plenary Retail Consumption License C-24 for the fiscal year 1942-43, and transferred during pendency of these proceedings in said year to)

CORNELIUS J. O'DONNELL)
for the same premises,)

and renewed by the said CORNELIUS J. O'DONNELL, now holding Plenary Retail Consumption License C-24 for the fiscal year 1943-44, issued by the Board of Commissioners of the City of Bayonne.)
- - - - -)

CONCLUSIONS
AND ORDER

John J. O'Donnell, Pro Se.
Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleaded non vult to charges (1) that he sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to a person who was actually and apparently intoxicated, in violation of Rule 1 of State Regulations No. 20; and (2) that he rebottled an alcoholic beverage for sale, in violation of R. S. 33:1-78.

I shall accept the plea of non vult as fully equivalent to a plea of guilty. Re Fennia Grill, Inc., Bulletin 568, Item 7.

On April 22, 1943 the bartender employed by the licensee on the licensed premises sold and served to, and permitted the consumption of alcoholic beverages by, a person actually intoxicated. On the same day the bartender refilled a pint bottle with wine and sold the wine to a patron for off-premises consumption, thereby engaging in bottling without the requisite license so to do.

In January 1940 the license held by John J. O'Donnell was suspended for five days for selling during prohibited hours.

In view of the prior record of this licensee, the indicated penalty for the first offense is twenty-five days, and for the second, five days. From the total penalty I shall remit five days for the plea.

Although this proceeding was instituted against the prior licensee, any transfer is subject to the penalty which may be imposed herein. The proceeding does not abate by reason of the expiration of the licensing year on June 30, 1943, but remains fully effective against the license for the current (1943-44) period. State Regulations No. 15.

Accordingly, it is, on this 29th day of July, 1943,

ORDERED, that Plenary Retail Consumption License C-24, issued by the Board of Commissioners of the City of Bayonne to Cornelius J. O'Donnell, for premises 169 Hobart Avenue, Bayonne, be and the same is hereby suspended for twenty-five days, commencing at 3:00 A. M. August 2, 1943, and terminating at 3:00 A.M. August 27, 1943.

ALFRED E. DRISCOLL
Commissioner.

7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

KONSTANTY CHICHON
T/a CHICK'S INN
253-5 French Street
New Brunswick, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-64 for the fiscal year 1942-43 and now holder of Plenary Retail Consumption License C-64 for the current (1943-44) year, both issued by the Board of Commissioners of the City of New Brunswick.

George W. Bucko, Jr., Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads non vult to the following charges:

"1. On or about February 6, 1943, and on or about February 8, 1943, you sold alcoholic beverages to Rose ---- and Sophie ----, minors, in violation of R.S. 33:1-77.

"2. On or about the dates aforesaid, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Rose ---- and Sophie ----, 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."

The defendant herein has no previous adjudicated record. The minors, Sophie ---- and Rose ----, to whom alcoholic beverages were served, were approximately eighteen years and nine months and twenty years and ten months of age, respectively. In view of the fact that there are no aggravating circumstances, the usual penalty of ten days' suspension for sale to a minor will be imposed. Five days will be remitted for the plea entered herein. See Re Christmas, Bulletin 575, Item 4.

Accordingly, it is, on this 29th day of July, 1943,

ORDERED, that Plenary Retail Consumption License C-64, issued by the Board of Commissioners of the City of New Brunswick to Konstanty Chichon, t/a Chick's Inn, for premises 253-5 French Street, New Brunswick, be and the same is hereby suspended for five (5) days, commencing at 2:00 A.M. August 2, 1943, and terminating at 2:00 A.M. August 7, 1943.

ALFRED E. DRISCOLL
Commissioner.

8. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS IN VIOLATION OF R.S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

STEVE KOVACS)
T/a NEILSON GRILL)
259 Neilson Street)
New Brunswick, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-60 for the fiscal year 1942-43 and now holder of Plenary Retail Consumption License C-60 for the current (1943-44) year, both issued by the Board of Commissioners of the City of New Brunswick.)
-----)

Steve Kovacs, Pro Se.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The charges preferred against the defendant-licensee are as follows:

"1. On or about February 10, 1943, you sold alcoholic beverages to Rose ----, a minor, in violation of R. S. 33:1-77.

"2. On or about the date aforesaid, you sold, served, and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Rose ----, a person under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such person upon your licensed premises, in violation of Rule 1 of State Regulations No. 20."

The defendant-licensee stated he had no recollection of the sale to a minor upon which the charges were predicated. A technical plea of not guilty was thereupon entered in order to ascertain the true facts in the case.

Rose ----, approximately twenty years and ten months of age, testified that she was served beer by defendant while at his tavern on February 10, 1943. Accompanying her on this occasion, according to the testimony of Rose ----, were Sophie ----, Jimmy --- and a soldier. Sophie ---- stated that Rose was served beer by either a man or a woman. Sophie also states that this same person would not serve her any alcoholic beverages because she appeared to be under the age of twenty-one years.

Defendant testified that he did not remember seeing these two girls previous to the time they were accompanied in the licensed premises by county law enforcement officers for the purpose of identification.

Even if defendant-licensee has no recollection of Rose ---- being served alcoholic beverages in the tavern on the date in question, I am satisfied from the testimony of the two girls in this case that service was made. The defendant-licensee stated that his lack of knowledge of the incident prevented him from entering a plea in the case. The hearer had no other alternative but to enter a technical plea of not guilty for the purposes of the record. Out of a sense of fairness to the licensee in the particular matter, my finding of guilt shall not preclude him from the usual remission of a part of the penalty to be imposed. The evidence also shows that licensee refused to serve the younger girl. The usual penalty for sale to a minor where no aggravating circumstances exist is ten days. (See Re Christmas, Bulletin 575, Item 4.) Five days of the penalty because of the unusual condition existing herein will be remitted.

Accordingly, it is, on this 29th day of July, 1943,

ORDERED, that Plenary Retail Consumption License C-60, issued by the Board of Commissioners of the City of New Brunswick to Steve Kovacs, t/a Neilson Grill, for premises 259 Neilson Street, New Brunswick, be and the same is hereby suspended for five (5) days, commencing at 2:00 A.M. August 2, 1943, and terminating at 2:00 A.M. August 7, 1943.

ALFRED E. DRISCOLL
Commissioner.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN J. SOMOGYI, JR.)
T/a SOMERSET CAFE)
132 Somerset Street)
New Brunswick, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-80 for the fiscal year 1942-43 and now holder of Plenary Retail Consumption License C-80 for the current (1943-44) year, both issued by the Board of Commissioners of the City of New Brunswick.)

Charles M. Morris, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads non vult to the following charges:

"1. On or about February 10, 1943, and on or about February 16, 1943, you sold alcoholic beverages to Rose ---- and Sophie ----, minors, in violation of R.S. 33:1-77.

"2. On or about the dates aforesaid, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Rose --- and Sophie ---, 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."

The defendant herein has no previous adjudicated record. The minors, Sophie ---- and Rose ----, to whom alcoholic beverages were served, were approximately eighteen years and nine months and twenty years and ten months of age, respectively. In view of the fact that there are no aggravating circumstances, the usual penalty of ten days' suspension for sale to a minor will be imposed. Five days will be remitted for the plea entered herein. See Re Christmas, Bulletin 575, Item 4.

Accordingly, it is, on this 29th day of July, 1943,

ORDERED, that Plenary Retail Consumption License C-80, issued by the Board of Commissioners of the City of New Brunswick to John J. Somogyi, Jr., t/a Somerset Cafe, for premises 132 Somerset Street, New Brunswick, be and the same is hereby suspended for five (5) days, commencing at 2:00 A.M. August 2, 1943, and terminating at 2:00 A. M. August 7, 1943.

ALFRED E. DRISCOLL
Commissioner.

10. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN APPLICATION FOR LICENSE IN VIOLATION OF R. S. 33:1-25 - VIOLATION OF R. S. 33:1-34 - FAILURE TO FILE CHANGE IN STOCK OWNERSHIP - 15 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against ANNITA WINE & LIQUOR CO., INC. 805 Summit Avenue Union City, N. J., Holder of Plenary Retail Distribution License D-9 issued by the Board of Commissioners of the City of Union City.

CONCLUSIONS AND ORDER

Benedict A. Beronio, Esq., Attorney for Defendant-Licensee. Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleaded non vult to charges which may be summarized as follows: (1) filing, during the fiscal year 1942-43, a license application containing a false statement in violation of R. S. 33:1-25, and (2) failure to file with the local issuing authorities a notice of change in stockholdings in violation of R.S. 33:1-34.

The application for the license was filed on September 17, 1942. Therein it was set forth that eighteen of the twenty shares of defendant corporation were owned by one Joseph Pezzella. This statement was false because Fred Catalano was then and now is the beneficial owner of all of the stock of Annita Wine & Liquor Co., Inc. On January 2, 1943 the eighteen shares of stock were transferred on the books of the corporation from Joseph Pezzella to Vincent Pepe, but no written notice of this change was sent to the local issuing authorities as required by R. S. 33:1-34. Finally, on June 1, 1943, after the investigation herein had begun, these shares were transferred on the books of the corporation to Fred Catalano, the true owner.

At the time these violations occurred, Fred Catalano was disqualified from holding more than 10% of the stock of defendant corporation because of the fact that he had not lived in New Jersey for five years continuously immediately prior to the date of the application. However, because of the recent amendment to R.S. 33:1-25, which became effective on March 27, 1943, Fred Catalano, who alleges that he is now a bona fide resident of New Jersey, appears to be fully qualified to hold any amount of stock in defendant corporation. Hence it appears that the unlawful situation has been corrected.

In view of the guilty plea entered herein, I shall impose a penalty on the two charges of fifteen days' suspension of the license. Re Alps Inc., Bulletin 578, Item 1.

Notwithstanding the fact that the violation occurred during the term of a prior license held by the licensee, the suspension is effective against defendant's present license. Re Regulations No. 15, Rule 2.

Accordingly, it is, on this 29th day of July, 1943,

ORDERED, that Plenary Retail Distribution License D-9, issued by the Board of Commissioners of the City of Union City to Annita Wine & Liquor Co., Inc., for premises 805 Summit Avenue, Union City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 A.M. August 3, 1943, and terminating at 3:00 A.M. August 18, 1943.

ALFRED E. DRISCOLL
Commissioner.

11. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINOR IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 30 - PREVIOUS RECORD - 15 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)

JOHN HOHOL)
New Brunswick Ave. and Crows Mill Rd.)
Woodbridge Township)
P. O. Fords, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-63 for the fiscal year 1942-43 and now holder of Plenary Retail Consumption License C-63 for the current (1943-44) year, both issued by the Township Committee of Woodbridge Township.)
-----)

Bernard W. Vogel, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

A technical plea of not guilty was entered on behalf of defendant-licensee to the following charges:

"1. On or about February 6, 1943 and on or about February 8, 1943, you sold alcoholic beverages to Rose ----, Sophie ---- and Mary ----, minors, in violation of R. S. 33:1-77.

"2. On or about the dates aforesaid, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Rose ----, Sophie ---- and Mary ----, 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.

"3. On or about the dates aforesaid, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Rose ----, Sophie ---- and Seaman Paul ----, persons who were actually and apparently intoxicated, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons on the licensed premises, in violation of Rule 1 of State Regulations No. 20."

The not guilty plea was subsequently withdrawn and one of non vult entered in its place and stead. Before the change of plea was made, however, the State had completed its case.

At the hearing herein, one Mary ----, a girl approximately seventeen years of age, testified that she visited the licensed premises in the company of a sailor, a civilian and two other girls. She further testified that alcoholic beverages were served to Rose ----, Sophie ---- and herself on February 6, 1943. She emphatically denied that any members of the party were intoxicated. Mary's testimony was corroborated by the testimony of both Rose and Sophie in so far as the service of alcoholic beverages was concerned. Rose and Sophie, however, claimed that the sailor was intoxicated. Rose stated in addition thereto that both she and Sophie were also under the influence of liquor. Sophie denied, however, that she herself was intoxicated.

The testimony of Seaman Paul ---- was unavailable because he is now on active service. Mary told a straightforward story and, in so far as the sobriety of the various members of the party is concerned, I am guided by her testimony rather than the testimony of Rose or Sophie in the instant case. Mary stated that none were drunk. I shall accept her testimony as true. Charge (3) of selling to intoxicated persons is therefore dismissed.

Even though a non vult plea had been entered, I feel, out of justice to the defendant, that the testimony, taken during the absence of the defendant and his legal representative, should be taken into consideration. I have done just that.

As to penalty: In view of the fact that three minors were served and that Mary ---- was only approximately seventeen years of age, a penalty of fifteen days will be imposed. See Re Frater, Bulletin 576, Item 2. I note that licensee has a previous record. The local issuing authority suspended his license for one day, effective February 3, 1942, as a result of his guilty plea to a charge of permitting lottery and gambling devices on the licensed premises. Because defendant has a prior record, I shall not remit any of the penalty imposed despite the fact that defendant changed his plea to the charges to non vult.

Accordingly, it is, on this 29th day of July, 1943,

ORDERED, that Plenary Retail Consumption License C-63, issued by the Township Committee of Woodbridge Township to John Hohol for premises at New Brunswick Avenue and Crows Mill Road, Woodbridge Township, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 A.M. August 2, 1943 and terminating at 2:00 A. M. August 17, 1943.

ALFRED E. DRISCOLL
Commissioner.

12. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - DISCREPANCY IN PROOF, ACIDS AND SOLIDS - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against
 PATRICK McNICHOLAS,
 6 Treat Place,
 Newark, New Jersey,
 Holder of Plenary Retail Consumption License C-861 for fiscal year 1942-43, and now holder of Plenary Retail Consumption License C-861 for the present fiscal year, both issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS AND ORDER

 Patrick McNicholas, Pro Se.
 Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded not guilty to the following charge:

"On or about March 16, 1943 you possessed illicit alcoholic beverages at your licensed premises, viz., a 4/5 quart bottle labeled 'Carstairs White Seal Blended Whiskey' a 4/5 quart bottle labeled 'Wilson Blended Whiskey, "That's All"', and a 4/5 quart bottle labeled 'Imperial Blended Whiskey', which bottles contained alcoholic beverages which were not genuine as labeled; such possession being in violation of R.S. 33:1-50."

The evidence discloses that, on March 16, 1943, Federal agents examined fourteen opened bottles upon defendant's premises and seized the three bottles mentioned in the charge. Subsequent analysis by a Federal chemist disclosed that the contents of each of the seized bottles were substantially lower in proof and slightly lower in acids and solids than the contents of genuine samples.

Defendant testified that he did not tamper with the contents of the seized bottles and that he employs a bartender and porter, both of whom denied to him that they had tampered with the bottles. I believe that defendant, who has been in business since Repeal and has no prior record, has told the truth. Despite his personal innocence, however, the licensee must be held strictly responsible for any "refills" found in his stock of liquor. Re Kurian, Bulletin 517, Item 2. I find defendant guilty as charged.

Under the circumstances of this case, I shall suspend defendant's license for ten days. Re Fuhrer, Bulletin 551, Item 5.

Accordingly, it is, on this 2nd day of August, 1943,

ORDERED that Plenary Retail Consumption License C-861, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Patrick McNicholas, for premises 6 Treat Place, Newark, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 A. M. August 9, 1943 and terminating at 2:00 A.M. August 19, 1943.

New Jersey State Library

Alfred E. Quiswell
 Commissioner.