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

BULLETIN 885

SEPTEMBER 21, 1950.

1. ACTIVITY REPORT FOR AUGUST 1950

ARRESTS:

Total number of persons arrested	31
Licensees and employees	11
Bootleggers	19
Impersonating an ABC officer	1

SEIZURES:

Motor vehicles - cars	2
Stills - over 50 gallons	1
- 50 gallons or under	2
Mash - gallons	2,020.00
Distilled alcoholic beverages - gallons	18.48
Wine - gallons	30.34
Brewed malt alcoholic beverages - gallons	75.64

RETAIL LICENSEES:

Premises inspected	783
Premises where alcoholic beverages were gauged	579
Bottles gauged	11,782
Premises where violations were found	34
Violations found	59
Type of violations found:	
Unqualified employees	31
Reg. #38 sign not posted	7
Gambling devices	4
Other mercantile business	4
Probable fronts	2
Improper beer taps	2
Other violations	9

STATE LICENSEES:

Premises inspected	5
License applications investigated	10

COMPLAINTS:

Complaints assigned for investigation	396
Investigations completed	377
Investigations pending	178

LABORATORY:

Analyses made	167
"Shake-up" cases (alcohol, water and artificial color) - bottles	14
Liquor found to be not genuine as labeled - bottles	6

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made	20
Persons fingerprinted for non-criminal purposes	193
Identification contacts made with other enforcement agencies	148
Motor vehicle identifications via N. J. State Police Teletype	8

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	15
Violations involved:	
Sale during prohibited hours	7
Sale to minors	5
Permitting female to tend bar	1
Sale to intoxicated persons	1
Sale outside scope of license	1
Possessing chilled beer (DL licensee)	1
Permitting gambling on premises (dart game)	1
Cases instituted at Division	4
Violations involved:	
Sale during prohibited hours	2
Permitting persons of ill repute on premises	1
Permitting immoral activity on premises	1
Conducting business as a nuisance	1
Sale to minors	1
Sale to non-members by clubs	1
Cases brought by municipalities on own initiative and reported to Division	7
Violations involved:	
Sale to minors	6
Sale during prohibited hours	1

HEARINGS HELD AT DIVISION:

Total number of hearings held	31
Appeals	10
Disciplinary proceedings	9
Eligibility	5
Seizures	6
Applications for special permit	1

PERMITS ISSUED:

Total number of permits issued	937
Employment	204
Solicitors	98
Disposal of alcoholic beverages	76
Social affairs	444
Special wine	36
Miscellaneous	109

Dated: September 5, 1950.

ERWIN B. HOCK, DIRECTOR

2. APPELLATE DECISIONS - THE PORT OF NEW YORK AUTHORITY v. NEWARK AND RAFF.

THE PORT OF NEW YORK AUTHORITY; )  
Appellant; )

-vs-

ON APPEAL  
CONCLUSIONS AND ORDER

MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY OF )  
NEWARK, and NATHAN N. RAFF, )  
Respondents. )

-----  
Russell E. Watson, Esq., by Malcolm D. Watson, Esq., Attorney for Appellant.

Charles Handler, Esq., by Harry A. Pine, Esq., Attorney for Respondent Municipal Board.

Harry W. Doremus, Esq., Attorney for Respondent Nathan N. Raff.

Jack L. Cohen, Esq., appearing on behalf of Hays Newark Restaurant.

BY THE DIRECTOR:

This is an appeal from respondent Board's actions (1) granting, on June 13, 1950, respondent Raff's application for transfer of a plenary retail consumption license from John J. Hopkins and from premises at 781 North 6th Street to premises to be constructed at 118-130 Stockton Street; and (2) granting, on June 28th, respondent Raff's application for 1950-1951 renewal.

(The transfer-granting resolution of June 13th imposed a special condition that the transfer of the 1949-1950 license shall not become effective unless and until the proposed new premises are first completed in accordance with plans and specifications filed with and approved by the Municipal Board. On July 26, 1950, respondent Board passed a resolution, amending the resolution of June 13th, to provide that the indicated transfer is authorized, effective as of June 30, 1950, for the sole purpose of permitting a renewal. The July 26th resolution also amended the renewal-granting resolution of June 28th to provide that the renewal shall not be actually issued unless and until the proposed new premises are first completed in accordance with plans and specifications filed with and approved by the Municipal Board.)

The Petition of Appeal seeks reversal of respondent Board's action on two grounds; the second being:

"Because in granting said license, the respondent, Municipal Board, granted the same despite a violation by respondent, Raff, of the rules and regulations of said Municipal Board."

An ordinance (8811-F) adopted by the Board of Commissioners of the City of Newark, on November 13, 1940, provides:

"1. Every applicant for an alcoholic beverage license, except for a renewal, and every applicant for a transfer from place to place shall give notice of said application, at least five days prior to the newspaper publication of second notice of application, to all owners of property within two hundred feet of the premises sought to be licensed." (Underscoring added.)

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"2. Such notice...shall be served upon the property owner, either personally or by having it addressed to him at his usual place of abode or by mailing it by registered mail to his last known address. Service...upon any officer if the owner is a corporation, will constitute service as required by this ordinance."

\*\*\*\*\*

"5. Proof of such service shall be made to the Municipal Board of Alcoholic Beverage Control by affidavit of the applicant setting forth the addresses of the other properties affected, the names of the owners thereof, the addresses at which the owners were served, and the method and date of such service...."

It was stipulated at the hearing that property owned by appellant is, within the provisions of the ordinance, within two hundred feet of respondent Raff's premises sought to be licensed.

Respondent Raff's Notices of Application for Transfer of the 1949-1950 license were published on June 3rd and June 10th, 1950. The evidence shows that respondent Raff's notice of such application was sent to appellant by registered mail, addressed to its offices at 111 Eighth Avenue, New York, N. Y., and that the envelope in which such notice was enclosed was postmarked "Newark, N. J., June 7, 1950."

The five-day notice requirement prescribed in Section 1 of the ordinance was not complied with nor, obviously, was the proof of service requirement in Section 5. Thus, respondent Board had no jurisdiction to grant the transfer application. Bachman v. Phillipsburg, 68 N.J.L. 552 (Sup. Ct. 1902); Warren Street Chapel v. Excise Commissioners, 56 N.J.L. 411 (Sup. Ct. 1894). I am, therefore, constrained to reverse and set aside respondent Board's action with respect to the 1949-1950 transfer. The 1950-1951 renewal action necessarily falls with failure of the transfer. (See Palka v. Passaic and St. Stanislaw Society of Passaic, Bulletin 816, Item 5; Re South Hackensack Bar and Grill, Inc., Bulletin 859, Item 3.)

My disposition of this appeal on the jurisdictional ground makes it unnecessary to consider here appellant's other alleged cause for reversal.

Accordingly, it is, on this 14th day of September, 1950,

ORDERED that respondent Board's actions granting application for transfer of the 1949-1950 license to respondent Raff and granting conditional renewal for 1950-1951 are hereby reversed and set aside.

ERWIN B. HOCK  
Director.

3. APPELLATE DECISIONS - NAKROSIS (EXECUTOR) v. HARRISON.

CHARLES NAKROSIS, Executor of the )  
Estate of Elizabeth Ekelevich, )  
deceased, )

Appellant, )

-vs-

TOWN COUNCIL OF THE TOWN OF )  
HARRISON, )

Respondent. )

ON APPEAL  
CONCLUSIONS AND ORDER

----- )  
Calvin S. Koch, Esq., Attorney for Appellant.  
Michael J. Bruder, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the respondent's denial of the appellant's application for renewal of a plenary retail consumption license for premises at 600 South Second Street, Harrison.

The petition of appeal alleges that the application was denied because "of the nature of the violation which occurred on the licensed premises in October, 1949, resulting in disciplinary proceedings against the licensee and an order issued by the Director of the Division of Alcoholic Beverage Control on January 3, 1950 suspending Plenary Retail Consumption License C-27 in the Town of Harrison for the balance of its term to June 30, 1950 commencing January 9, 1950." At the hearing held herein, the appellant's attorney agreed that the respondent's action was predicated on that ground.

Reference to that proceeding, recorded in Bulletin 864, Item 6, discloses that Elizabeth Ekelevich was charged with permitting "lewdness and immoral activities, viz., procuring a female for purposes of prostitution, in and upon (her) licensed premises". In not revoking the license outright, I took into consideration, among other things, that there was no evidence that the licensee "knew anything about the activity of her bartender". Three months after the suspension went into effect, the licensee died, and the license was thereupon extended to her executor, the appellant herein, for the balance of the licensing year, i.e., until June 30, 1950. See R.S. 33:1-26.

Two reasons for reversal are urged by the appellant. It is first contended that the denial of the renewal, in addition to the prior suspension, results in a double penalty for a single offense. This contention lacks merit. Whether or not a license, which has been suspended, should be renewed for the following licensing year, is a matter that rests within the sound discretion of the local licensing authority. Re Orsi v. Burnett, Bulletin 359, Item 13, not officially reported (Sup. Ct. 1939); Zicherman v. Driscoll, 133 N.J.L. 586 (Sup. Ct. 1946).

It is further argued that the daughter of the late licensee has been deprived "of a considerable portion of her deceased mother's estate" and that she "should not have to suffer...because of what her mother...might have done". The record shows that respondent's action was not an attempt to punish the daughter for the sins of the mother. In respondent's resolution denying the application, it is specifically stated that the denial "was no reflection on the executor or the heirs of the estate but was to protect other saloon keepers who run good places". It is manifest, therefore, that the denial was motivated by the public interest and the sound administration of the liquor

laws. No abuse of the discretionary licensing function, vested in the municipal issuing authority in the first instance, is discernible in the action reviewed. Cf. Re Brennan, Bulletin 113, Item 1.

The action of respondent is affirmed.

Accordingly, it is, on this 7th day of September, 1950,

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

ERWIN B. HOCK  
Director.

4. APPELLATE DECISIONS - YETTER v. RIDGEFIELD PARK.

MARTHA YETTER, individually, and )  
trading as MARTHA'S RESTAURANT, )  
Appellant, )

-vs-

ON APPEAL  
CONCLUSIONS AND ORDER

BOARD OF COMMISSIONERS OF THE )  
VILLAGE OF RIDGEFIELD PARK, )  
Respondent. )

-----  
Alfred W. Kiefer, Esq., Attorney for Appellant.  
Morrison, Lloyd & Griggs, Esqs., by William R. Morrison, Esq.,  
Attorneys for Respondent.  
Sidney Simandl, Esq., Attorney for Objectors: United Licensed  
Beverage Association of New Jersey, and Michael C. LoBoves.

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby, on July 11, 1950, it denied her application for a plenary retail consumption license for the licensing year 1949-50. The premises in question are located at 29-31 Ridgefield Avenue, Ridgefield Park.

At the close of the appellant's case respondent moved for dismissal upon three grounds; one of which was that appellant falsely stated, in answering Question 30 in her application, that she was the sole person interested in the license applied for or in the business to be conducted thereunder.

Under the circumstances, as will hereafter appear, it is unnecessary to consider the grounds raised by appellant in support of her appeal or the other reasons argued in the motion for dismissal.

Aside from the ground set forth in the motion for dismissal, it appears that the advertisement of the Notice of Application is fatally defective. There is a building at 29 Ridgefield Avenue but 31 Ridgefield Avenue is a vacant lot. The building on the lot known as No. 29 Ridgefield Avenue is used as a restaurant and dwelling house. The application, however, is for 29-31 Ridgefield Avenue and states in answer to Question No. 6, "Describe building containing licensed premises in detail: 31 Ridgefield Avenue to be constructed. (a) Type of construction? probably brick 2 story, store 1st floor, apartment 2nd fl. & cellar. (b) For what purpose used? Tavern and apartment dwelling."

There is some dispute as to whether or not the plans and specifications for the new building were submitted to the local issuing authority at the time the application was made. However, it is clear that the published "notice of application" did not contain the required statement: "Plans and specifications for building to be constructed may be examined at the office of the Municipal Clerk." Rule 2, State Regulations No. 2.

Any such material omission from the notice deprives the local issuing authority of jurisdiction. Cf. Re Kay v. Linden, Bulletin 525, Item 4, and cases cited.

The local issuing authority having no jurisdiction to grant the license, any attempt so to do would of necessity fail. Cf. Re Haines v. Pemberton, Bulletin 851, Item 10. The appeal might well be dismissed on the ground that the advertisement was fatally defective.

As to the ground set forth in the motion to dismiss the appeal: The husband of appellant is an alien (German national) and, hence, is not eligible to obtain or hold a liquor license in New Jersey. R.S. 33:1-25. At the hearing, appellant claimed that she has conducted the restaurant at 29 Ridgefield Avenue for almost eight years, but she admitted that her husband works there; that she and her husband are operating the business; that the money made from the restaurant has always been deposited in a bank account in their joint names and that their living expenses are paid out of this joint bank account. I conclude that the husband is interested in the business. Appellant admitted that her answer to Question 30 in the application was wrong. Since it appears that appellant is not the sole person interested in the business, the motion to dismiss the appeal will be granted. It might be well to point out that R.S. 33:1-25 also provides that "No license shall be issued unless all of the partners would qualify as individual applicants".

Accordingly, it is, on this 13th day of September, 1950,

ORDERED that the motion to dismiss the appeal herein be and the same is hereby granted.

ERWIN B. HOCK  
Director.

5. LIMITATION OF NUMBER OF LICENSES - PETITION FOR DETERMINATION UNDER SECTION 6, CH. 94, P.L. 1947, DENIED BECAUSE ISSUANCE OF NEW LICENSE IN MUNICIPALITY PERMISSIBLE UNDER SECTION 2, CH. 94, P.L. 1947.

In the Matter of the Petition of )

MARTHA YETTER )

T/a MARTHA'S RESTAURANT, )

ORDER OF DENIAL

for relief under P. L. 1947, )

c. 94, § 6. )

-----  
Alfred W. Kiefer, Esq., Attorney for Petitioner.  
Morrison, Lloyd & Griggs, Esqs., by William R. Morrison, Esq.,  
Attorneys for local issuing authority.

BY THE DIRECTOR:

Section 2 of the State Limitation Law (P.L. 1947, c. 94) provides that no new plenary retail consumption license shall be issued in a municipality unless and until the number of such licenses existing in the municipality is fewer than one for each 1,000 of its population as shown by the latest Federal census.

Section 6 of the State Limitation Law reads:

"6. Nothing in this act shall be deemed to prevent issuance of a new license to a person who files application therefor within sixty days following the expiration of the license renewal period if the State commissioner shall determine in writing that the applicant's failure to apply for a renewal of his license was due to circumstances beyond his control."

The obvious and only purpose of quoted Section 6 is to permit relief, in a bona fide hardship case, to an ex-licensee whose failure to apply for a renewal (i.e., to file application for license within thirty days after the July 1st following expiration of his preceding year's license -- Revised Statutes, 33:1-96) was due to circumstances beyond his control. And, obviously, Section 6 can have no application except in connection with a petitioner who seeks a new license in a municipality wherein issuance of a new license would, in the absence of the relief prayed for, be prohibited by the State Limitation Law.

The reference in the petition herein is to a plenary retail consumption license in the Village of Ridgefield Park. That municipality's 1940 Federal census population was 11,277 and six (6) plenary retail consumption licenses are outstanding there. Clearly, issuance of a new plenary retail consumption license in Ridgefield Park is not prohibited by Section 2 of the State Limitation Law and, thus, Section 6 of that Law has no application whatever to the petitioner.

Accordingly, it is, on this 15th day of September, 1950,

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

ERWIN B. HOCK  
Director.

6. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALE DURING PROHIBITED HOURS, IN VIOLATION OF MUNICIPAL REGULATION - SALE TO NON-MEMBERS - PRIOR RECORD - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

INTERNATIONAL WORKERS ORDER  
BRANCH #2586  
457 Berkley Street  
Camden, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Club License CB-24 issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

-----  
Defendant-licensee, by Lawrence Serchia, Secretary.  
Vincent T. Flanagan, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to charges alleging that (1) on Sunday, August 20, 1950, between 3:00 p.m. and 10:00 p.m., it sold, served and delivered alcoholic beverages upon its licensed premises in violation of an Ordinance of the City of Camden which prohibited such activity after 2:00 a.m. on Sunday; and (2) on the same day, it sold alcoholic beverages to persons other than club members or bona fide guests of a member, in violation of Rule 8 of State Regulations No. 7.

The file herein discloses that, on Sunday, August 20, 1950, at about 9:20 p.m., two ABC agents entered defendant's premises. They observed four men seated at tables, upon which were bottles which apparently contained beer. The agents went to a bar in the room and purchased drinks of beer and whiskey from Felix Tofani, who was behind the bar. When questioned, Mr. Tofani stated that he was Secretary of the House Committee; that he had opened the bar at about 3:00 p.m. and that he had continued to be on duty until the agents identified themselves. The ABC agents were not members or guests of any member of defendant club.

Defendant has a prior record. On May 15, 1944, its license was suspended for thirty-five days after it had pleaded guilty to charges which were similar to the charges herein and after it had been found guilty of charges of selling alcoholic beverages on Sunday, in violation of Regulations No. 38, and selling alcoholic beverages to a woman, directly over the bar, in violation of a local regulation. See Bulletin 619, Item 9. The usual suspension for unlawful sales on Sunday is fifteen days and the usual suspension for sales to non-members is also fifteen days. Although the prior violations occurred more than five years ago, it appears that this is a second violation of the same character. Under the circumstances, I shall suspend defendant's license for forty-five days, less five days for the plea herein, leaving a net suspension of forty days.

Accordingly, it is, on this 14th day of September, 1950,

ORDERED that Club License CB-24, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to International Workers Order Branch #2586, 457 Berkley Street, Camden, be and the same is hereby suspended for a period of forty (40) days, commencing at 2:00 a.m. September 22, 1950, and terminating at 2:00 a.m. November 1, 1950.

ERWIN B. HOCK  
Director.

7. DISCIPLINARY PROCEEDINGS - FAILURE TO KEEP LICENSED PREMISES CLOSED DURING PROHIBITED HOURS, IN VIOLATION OF MUNICIPAL REGULATION - CHARGE OF HINDERING INVESTIGATION DISMISSED - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

LINCOLN BAR & GRILL, INC.  
8-10 Henry Street  
Passaic, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-64, issued by the Board of Commissioners of the City of Passaic.

Saul C. Schutzman, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The following charges were preferred against the defendant:

"1. On Saturday, May 13, 1950, between 3:00 A.M. and 3:25 A.M., you failed to have your entire licensed premises closed; in violation of Section 4 of an Ordinance adopted by the Board of Commissioners of the City of Passaic on July 15, 1941, which requires that licensed premises, except bona fide hotels and restaurants, shall be closed on weekdays between the hours of 3:00 A.M. and 6:00 A.M.

"2. On the occasion aforesaid while investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety were conducting an investigation at your licensed premises, you hindered and failed to facilitate such investigation; in violation of R.S. 33:l-35."

Defendant pleaded non vult to charge (1) and not guilty to charge (2).

An ABC agent testified that on Saturday, May 13, 1950, at about 3:20 a.m., he observed "through the partially opened venetian blinds" of a main window of defendant's licensed premises, several persons "standing at the bar having their hands on glasses". The ABC agent testified further that he and a fellow-agent "took out our shields and knocked on the window". In response to the knock, according to the testimony of the witness, "the bartender came from in back of the bar to the window and informed us that the place was closed". The witness testified further that he then said "ABC" to the bartender and the latter remained at the window but turned his back toward the agents and facing the persons at the bar remarked, "Drink up, fellows, ABC." After a brief interval the bartender unlocked the door and admitted the agents. The witness stated that he proceeded to the back bar where three men were standing. Two of the men were putting their glasses on the bar and the third man had "just picked up his glass of whiskey". As the agent was questioning the various patrons, one of the men present walked over to him and identified himself as the manager of the business establishment.

The bartender claimed that he was practically finished cleaning the bar when he heard the knock on the door, and that he unlocked the

door in "maybe less than a minute" after the agents identified themselves. He further testified that no drinks had been served after 3:00 a.m. The bartender stated that, when the ABC agents were admitted, he told the patrons that "They are ABC agents", because he didn't want to have any trouble. He denied any intent to hinder the agents.

Sam Kempler, manager of the defendant establishment, testified that no drinks were served after 3:00 a.m. The witness further stated that he requested the patrons to leave the premises on at least three occasions after the closing hour had arrived.

All witnesses, including the ABC agents, agreed that the bartender and the manager cooperated fully with them during the course of their subsequent investigation.

I believe that the testimony of the ABC agents sets forth a true and accurate picture of what they observed from the exterior of the licensed premises. However, after careful consideration of the entire record in this case, I believe that the bartender's actions may well have been a momentary error of judgment rather than a deliberate hindering or effort to hinder the agents. Resolving the doubt in favor of defendant, I hereby dismiss charge (2).

Defendant has a previous adjudicated record. Effective June 22, 1939, the defendant's license was suspended for five days by the municipal issuing authority after horse race betting was discovered on the licensed premises. Again, effective May 20, 1944, defendant's license was suspended for thirty days for permitting horse race betting on the licensed premises. In view of the fact that the last suspension of defendant's license occurred more than six years ago, I shall not consider the past record in imposing the penalty herein.

Under the circumstances in the instant case, I shall suspend defendant's license for a period of fifteen days, less five days for the plea, because of the violation set forth in charge (1).

Although this proceeding was instituted during the 1949-50 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1950-51. State Regulations No. 16.

Accordingly, it is, on this 13th day of September, 1950,

ORDERED that Plenary Retail Consumption License C-64, issued for the 1950-51 licensing period by the Board of Commissioners of the City of Passaic to Lincoln Bar & Grill, Inc., for premises 8-10 Henry Street, Passaic, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. September 19, 1950, and terminating at 3:00 a.m. September 29, 1950.

ERWIN B. HOCK  
Director.

8. DISCIPLINARY PROCEEDINGS - SALE FOR OFF-PREMISES CONSUMPTION OF ALCOHOLIC BEVERAGES IN OTHER THAN ORIGINAL CONTAINERS, IN VIOLATION OF R. S. 33:1-2 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against MICHAEL MCGINN w/s Delsea Drive above Fox Run Rd. Deptford Township P.O. Sewell, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-13 for the 1949-50 and 1950-51 licensing years, issued by the Township Committee of the Township of Deptford.

Harold W. Hannold, Esq., Attorney for Defendant-licensee. Vincent T. Flanagan, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleads non vult to the following charge:

"On Sunday, June 18, 1950, at about 1:10 P.M., you sold alcoholic beverages not pursuant to and within the terms of your license as defined by R.S. 33:1-12(1) by selling two quart bottles of Mary-Ann California Port Wine and one pint bottle of Wilson 'That's All' Blended Whiskey in other than the original containers, for consumption off the licensed premises, in that you opened such containers and thereby destroyed their original characters before making delivery thereof to the purchaser; in violation of R.S. 33:1-2."

The file in the instant case discloses that on Sunday, June 18, 1950, at about 1:10 p.m., an ABC agent while in defendant's licensed premises observed two men purchase two quart bottles of wine and a pint bottle of whiskey from an employee of the defendant-licensee. Before delivery, however, of the bottles of alcoholic beverages in question, the bartender broke the seals on the bottles and instructed the men to hide the bottles under their coats. The two men were apprehended by this ABC agent and another ABC agent as they were leaving the licensed premises, and upon returning to the premises admitted the purchase from the bartender. The latter, and also the defendant who was on the licensed premises at the time, admitted the sale and delivery of the three bottles of alcoholic beverages.

Defendant has no previous adjudicated record. I shall, therefore, suspend his license for a period of fifteen days, less five days' remission for the plea entered herein, leaving a net suspension of ten days. Re Grippo, Bulletin 881, Item 3.

Although this proceeding was instituted during the 1949-50 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1950-51. State Regulations No. 16.

Accordingly, it is, on this 6th day of September, 1950,

ORDERED that Plenary Retail Consumption License C-13, issued by the Township Committee of the Township of Deptford to Michael McGinn, w/s Delsea Drive above Fox Run Rd., Deptford Township, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. September 18, 1950, and terminating at 2:00 a.m. September 28, 1950.

ERWIN B. HOCK Director.

9. DISQUALIFICATION - PREVIOUS PETITION DENIED - APPLICATION HEREIN GRANTED.

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

CONCLUSIONS  
AND ORDER

Case No. 866.  
- - - - - )

BY THE DIRECTOR:

On February 7, 1946, the Commissioner of Alcoholic Beverage Control dismissed a petition seeking a removal of petitioner's disqualification because of convictions of crimes. See Bulletin 695, Item 1.

Petitioner, apparently in disregard of his disqualification, was employed until July 1949 as a cook by various holders of liquor licenses in this state. In July 1949 he was again fully advised that he was disqualified from working in any capacity on licensed premises. In January 1950, he secured work in a neighboring state where he is now employed. Seeking to secure employment nearer to his home, he has reapplied for an order removing his disqualification.

Apparently, petitioner has had no further trouble with the criminal laws. I am advised by the police of his home city that there is "nothing pending on above subject".

Petitioner produced three witnesses, all residents of petitioner's community or neighboring community. They have known him for from twenty to forty years. They testify that petitioner bears a good reputation among his neighbors and that for at least the last past five years he has been an honest and law-abiding person.

It appears that petitioner has been engaged in or connected with the restaurant business practically all his life. He is of an advanced age and finds it difficult to secure satisfactory employment in any other business. I believe that he has learned his lesson.

I find that ten years have elapsed since petitioner's last conviction and that he has conducted himself in a law-abiding manner, especially during the five years last past, and that his association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 14th day of September, 1950,

ORDERED that petitioner's statutory disqualification because of the convictions described in Bulletin 695, Item 1, be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2.

ERWIN B. HOCK  
Director

10. DISQUALIFICATION - FALSE STATEMENT IN QUESTIONNAIRE - APPLICATION TO LIFT DISQUALIFICATION GRANTED TO BECOME EFFECTIVE 90 DAYS AFTER FILING PETITION HEREIN.

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

CONCLUSIONS  
AND ORDER

Case No. 857.  
- - - - - )

BY THE DIRECTOR:

On May 27, 1940, petitioner was convicted in a County Court on a charge of receiving stolen goods and sentenced to serve six months in a county jail. He has never been convicted of any other crime. The crime of which he was convicted involved moral turpitude and, hence, he is presently ineligible to hold a liquor license or to be employed in any business capacity on licensed premises.

At the hearing herein, three persons who have known him for at least five years testified that during that period petitioner has been law-abiding, and a fourth person who has known him for three to four years testified that petitioner has been law-abiding during that period of time. The officer in charge of the Identification and Record Bureau of the Police Department of the municipality in which petitioner resides has certified that there are no complaints or investigations pending against him.

I would have no hesitancy in granting relief except that in July 1941 petitioner obtained employment with the holder of a State Beverage Distributor License as a helper, and filed a questionnaire in which he denied that he had ever been convicted of any crime. He continued such employment until June 23, 1950, except for a period of time he served in the United States Army during World War II. The record shows that he obtained an honorable discharge from the United States Army on April 30, 1946.

Apparently no one questioned his right to be employed by a liquor licensee until petitioner filed, in May 1950, an application for a solicitor's permit in which he disclosed his conviction for receiving stolen goods. On June 21, 1950, petitioner was notified that his application for solicitor's permit had been denied because of his criminal record, and his employer was notified that his services must be discontinued because of his criminal record. Accordingly, petitioner was discharged by his employer on June 23, 1950, and has been unemployed since that time. On June 27, 1950, he filed his petition in this proceeding.

I cannot overlook his untruthfulness under oath. I shall grant his petition but shall withhold relief until ninety days after June 27, 1950, the date upon which he filed his petition herein. Cf. Bulletin 883, Item 13.

Accordingly, it is, on this 15th day of September, 1950,

ORDERED that petitioner's statutory disqualification, because of the conviction described herein, be and the same is hereby removed in accordance with the provisions of R.S. 33:1-31.2, effective September 25, 1950.

ERWIN B. HOCK  
Director.

11. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against )  
 FELIX F. PLITNICK, JR. )  
 T/a DEPOT INN )  
 Leonard Avenue )  
 Middletown Township )  
 P.O. Leonardo, N. J., )  
 Holder of Plenary Retail Consumption License C-13, for the 1949-50 and 1950-51 licensing periods, issued by the Township Committee of the Township of Middletown. )

CONCLUSIONS AND ORDER

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 J. Frank Weigand, Esq., Attorney for Defendant-licensee.  
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded not guilty to a charge alleging that he sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20.

The minor, who is eighteen years old, testified that, on the evening of March 25, 1950, he and an adult companion visited the defendant's premises and was served three or four glasses of liquor by the bartender. His companion testified that he observed the minor consume the first one of the drinks served by the bartender.

Two ABC agents explained, in great detail, how the minor and his companion directed them, on April 21, 1950, to the defendant's premises and showed them the position they occupied at the bar on the evening of March 25, 1950.

The bartender, and three patrons who were present at the defendant's tavern at the time, testified that they did not see the minor or his companion at the licensed premises on the date in question.

There is nothing in the record to indicate that the testimony of the minor and his companion was fabricated out of thin air and I am satisfied that they gave a truthful version of their visit to the defendant's tavern. I therefore find the defendant guilty as charged.

Since the defendant has no prior adjudicated record and no aggravating circumstances appear to have attended the violation, I shall suspend the defendant's license for the usual period of ten days for this type of violation. Re Hotel Traymore Company, Bulletin 877, Item 5.

Although this proceeding was instituted during the 1949-50 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1950-51. State Regulations No. 16.

Accordingly, it is, on this 6th day of September, 1950,

ORDERED that Plenary Retail Consumption License C-13, issued for the 1950-51 licensing year by the Township Committee of the Township of Middletown to Felix F. Plitnick, Jr., t/a Depot Inn, Leonard Avenue, Middletown Township, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. September 18, 1950, and terminating at 2:00 a.m. September 28, 1950.

ERWIN B. HOCK  
Director.

12. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - CHARGES DISMISSED AS TO ALLEGED FAILURE TO GIVE NOTICE REQUIRED BY R. S. 33:1-34 AND AS TO ALLEGED "FARMING OUT" OF LICENSE TO INDIVIDUAL.

In the Matter of Disciplinary Proceedings against )

TWO-IN-ONE CLUB )  
118 Spring Street )  
Morristown, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-4, issued by the Board of Aldermen of the Town of Morristown. )

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Charles H. Smith, Esq., Attorney for Defendant-licensee. )  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control. )

BY THE DIRECTOR:

Defendant has pleaded not guilty to the following charges:

"1. You failed to file with the Morristown Board of Aldermen, within ten days after the occurrence thereof, written notice of changes in facts set forth in answer to Questions 29 and 30 of your license application dated June 6, 1949, upon which you obtained your current club license, such changes being that on or about July 1, 1949, you entered into an agreement with Harry Van Dyke whereby the latter acquired an interest in your licensed business as the real and beneficial owner thereof and was permitted to retain all of the profits from the business after payment to you of a fixed weekly fee; your failure to file such notice being in violation of R. S. 33:1-34.

"2. From on or about July 1, 1949 to on or about April 1, 1950, you knowingly aided and abetted Harry Van Dyke to exercise contrary to R.S. 33:1-26, the rights and privileges of your club license; thereby yourself violating R.S. 33:1-52."

During the course of an investigation by agents of this Division, John H. Tanner, trustee and financial secretary of the defendant club, gave the agents a sworn statement, which was offered in evidence, in which he said:

"The sale of alcoholic beverages is in the hands of Harry Van Dyke....We agreed with Harry Van Dyke that he could have the use of the club license; that the club would furnish heat and light for the building and in return for that Harry Van Dyke is to pay the sum of \$20.00 weekly.

"Harry Van Dyke was to buy and pay for all liquor and it was understood that he was not to give any of these bills to the club for payment."

Van Dyke gave a similar statement declaring that:

"In the latter part of June 1949 I made agreements with John H. Tanner and Benny Grant, officers of the Two-In-One Club, that commencing July 1st, 1949 I was to have control

of alcoholic beverages sold at licensed premises and the club would furnish light and heat for the building and in return for that I agreed to pay the club \$20.00 per week and I was to buy and pay for all alcoholic beverages sold at the club and pay for all help used by me at the club and I was not to present any bill to the club for payment and I was to keep the balance of the profits for my services."

Tanner's statement, which is binding upon defendant, is prima facie sufficient to support the charges. However, at the hearing both Tanner and Van Dyke, testifying under oath, told a story somewhat different from that contained in their statements. Van Dyke, who was called as a witness by the Division, while not wholly repudiating his original statement, declared that, during a discussion with Tanner and Benny Grant, another officer of the club, he (Van Dyke) offered his services as manager of the licensed business with the understanding (which may or may not have been shared by the defendant's officers) that as compensation for such services he would retain for himself any profits remaining after payment of all expenses and \$20.00 a week to the club; that from time to time, without any accounting as to profits and possibly without the knowledge of any of defendant's officers, he took various sums from the cash receipts of the business, totaling about \$150.00 to \$200.00, but that, although defendant's officers apparently accepted his offer of services under the above terms, in practice they actually never allowed him any managerial powers.

Tanner testified that he, as officer of the club, arranged with Van Dyke to use his influence to attract former members back into the club and thereby increase the club's business to a point where all outstanding and current bills could be paid; that at the outset, until all outstanding bills were paid, Van Dyke's services were to be without compensation; and that, if he succeeded in placing the club on a sound financial footing, arrangements were then to be made to hire him as manager and pay him compensation. According to Tanner, the \$20.00 a week mentioned in the statements and in Van Dyke's testimony represented rent paid by the defendant to the Masonic Lodge, owner of the building where the licensed premises are located. Tanner added that the outstanding bills were not paid and, consequently, Van Dyke was never in fact employed or paid any compensation. As for the statement given by him to our agents, he claimed that, although the statement was read to him before he signed it, he did not pay full attention to the reading and, hence, did not realize that the statement failed to set forth accurately the arrangement with Van Dyke. In any event, that arrangement, whatever it was, has apparently now been terminated.

After carefully considering all of the testimony, I conclude that the evidence is not sufficient clearly to establish that defendant ever agreed to permit Van Dyke to share the profits of the licensed business or exercise the privileges of the license. Hence, I shall dismiss the charges.

Accordingly, it is, on this 19th day of September, 1950,

ORDERED that the charges herein be and the same are hereby dismissed.

ERWIN B. HOCK  
Director.

13. STANDARD TIME EFFECTIVE THROUGHOUT THE STATE FROM LAST SUNDAY IN SEPTEMBER (1950) UNTIL LAST SUNDAY IN APRIL (1951).

Under New Jersey law (Revised Statutes, 1:1-2.3) the standard of time in the State is Eastern Standard Time except from the last Sunday in April until the last Sunday in September, in each year, when the standard of time is Eastern Daylight Saving Time which is one hour in advance of Eastern Standard Time.

The Law is State-wide in its application and is binding on all municipalities.

This year's Daylight Saving Time period is almost over. From midnight Saturday, September 23rd, and throughout the seven-month Eastern Standard Time period, the time will be one hour behind the present Daylight Saving Time. To illustrate: As of midnight Saturday, September 23rd, clocks are to be turned back one hour. If the regulations of "Municipality X" require closing between the hours of 2:00 a.m. and 7:00 a.m., that municipality's licensed premises must be closed when the changed clock-time reaches 2:00 a.m. and remain closed until the changed clock-time reaches 7:00 a.m.

In some other states the change to Standard Time will take place at 2:00 a.m. on the morning of Sunday, September 24th. Similarly, in some New Jersey municipalities, there are ordinances or resolutions or executive proclamations which indicate that the change to Standard Time is to take place, in the particular municipality, at 2:00 a.m. on the morning of Sunday, September 24th. But regardless of such ordinances, resolutions or proclamations, the change back to Eastern Standard Time will be legally effective in all New Jersey municipalities not at 2:00 a.m. on the morning of Sunday September 24th but at midnight, Saturday, September 23rd.

Dated: September 20, 1950.

*Emory B. Hook*

Director.