

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

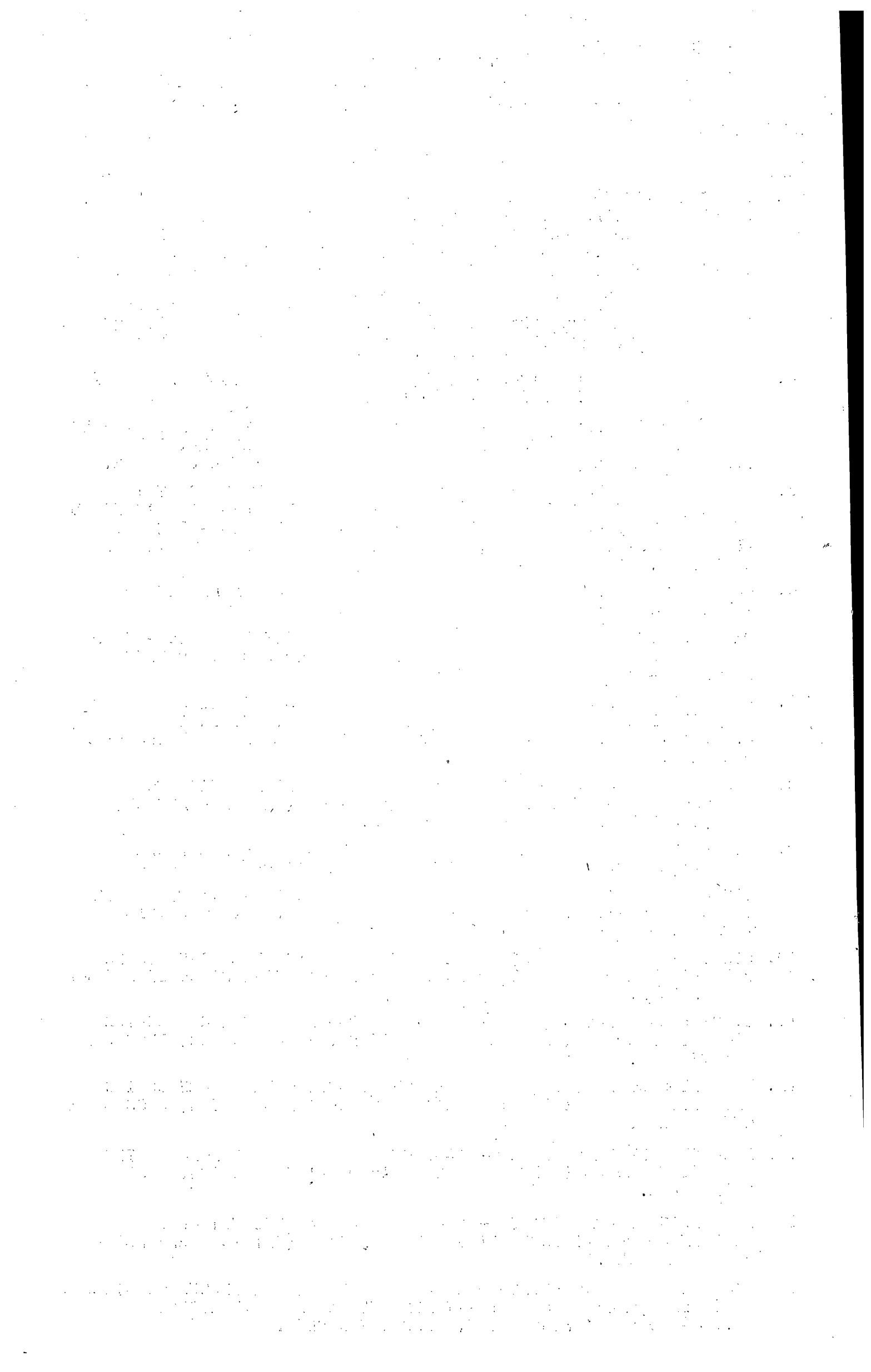
BULLETIN 590

OCTOBER 21, 1943.

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

BULLETIN 590

OCTOBER 21, 1943.

1. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - VARIATION IN PROOF, ACIDS AND SOLIDS - ILLEGAL PURCHASE OF ALCOHOLIC BEVERAGES BY RETAILER FROM NON-LICENSEE, IN VIOLATION OF RULE 15 OF STATE REGULATIONS NO. 20 - FAILURE TO DISPLAY "HOURS" SIGN AS REQUIRED BY RULE 3 OF STATE REGULATIONS NO. 38 - 32 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against

CHARLES BRADLEY
T/a BRADLEY'S BAR & CAFE
218 East Schellenger Ave.
Wildwood, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-50 issued by the Board of Commissioners of the City of Wildwood.

Harry Tenenbaum, Esq., Attorney for Defendant-Licensee.
Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty, with an explanation, to the following charges:

"1. On September 4, 1943 you possessed illicit alcoholic beverages at your licensed premises, viz.: Three quart bottles labeled 'Park & Tilford Reserve Whiskey A Blend 86.8 Proof', three 4/5 quart bottles and 1 quart bottle labeled 'Calvert Special Blended Whiskey 86.8 Proof' and two quart bottles labeled 'Carstairs White Seal Blended Whiskey 86.8 Proof', which bottles contained alcoholic beverages not genuine as labeled; such possession being in violation of R. S. 33:1-50.

"2. On or about September 4, 1943, and on divers days prior thereto, you, a New Jersey retailer, purchased a number of bottles of whiskey labeled 'Park & Tilford Reserve A Blend 86.8 Proof' and 'Stud', for the purpose of resale, from persons who were not the holders of a New Jersey manufacturer's or wholesaler's license or of special permit; such purchases by you being in violation of Rule 15 of State Regulations No. 20.

"3. On September 4, 1943, and on divers days prior thereto, you failed to keep properly displayed on or near the entrance to your licensed premises and clearly visible from the exterior, a sign not less than 10x12 inches in size stating clearly and legibly the legal hours during which the sale of alcoholic beverages in original containers for off-premises consumption is permitted, thereby violating rule 3 of State Regulations No. 38."

On September 4, 1943 two investigators of this Department seized the nine bottles mentioned in charge (1) when their tests disclosed that the contents of these bottles appeared to be under proof.

Subsequent analysis made by the departmental chemist disclosed that the contents of the three Park & Tilford bottles were substantially lower in proof, and that the contents of the other bottles were substantially lower in proof and substantially higher in acids and solids, than the contents of genuine samples of these products.

At the time this inspection of the licensed premises was being made, the investigators found a quantity of "Stud" whiskey upon the licensed premises. The licensee admitted to the investigators that he had not purchased the Park & Tilford whiskey or the "Stud" whiskey from licensed New Jersey manufacturers or wholesalers.

At the same time, the investigators found that there was no sign upon the licensed premises as required by Rule 3 of State Regulations No. 38.

As to charge (1): The licensee alleges that a former bartender intermingled whiskeys, without his knowledge, and that he immediately discharged the bartender after the violation was discovered by the investigators. Despite the absence of any personal participation in the violation, the licensee must be held strictly accountable for any "refills" found in his liquor stock. Re Kurian, Bulletin 517, Item 2.

As to charge (2): The licensee alleges that he was unable to obtain these items from licensed New Jersey wholesalers and that occasionally a friend would purchase these items at retail licensed premises and turn the same over to him. While I sympathize with licensees who may not be able to obtain supplies of various items because of war conditions, I must point out the seriousness of violations of this character.

The salutary purpose of Rule 15 of State Regulations No. 20 is to assure the collection of taxes due to the State, and to prevent the distribution of "bootleg" products. There can be no assurance that these ends are achieved if licensees are permitted to purchase or accept bottles brought upon their premises by their friends.

As to penalty: Licensee has no prior record. In view of the large number of bottles which were found to contain illicit liquor, I shall suspend the license on the first charge for a period of twenty days. Re Gotts, Bulletin 562, Item 9. I shall suspend the license on the second charge for a period of fifteen days, less five days for the guilty plea. Re Susslin, Bulletin 458, Item 2. Since this is a case of first impression, I shall suspend the license on the third charge for a period of two days, with a warning that the penalty in future cases may be substantially increased. The license, therefore, will be suspended for a period of thirty-two days.

Accordingly, it is, on this 11th day of October, 1943,

ORDERED, that Plenary Retail Consumption License C-50, issued by the Board of Commissioners of the City of Wildwood to Charles Bradley, t/a Bradley's Bar & Cafe, for premises 218 East Schellenger Avenue, Wildwood, be and the same is hereby suspended for thirty-two (32) days, commencing at 2:00 A.M. October 18, 1943, and concluding at 2:00 A.M. November 19, 1943.

ALFRED E. DRISCOLL
Commissioner.

2. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACT - PERMITTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - ILLEGAL SITUATION CORRECTED - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)

WILLIAM N. STARR)
T/a STARR'S CAFE)
3125-27 River Avenue)
Camden, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-145, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)
-----)

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

BY THE COMMISSIONER:

The defendant pleaded non vult to charges alleging that he (1) falsified his license application by concealing the fact that George W. Starr was the real and beneficial owner of the license and business conducted thereunder, and (2) permitted the said George W. Starr to exercise the rights and privileges of the license.

George W. Starr became a New Jersey resident in January 1937. In March 1940, when the license for these premises was originally issued, a full five-year residence in this State was one of the statutory requisites of an applicant for a liquor license. Lacking such requirement, George W. Starr caused the license to be taken on his behalf in the name of his father, William N. Starr.

During the pendency of these proceedings the license was transferred to George W. Starr, who is now apparently fully qualified to hold a liquor license in his own name. See the recent amendment to R. S. 33:1-25 (Bulletin 562, Item 2), which substitutes a bona fide residence of no specified duration in place of the former five-year requirement.

The defendant has no previous record. The usual penalty of ten days will be imposed. Re Bailey, Bulletin 586, Item 9.

Accordingly, it is, on this 11th day of October, 1943,

ORDERED, that Plenary Retail Consumption License C-145, heretofore issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to William N. Starr, t/a Starr's Cafe, for premises 3125-27 River Avenue, Camden, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 A. M. October 18, 1943, and terminating at 2:00 A.M. October 28, 1943.

ALFRED E. DRISCOLL
Commissioner.

3. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - STRAIGHT WHISKEY IN A BLENDED WHISKEY BOTTLE - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against
 AFRO-AMERICAN DEMOCRATIC LEAGUE, INC.
 19 Quitman Street
 Newark, N. J.,
 Holder of Club License CB-51, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS AND ORDER

J. Leroy Jordan, Esq., Attorney for Defendant-Licensee.
 Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty, with a statement, to the following charge:

"On August 4, 1943 you possessed an illicit alcoholic beverage at your licensed premises, viz., one 4/5 quart bottle labeled 'Seagram's Seven Crown Blended Whiskey 86.8 Proof', which bottle contained an alcoholic beverage not genuine as labeled; such possession being in violation of R. S. 33:1-50."

The charge was preferred after an A. B. C. investigator tested seventeen open bottles of liquor. One of these bottles, labeled blended whiskey, was found to contain straight whiskey. Defendant represents it is unable to explain the violation and believes that it resulted from the innocent mistake of an employee. Defendant must nevertheless be held strictly accountable for any "refills" found in its stock of liquor. Re Ellbee, Inc., Bulletin 583, Item 6. To do otherwise would be to open the door wide to all manner of fraud upon the buying public.

In the absence of prior record and aggravating circumstances, I shall impose the minimum penalty of ten days' suspension of the license. Re Ellbee, Inc., supra.

Accordingly, it is, on this 11th day of October, 1943,

ORDERED, that Club License CB-51, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Afro-American Democratic League, Inc., for premises 19 Quitman Street, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2:00 A.M. October 18, 1943 and terminating at 2:00 A.M. October 28, 1943.

ALFRED E. DRISCOLL
 Commissioner.

4. ELIGIBILITY - FACTS EXAMINED - CRIME OF BURGLARY FOUND TO INVOLVE MORAL TURPITUDE - APPLICANT ADVISED THAT HE IS NOT ELIGIBLE TO HOLD A LIQUOR LICENSE OR TO BE EMPLOYED BY A LIQUOR LICENSEE.

October 11, 1943

Re: Case No. 514

Applicant seeks a determination of his eligibility to hold a liquor license in this State and to work for a holder of such a license.

On June 6, 1941 petitioner was convicted on a charge of burglary and sentenced to serve three to seven years in a State prison. The sentence was suspended and he was put on three years' probation. It appears that petitioner broke into a business establishment and stole one hundred dollars; attempted to crack a safe in a theatre; and broke into a tavern and stole money, cigarettes and liquor valued at fifty-five dollars. The crime in question involves moral turpitude. Re Case No. 150, Bulletin 468, Item 11.

It is recommended that petitioner be advised that he is ineligible to hold a liquor license in this State or to work for a holder of such a license.

Since the statutory five years have not elapsed since his conviction, petitioner cannot apply for the removal of his disqualification until after June 6, 1946.

APPROVED:
ALFRED E. DRISCOLL
Commissioner.

Gaylord R. Hawkins
Attorney.

5. RETAIL LICENSEES - HEREIN OF THE APPOINTMENT OF AN AGENT TO MANAGE THE LICENSED BUSINESS - APPLICATION FOR RENEWAL LICENSE BY AN ATTORNEY-IN-FACT FOR A LICENSEE IN ARMED FORCES - LICENSEE AT ALL TIMES STRICTLY ACCOUNTABLE FOR THE ACTS OF HIS AGENTS AND EMPLOYEES.

October 5, 1943

Mr. A. M. Gourley
Borough Clerk
Woodbury Heights, N. J.

Dear Mr. Gourley:

I have your letter of September 30th stating that William A. Numbers, who holds Plenary Retail Consumption License C-1 in the Borough, and who has been inducted into the armed forces, intends to leave his wife in charge of the licensed premises. You ask whether this is permissible.

There is nothing in the Alcoholic Beverage Law or State Regulations to prevent the licensee's appointment of a person to manage the business or to prevent the employment of a female to work on licensed premises, provided that the manager or female is fully qualified to hold a license in his or her own right, i.e., qualifies as to age, residence and citizenship, and has not been convicted of a crime involving moral turpitude or been twice convicted in a court of criminal jurisdiction of violation of the Alcoholic Beverage Law. (Revised Statutes, 33:1-26 and 33:1-25.)

The employment of a manager does not, of course, relieve the licensee of any responsibility. A licensee is accountable for all the acts or omissions of his employees or agents or for any violation which may occur on his premises, whether with his knowledge or in his presence or not. (See Grant Lunch Corporation v. Newark, Bulletin 170, Item 10.)

It is permissible for New Jersey municipalities to adopt regulations prohibiting women from working on retail licensed premises. Section 11 of the Borough's ordinance, adopted March 9, 1936, appears clearly to include a licensee's wife among the females designated therein as those permitted to sell and serve alcoholic beverages.

It is possible that Mr. Numbers may be in foreign parts and therefore unable to make application for a renewal of his existing license. In that event, it will be important that he arrange at once to have a duly appointed agent authorized to make application in his place. There is a State law expressly designed to protect licensees entering the armed forces (P.L. 1942, c. 249). The Act, amending Revised States 33:1-25, provides, in the case of applicants in military service, that applications may be signed in their behalf by an attorney-in-fact holding a power of attorney in form approved by the State Commissioner of Alcoholic Beverage Control. Pursuant to this amendment, many inducted licensees have executed powers of attorney under which their appointed agents have applied for license renewal and have continued operation of the business. The Commissioner has not prescribed a set form but a power of attorney, to receive his approval, must contain the provisions indicated in Re DeMartini, Bulletin 527, Item 8. See also point 3 in Re Hoyt, Bulletin 565, Item 1.

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

By: Harold J. Saum
Legal Assistant.

6. MORAL TURPITUDE - CRIME OF BREAKING, ENTERING AND LARCENY INVOLVES THE ELEMENT OF MORAL TURPITUDE.

DISQUALIFICATION - APPLICATION TO LIFT - FACTS EXAMINED - GOOD CONDUCT FOR FIVE YEARS LAST PAST AND NOT CONTRARY TO PUBLIC INTEREST - APPLICATION TO LIFT GRANTED.

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

CONCLUSIONS
AND ORDER

Case No. 298.)
-----)

BY THE COMMISSIONER:

In November 1933 petitioner pleaded guilty to the crime of breaking, entering and larceny, as a result of which he was sentenced to an indefinite jail term and was finally paroled in March 1935. The crime in question involves the element of moral turpitude. Re Case No. 489, Bulletin 566, Item 7. For more than five years last past, petitioner has neither been arrested nor convicted of any crime.

After his release from prison, petitioner was employed as a night watchman for a shipbuilding concern, as a kiln worker for a crucible steel company, and as a chauffeur. In March 1942 he was inducted into the United States Army and received an honorable medical discharge in August 1943. He is married and is living with his wife and child.

A member of the New Jersey bar, who has known petitioner for ten years, testified that petitioner has a good reputation in his community for being honest and law-abiding. Similar testimony was given by a municipal employee and the superintendent of the public baths of the municipality in which petitioner resides, both of whom have known petitioner for ten years.

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

Accordingly, it is, on this 13th day of October, 1943,

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

ALFRED E. DRISCOLL
Commissioner.

7. DISCIPLINARY PROCEEDINGS - CHARGES OF POSSESSING ILLICIT LIQUOR IN VIOLATION OF R. S. 33:1-50 AND REFILLING IN VIOLATION OF R. S. 33:1-78 DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.

In the Matter of Disciplinary Proceedings against
PETER BENTIVOGLI
477 Chestnut Avenue
Trenton, 10, N. J.,
Holder of Plenary Retail Consumption License C-140 for the fiscal year 1941-42 and now holder of Plenary Retail Consumption License C-140 for the current (1943-44) year, both issued by the Board of Commissioners of the City of Trenton.

CONCLUSIONS
AND ORDER

Peter Bentivogli, Pro Se.
Abraham Merin, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant-licensee entered a plea of not guilty to charges alleging his possession of one quart bottle of an illicit alcoholic beverage, in violation of R. S. 33:1-50, and the refilling of the aforesaid bottle, in violation of R. S. 33:1-78.

The proof submitted by the Department in support of its charges is not sufficient to warrant a finding of guilt on the part of defendant-licensee.

The defendant-licensee has been in the liquor business for approximately thirty-seven years. He has a clean record. Under the circumstances, he is entitled to the benefit of the doubt that exists in my mind with respect to the accuracy of the instant charges.

Accordingly, it is, on this 13th day of October, 1943,

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

ALFRED E. DRISCOLL
Commissioner.

8. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN APPLICATION FOR EMPLOYMENT PERMIT CONCEALING MATERIAL FACT (CRIMINAL RECORD) - PERMIT SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary)
Proceedings against)

Holder of Employment Permit)
No. 829 issued by the State)
Commissioner of Alcoholic)
Beverage Control.)

CONCLUSIONS
AND ORDER

Harry Castelbaum, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant in these proceedings is charged with having given a false answer in his application for an employment permit. Accompanying the charge was an order directing defendant to show cause why the permit should not be suspended or revoked.

Subsequent to the issuance of the employment permit, the Department obtained a copy of the defendant's fingerprint record. The record discloses that in October 1941, when defendant was sixteen years of age, he was convicted in a police court on a charge of grand larceny and was placed on probation for two years. It may be that, because of the youthfulness of defendant, the crime in question did not involve moral turpitude, but that need not be determined in this proceeding. Whether or not the crime involved moral turpitude, the conviction should have been revealed in the application. Defendant denied in the application that he had ever been convicted of any crime. His answer was false.

Prior to the date fixed for hearing herein, defendant surrendered his permit and advised me, in writing, that he had misunderstood the question. He failed to appear at the scheduled hearing. I find defendant guilty as charged. Despite the surrender of the permit, I shall, under the circumstances of this case, suspend the permit for the balance of its term.

Accordingly, it is, on this 14th day of October, 1943,

ORDERED, that Employment Permit No. 829, heretofore issued to _____ by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for the balance of its term, effective immediately.

ALFRED E. DRISCOLL
Commissioner.

9. MORAL TURPITUDE - CRIME OF BREAKING, ENTERING, LARCENY AND RECEIVING STOLEN GOODS INVOLVES MORAL TURPITUDE.

DISQUALIFICATION - APPLICATION TO LIFT - FACTS EXAMINED - GOOD CONDUCT FOR FIVE YEARS LAST PAST AND NOT CONTRARY TO PUBLIC INTEREST - APPLICATION TO LIFT GRANTED.

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

CONCLUSIONS
AND ORDER

Case No. 273.
- - - - -)

BY THE COMMISSIONER:

In January 1919 petitioner, then nineteen years of age, pleaded guilty to the crime of breaking, entering, larceny and receiving stolen goods and was sentenced to serve six months in a county penitentiary. An examination of the facts discloses that the crime involved moral turpitude. In April 1931 petitioner pleaded guilty to the charge of desertion and was put on probation for three years. From 1932 until 1940 petitioner has been before the court in contempt proceedings on several occasions. These proceedings followed the failure of petitioner to make certain alimony payments ordered by the court. His fingerprint returns disclose no other convictions.

Petitioner represents that he has been law-abiding for at least five years last past, and hence, pursuant to R. S. 33:1-31.2, seeks removal of his disqualification from working for a liquor licensee or holding a liquor license in this State by reason of his conviction of a crime involving moral turpitude.

The proprietor of an automobile concern who has had a business acquaintance with petitioner for about ten years testified that during such time petitioner has conducted himself in a law-abiding manner and has had a good reputation in the community. Similar testimony was given by a government engineer who has known petitioner socially for about six years and a steamfitter who has known him for about twelve years.

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

Accordingly, it is, on this 13th day of October, 1943,

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

ALFRED E. DRISCOLL
Commissioner.

10. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS (ELECTION DAY) - 15 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against
 DENNIS H. LANGTON
 T/a THE DENNIS
 Sparta-Woodport Road
 Sparta Township, N. J.,
 Holder of Plenary Retail Consumption License C-11, issued by the Township Committee of the Township of Sparta.
 -----)

CONCLUSIONS AND ORDER

Dennis H. Langton, Pro Se.
 Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to the following charge:

"On September 21, 1943, Primary Election Day, at about 1:25 P.M., you sold at retail and delivered alcoholic beverages to consumers while polls were open for voting, in violation of Rule 2 of State Regulations No. 20."

The charge was preferred after two A.B.C. agents had each purchased a glass of beer on the licensed premises at the time in question.

In recent months I have determined upon a minimum penalty of fifteen days for the sale of alcoholic beverages during prohibited hours where the licensee does not have a previous record and where there are no aggravating circumstances. Obviously, sales on Election Day come within the purview of this policy. Re Gattuso, Bulletin 587, Item 1; Re Disbrow, Bulletin 540, Item 3. Five days of the penalty will be remitted for the plea, making a net suspension of ten days.

Accordingly, it is, on this 15th day of October, 1943,

ORDERED, that Plenary Retail Consumption License C-11, issued to Dennis H. Langton, t/a The Dennis, by the Township Committee of the Township of Sparta, for premises on Sparta-Woodport Road, Sparta Township, be and the same is hereby suspended for a period of ten (10) days, effective at 2:00 A.M. October 19, 1943 and terminating at 2:00 A.M. October 29, 1943.

ALFRED E. DRISCOLL
 Commissioner.

11. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS (ELECTION DAY) - 15 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

GEORGE J. HAMILL)
Brace Rd. & Cooper River Pkwy)
Delaware Township)
P.O. Haddonfield, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-23, issued by the Township Committee of the Township of Delaware.)
-----)

George J. Hamill, Pro Se.
Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty, with an explanation, to the following charge:

"On September 21, 1943, Primary Election Day, at about 5:25 P.M., you sold at retail and delivered alcoholic beverages to consumers while the polls were open for voting, in violation of Rule 2 of State Regulations No. 20."

Defendant represents that there was no sale as he merely "treated a few people." Irrespective of whether there was an actual sale, the delivery of alcoholic beverages to consumers constituted a violation. Rule 2 of State Regulations No. 20 provides:

"No licensee shall sell or offer for sale at retail or deliver to any consumer, any alcoholic beverages in any municipality in which a general, municipal, primary or special election is being held, while the polls are open for voting at such election."

In recent months I have determined upon a minimum penalty of fifteen days for the sale of alcoholic beverages during prohibited hours where the licensee does not have a previous record and where there are no aggravating circumstances. Obviously, sales on Election Day come within the purview of this policy. Re Gattuso, Bulletin 587, Item 1; Re Disbrow, Bulletin 540, Item 3. Five days of the penalty will be remitted for the plea, making a net suspension of ten days.

Accordingly, it is, on this 15th day of October, 1943,

ORDERED, that Plenary Retail Consumption License C-23, issued to George J. Hamill by the Township Committee of the Township of Delaware for premises located at Brace Rd. & Cooper River Pkwy, Delaware Township, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 A.M. October 19, 1943 and terminating at 2:00 A.M. October 29, 1943.

ALFRED E. DRISCOLL
Commissioner.

12. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS (ELECTION DAY) - 15 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

ANTONY TALPASH)
133 Newark & Pompton Turnpike)
Little Falls Township)
P.O. Singac, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Township Committee of the Township of Little Falls.)
-----)

Antony Talpash, Pro Se.
Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads guilty to a charge that, on September 21, 1943, Primary Election Day, while the polls were open for voting, he sold alcoholic beverages in violation of Rule 2 of State Regulations No. 20.

In recent months I have determined upon a minimum penalty of fifteen days for the sale of alcoholic beverages during prohibited hours where the licensee does not have a previous record and where there are no aggravating circumstances. Obviously, sales on Election Day come within the purview of this policy. Re Gattuso, Bulletin 587, Item 1; Re Disbrow, Bulletin 540, Item 3. Five days of the penalty will be remitted for the plea, making a net suspension of ten days.

Accordingly, it is, on this 15th day of October, 1943,

ORDERED, that Plenary Retail Consumption License C-5, issued by the Township Committee of the Township of Little Falls to Antony Talpash, for premises 133 Newark & Pompton Turnpike, Little Falls Township, be and the same is hereby suspended for ten (10) days, commencing at 3:00 A.M. October 19, 1943 and terminating at 3:00 A.M. October 29, 1943.

ALFRED E. DRISCOLL
Commissioner.

13. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS (ELECTION DAY) - 15 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

PHILIP & SOPHIE SABIN)
183 Meeker Avenue)
Newark, 8, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-537, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)
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Samuel S. Ferster, Esq., Attorney for Defendant-Licensees.
Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensees plead non vult to a charge that on September 21, 1943, Primary Election Day, while the polls were open for voting, they sold alcoholic beverages in violation of Rule 2 of State Regulations No. 20. I will accept the plea.

In recent months I have determined upon a minimum penalty of fifteen days for the sale of alcoholic beverages during prohibited hours where the licensee does not have a previous record and where there are no aggravating circumstances. Obviously, sales on Election Day come within the purview of this policy. Re Gattuso, Bulletin 587, Item 1; Re Disbrow, Bulletin 540, Item 3. Five days of the penalty will be remitted for the plea, making a net suspension of ten days.

Accordingly, it is, on this 15th day of October, 1943,

ORDERED, that Plenary Retail Consumption License C-537, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Philip & Sophie Sabin, for premises 183 Meeker Avenue, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2:00 A.M. October 19, 1943 and terminating at 2:00 A.M. October 29, 1943.

ALFRED E. DRISCOLL
Commissioner.

14. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN APPLICATION FOR EMPLOYMENT PERMIT CONCEALING MATERIAL FACT (CRIMINAL RECORD) - PERMIT REVOKED.

In the Matter of Disciplinary Proceedings against)

ANTHONY B. TULLIO)
25 W. 65th Street)
New York, N. Y.,)

CONCLUSIONS AND ORDER

Holder of Employment Permit No. 6269, issued by the State Commissioner of Alcoholic Beverage Control.)
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Nathan Zeichner, Esq., Attorney for Defendant-Permittee.
Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded guilty to a charge alleging that he falsely concealed in his application for employment permit that he had been convicted in 1932 of maintaining a house of prostitution and in 1934 of selling alcoholic beverages without a liquor license.

The defendant's 1932 conviction is one which, per se, involves the element of moral turpitude. Re Case No. 267, Bulletin 570, Item 9. He is, therefore, disqualified from employment in any capacity on licensed premises in this state. R. S. 33:1-25; 26.

In defendant's application for permit, necessitated by reason of his non-residence in this state, he answered, in the negative, Question No. 10 therein, which asks: "Have you ever been convicted of any crime?". He testified that the answers to the questions in the application were inserted by a third person and that he signed the application without reading it. This explanation, even if believed, cannot serve to excuse the violation.

The permit will be revoked.

Accordingly, it is, on this 15th day of October, 1943,

ORDERED, that Employment Permit No. 6269, issued by the State Commissioner of Alcoholic Beverage Control to Anthony B. Tullio, be and the same is hereby revoked, effective immediately.

ALFRED E. DRISCOLL
Commissioner.

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

In the Matter of Disciplinary Proceedings against BRIGHTON HOTEL CO. (a corporation) 3321 New Jersey Avenue Wildwood, N. J., Holder of Plenary Retail Consumption License C-3, issued by the Board of Commissioners of the City of Wildwood.

CONCLUSIONS AND ORDER

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

BY THE COMMISSIONER:

Defendant, a corporate licensee, pleaded non vult, with an explanatory statement, to charges alleging, in substance, that on August 31, 1943 it sold alcoholic beverages to, and permitted the consumption of alcoholic beverages upon its licensed premises by, Dorothy _____, Dolores _____, Rita _____ and Coast Guardsmen George _____, Joseph _____ and John _____, minors, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

The charges were preferred as a result of an investigation made by A. B. C. agents. The defendant represents that no member or employee of the corporation recalls the violation. However, I am satisfied from the evidence in the Departmental records that service was made as charged.

The defendant cannot successfully defend itself against the charge of sale to minors unless it can show compliance with all the provisions of h. S. 33:1-77, namely (a) that the minor falsely represented in writing that he or she was twenty-one years of age or over, (b) that the appearance of the minor was such that an ordinary prudent person would believe him or her to be twenty-one years of age or over, and (c) that the sale was made in good faith, relying upon such representation and appearance and in the reasonable belief that the minor was actually twenty-one years of age or over. (Underlining ours.) Re Lombardi, Bulletin 588, Item 8.

Dorothy _____ and Dolores _____ were each seventeen years of age and Rita _____ was nineteen. Coast Guardsmen George _____ and Joseph _____ were each eighteen years of age and John _____ was nineteen.

The usual penalty for sale of alcoholic beverages to minors, where there are no aggravating circumstances, is ten days. Re Kurtz, Bulletin 585, Item 5. Although the licensee has no previous record, the sale of alcoholic beverages to six minors, some of whom were seventeen and eighteen years old, is an aggravating factor. Hence, I shall double the usual penalty of ten days and suspend the license for twenty days, less five days for the non vult plea, leaving a net penalty of fifteen days. Re Konvitz, Bulletin 539, Item 8.

Accordingly, it is, on this 18th day of October, 1943,

ORDERED, that Plenary Retail Consumption License C-3, issued to Brighton Hotel Co. by the Board of Commissioners of the City of Wildwood, for premises at 3321 New Jersey Avenue, Wildwood, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 A.M. October 25, 1943 and terminating at 2:00 A.M. November 9, 1943.

Alfred E. Driscoll
Commissioner.