

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

BULLETIN 521

JULY 30, 1942.

1. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR
TRADE MINIMUM - DELIBERATE AND INTENTIONAL VIOLATION - 15 DAYS
SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary)
Proceedings against)

WILLIAM BERNSTEIN,)
T/a ROSELAND WINE & LIQUOR,)
201 Dayton Avenue,)
Passaic, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-19 for fiscal)
year 1941-42 and now holder of)
Plenary Retail Consumption License)
C-19 for current fiscal year, issued)
by Board of Commissioners of the)
City of Passaic.)
-----)

William Bernstein, Pro Se.

G. George Addonizio, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to a charge alleging that, on May 5, 1942, he sold a half-gallon bottle of Calvert Special Blended Whiskey below the minimum consumer price, in violation of Rule 6 of State Regulations No. 30.

Defendant admits that such sale was made with knowledge that the price charged was less than the Fair Trade minimum.

In cases where it appears that the violation is deliberate, the minimum penalty is fifteen days, less five for the guilty plea. Re Vogel, Bulletin 493, Item 10. Since defendant has no past record, I shall impose the minimum penalty of fifteen days, less five, or a net of ten days.

This proceeding, although instituted during the last licensing period, does not abate but remains effective against defendant's renewal license for the current fiscal year. State Regulations No. 15.

Accordingly, it is, on this 9th day of July, 1942,

ORDERED, that Plenary Retail Consumption License C-19, issued for the current fiscal year by the Board of Commissioners of the City of Passaic to William Bernstein, t/a Roseland Wine & Liquor, for 201 Dayton Avenue, Passaic, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 A.M. on July 13, 1942, and ending at 3:00 A.M. on July 23, 1942.

ALFRED E. DRISCOLL,
Commissioner.

2. DISCIPLINARY PROCEEDINGS - DEVICE DESIGNED FOR GAMBLING - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

PETER KNOZ,)
T/a CIRCLE INN,)
Matawan Road,)
Madison Township,)
P. O. Old Bridge, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-31 for the fiscal year 1941-42, and now holder of Plenary Retail Consumption License C-31 for the current (1942-43) year, issued by the Township Committee of the Township of Madison.)
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Peter Knoz, Defendant-Licensee, Pro Se.
William F. Wood, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleaded guilty to a charge alleging that he allowed a 5-ball "Metro" bumper type pin ball and bagatelle machine on his licensed premises, in violation of Rule 7 of State Regulations No. 20.

On May 1, 1942 Department agents, while making a routine inspection at the tavern, discovered the machine in question hidden behind a curtain in the rear serving room of the licensed premises. The machine is the usual pin ball or bagatelle machine declared by the New Jersey Supreme Court to be a gambling device in the case of Hunter v. Teaneck Twp., 128 N. J. L. 164 (reported in full in Bulletin 498, Item 3). As a result of that decision, Rule 7 of State Regulations No. 20 was amended on March 9, 1942 so as to make unlawful the mere possession of "any machine or device commonly known as a bagatelle or pin ball machine." See Bulletin 498, Item 1.

The license will be suspended for ten days, less five days for the guilty plea, or a net penalty of five days.

Although this proceeding was instituted during the last licensing year, which expired June 30, 1942, it does not abate but remains fully effective against the defendant's renewal license for the current (1942-43) year. State Regulations No. 15.

Accordingly, it is, on this 9th day of July, 1942,

ORDERED, that Plenary Retail Consumption License C-31, heretofore issued to Peter Knoz, t/a Circle Inn, by the Township Committee of the Township of Madison for the current fiscal year, for premises on Matawan Road, Madison Township, P. O. Old Bridge, be and the same is hereby suspended for a period of five (5) days, effective July 13, 1942, at 4:00 A.M. and concluding July 18, 1942, at 4:00 A.M.

ALFRED E. DRISCOLL,
Commissioner.

3.

NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1st, 1941
TO JUNE 30th, 1942, AS CERTIFIED BY ISSUING AUTHORITIES.

C L A S S I F I C A T I O N O F L I C E N S E S

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Number Surrendered Expired	Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	471	\$ 174,560.99	60	\$ 21,050.00	11	\$ 1,020.18			3	\$ 329.76	5	540	\$ 196,960.93
Bergen	821	270,495.32	247	58,041.11	48	4,464.18	34	\$1,528.97	11	2,088.90	10	1,151	336,618.48
Burlington	194	62,379.86	17	4,050.00	30	3,610.62	1	25.00			3	239	70,065.48
Camden	451	190,673.45	54	19,274.45	60	5,540.82			2	338.43	5	562	215,827.15
Cape May	126	51,496.00	11	3,150.00	5	500.00						142	55,146.00
Cumberland	80	23,931.37	7	1,700.00	26	2,742.81						113	28,374.18
Essex	1,404	704,034.68	353	167,058.00	85	11,031.78	20	999.18	1	235.71	13	1,850	883,359.35
Gloucester	113	31,401.04	10	1,568.84	6	400.00						129	33,369.88
Hudson	1,650	673,306.90	275	108,747.76	49	5,762.12	52	2,100.00			15	2,011	789,916.78
Hunterdon	82	21,270.00	1	300.00	1	150.00			1	125.70	2	83	21,845.70
Mercer	437	183,911.21	45	11,295.34	38	4,525.69			1	101.06	3	518	199,833.30
Middlesex	614	236,623.58	45	11,990.10	33	2,708.69	1	25.00	4	724.79	7	690	252,072.16
Monmouth	511	204,427.69	74	20,694.67	25	2,570.79	6	225.00	45	14,353.13	33	628	242,271.28
Morris	340	97,585.21	71	17,850.00	28	2,350.00	1	25.00	23	3,428.95	18	445	121,239.16
Ocean	181	77,770.74	28	9,800.00	7	683.80					2	214	88,254.54
Passaic	902	345,909.55	124	35,315.40	26	3,073.89	17	671.36	3	463.75	7	1,065	385,433.95
Salem	50	15,750.00	4	550.00	10	868.42						64	17,168.42
Somerset	189	65,209.21	24	5,575.00	9	875.00					2	220	71,659.21
Sussex	159	33,461.48	13	2,001.44	4	210.00			6	900.00	9	173	36,572.92
Union	558	273,852.07	127	42,342.47	57	6,687.18	18	804.17	3	1,125.00	5	758	324,810.39
Warren	138	37,637.93	13	2,307.50	18	1,853.84	1	35.00	6	820.02	5	171	42,654.29
TOTALS	9,471	\$3,775,688.28	1603	\$544,662.08	576	\$62,629.81	151	\$6,438.68	109	\$25,035.20	144	11,766	\$4,413,454.05

Respectfully submitted,
E. B. Hock,
Deputy Commissioner.

ALFRED E. DRISCOLL, Commissioner.

- 4. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY CLUB LICENSEE TO NON-MEMBERS - SALE ON SUNDAY DURING PROHIBITED HOURS - POSSESSING DEVICE DESIGNED FOR GAMBLING -- 30 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA - LICENSEE FOUND NOT GUILTY OF CHARGE OF HAVING MADE FALSE ANSWERS IN LICENSE APPLICATION.

In the Matter of Disciplinary Proceedings against)

NEMDEROLOC SOCIAL CLUB,)
 184 John Street,)
 Princeton, N. J.,)

CONCLUSIONS AND ORDER

Holder of Club License CB-1 for the fiscal year 1941-42, and now holder of Club License CB-1 for the current (1942-43) year, issued by the Mayor and Council of the Borough of Princeton.)
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Charles R. Sperling, Esq., Attorney for Defendant-Licensee.
 Richard E. Silberman, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee was served with charges alleging that: (1) It falsely stated in its license application that it had been in active operation in this State for a period of three years immediately prior to filing such application, in violation of R. S. 33:1-25; (2) On September 21, 1941 it sold alcoholic beverages to a person neither a member nor a guest of a member, in violation of Rule 5 of State Regulations No. 7; (3) On that day, a Sunday, it sold alcoholic beverages in violation of local regulation prohibiting sales on Sunday; and (4) It possessed a device designed for gambling, in violation of Rule 7 of State Regulations No. 20.

Licensee pleaded not guilty to the first charge and guilty to all remaining charges.

As to the first charge, the theory of the Department's case is that the club had no real existence as such, since it was conducted merely for the private benefit and gain of one Willie Green. The proof, however, does not sustain this contention.

The club was incorporated in 1922 and has operated at its present quarters for many years. In 1938 the club ran into financial difficulties, with the result that proceedings were instituted to foreclose the mortgage on its property. Willie Green was then induced to purchase the property, and ever since then has loaned the club moneys to the extent of about \$4,000.00. In order to protect his investment in the property and to have some control over the club's finances as well as to insure a return of the moneys loaned by

him to the club, Willie Green was elected President of the club and apparently became its guiding spirit. No financial transactions of any kind took place without his approval. There is nothing in the evidence, however, to show that Willie Green personally derived any private profit from the operation of the club. The most that can be said, after a careful perusal of the entire record, is that the club's affairs were conducted in a very slipshod manner. This is a situation which, of course, must be corrected. A partial correction was presented at the hearing, and further investigation will be made to insure that future operation of the club is in accordance with the law. Cf. Fifteenth Ward Political Club of Essex County, Bulletin 399, Item 6.

Since this charge must be dismissed, the cancellation charge brought for the same alleged violation is also dismissed.

As to (2) and (3): On Sunday, September 21, 1941, shortly before 2:00 A.M., an investigator of this Department entered the licensed premises and was there served alcoholic beverages. In a written statement, the bartender admitted the sale and also that he knew that the local ordinance prohibits such sales on Sundays. The investigator was not a club member, nor was he a guest of any such member.

For the Sunday sale, I shall impose a penalty of fifteen days. Re Eighth Ward Progressive Republican Club, Bulletin 514, Item 4. For the sale to a non-member, the penalty will be fixed at five days since there is no proof that it was other than an isolated violation. Cf. Re Westwood Lodge B.P.O.E., Bulletin 516, Item 10.

As to (4): During the course of their investigation on the day in question, the investigators found a crap table, which bore the usual legends showing betting odds, etc. used in playing dice, in the basement of the licensed premises. An additional suspension of ten days will be given for this violation.

The total suspension, therefore, is thirty days, with remission of five days because of the guilty plea, leaving a net suspension of twenty-five days.

Although this proceeding was instituted during the last licensing year, which expired June 30, 1942, it does not abate but remains fully effective against the defendant's renewal license for the current (1942-43) year. State Regulations No. 15.

Accordingly, it is, on this 9th day of July, 1942,

ORDERED, that Club License CB-1, heretofore issued to Nemderoloc Social Club by the Mayor and Council of the Borough of Princeton for the current fiscal year, for premises 184 John Street, Princeton, N. J., be and the same is hereby suspended for a period of twenty-five days, effective July 13, 1942, at 12:01 A.M., and concluding at midnight, August 6, 1942.

ALFRED E. DRISCOLL,
Commissioner.

5. APPELLATE DECISIONS - CLINTON AVE. DELICATESSEN STORE, INC. v. NEWARK.

CLINTON AVE. LIQUOR & DELICATESSEN STORE, INC.,
 Appellant,
 -vs-
 MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF NEWARK,
 Respondent

)
)
) CONCLUSIONS
) AND ORDER
)
)
)
)
)

Samuel Moskowitz, Esq., Attorney for Appellant.
 Louis A. Fast, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from respondent's refusal to renew appellant's plenary retail distribution license for the current fiscal year.

One of the reasons assigned by respondent in support of such refusal is appellant's past record of misconduct.

Appellant was first issued a liquor license on December 4, 1941. On December 20, 1941 it displayed an over-sized price sign in its show window, in violation of Rule 3 of State Regulations No. 21. On February 10, 1942, and again on February 17, 1942, it sold alcoholic beverages below the established minimum consumer prices, in violation of Rule 6 of State Regulations No. 30. On Sunday, February 22, 1942, it sold a bottle of liquor during prohibited hours, in violation of local regulation.

In disciplinary proceedings instituted against appellant for these violations, I pointed out:

"Within less than three months of licensee's entering the liquor business, it had violated the law on four separate and distinct occasions. This is perhaps a 'track' record entitling the licensee to a twenty-eight day suspension, less five for the guilty plea, or a net suspension of twenty-three days."

Re Clinton Ave. Liquor & Delicatessen Store, Inc., Bulletin 514, Item 6.

Appellant's argument that respondent has arbitrarily discriminated against it because other licensees with previous violations have been issued renewal licenses, is without merit. It is essential to sound control of the liquor traffic that an issuing authority shall have full authority to deny renewals to those who violate the law. Determination of the question as to whether any or all of such violators are worthy of receiving renewals of their licenses lies within the sound discretion of the issuing authority. Lipman v. Newark, Bulletin 356, Item 6.

Although appellant refers to cases where respondent has granted renewals despite prior misconduct, it has not brought to my attention any instance where respondent has done so with respect to any licensee having a record comparable with that of appellant.

Appellant also apparently contends that it has already received its punishment for the violations in question in the disciplinary proceedings brought against it, and that to refuse to renew its license because of those same violations amounts to a double punishment and, therefore, is unreasonable. This contention was found to be without substance by the late Commissioner Burnett in the case of Kaplan et al. v. Newark, Bulletin 269, Item 6, where he said:

"This argument loses sight, however, of the essential fact that a renewal license, like the original, is a privilege, and not a right. Its fallacy is the use of the term 'punishment' in a loose, lay and generic sense. Punishment for violation of the rules is administered via suspension or revocation and may be inflicted only in respect to an existing license. These appellants now have no licenses for they expired on June 30th. Respondent's refusal to renew is not, therefore, a new or additional or cumulative 'punishment' but merely an exercise of discretion which happens to be based on the same facts for which they already have been punished. The refusal was not made to punish the applicants but to protect the public. All that has occurred is that these licensees were punished for a violation of the rules and because of such violation, the Municipal Board refused to renew their licenses."

Also cf. Orsi v. Burnett (Bulletin 359, Item 13), a decision by Justice Parker made on application for writ of certiorari after affirmance of a refusal to renew.

Respondent's action in refusing to renew appellant's license is neither arbitrary nor unreasonable and is, therefore, affirmed.

Accordingly, it is, on this 13th day of July, 1942,

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

ALFRED E. DRISCOLL,
Commissioner.

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 - PERMITTING CONSUMPTION OF ALCOHOLIC BEVERAGE IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 20 - SALE OF ALCOHOLIC BEVERAGES IN VIOLATION OF AN ORDINANCE OF THE CITY OF CAMDEN - FALSE ANSWER IN LICENSE APPLICATION - 16 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against EDWARD MARKOWITZ, T/a 340 CLUB, 340 Federal Street, Camden, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-20 for the fiscal year 1941-42 and now holder of Plenary Retail Consumption License C-10 for the current fiscal year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

A. Millard Taylor, Esq., Attorney for Licensee. William F. Wood, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded not guilty as to charges (1), (2) and (3), which alleged that:

"1. On or about November 29, 1941, you sold an alcoholic beverage to Iva Crane (nee Evans), 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 an alcoholic beverage to Iva Crane (nee Evans), a person under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of an alcoholic beverage by said person upon the licensed premises, in violation of Rule 1 of State Regulations No. 20.

"3. On or about the date aforesaid you served Iva Crane (nee Evans), Edna Deacon and Edna Grabowski, women, with beverages directly over a bar, in violation of Section 1 of an ordinance concerning alcoholic beverages adopted September 12, 1935 by the Board of Commissioners of the City of Camden."

Defendant admitted that he had incorrectly answered the question set forth in another charge hereinafter set forth as charge (4), but the Hearer entered a plea of "not guilty" when defendant denied that he had knowingly misstated any fact in his application. Charge (4) alleged that:

"4. In your license application dated June 9, 1941 filed with the Municipal Board of Alcoholic Beverage Control of the City of Camden, upon which Plenary Retail Consumption License C-20 for the 1941-42 period was granted to you, you falsely stated 'No' in answer to Question 37 therein, which asks: 'Have you....ever had any interest, directly or indirectly, in an....alcoholic beverage license in New Jersey which was....suspended...?', whereas in truth and fact Plenary Retail Consumption License C-98, held by you for the 1936-37 period, was suspended by said Municipal Board for ten days, effective April 21, 1937; said false statement being in violation of R. S. 33:1-25."

As to charges (1), (2) and (3): Mrs. Iva Crane was born December 9, 1922. At the time of the alleged sale to her, she was less than nineteen years of age but she had been married for two years and was the mother of one child. At the hearing herein, Investigator Myers testified that he and Investigator Riggins were at the defendant's premises on the evening of Saturday, November 29, 1941; that he saw a round of three drinks of whiskey served at the bar by the licensee; that he saw Mrs. Iva Crane, while standing at the bar, mix one of the drinks of whiskey with ginger ale and drink it, and that he also saw Mrs. Grabowski drink one of the whiskeys while she was standing at the bar. He testified that a second round of three drinks of whiskey was placed on the bar by the licensee; that the investigators then identified themselves and that two of these three glasses were then removed by a man to a nearby table. He testified also that the licensee served to Edna Deacon, an entertainer, a glass of beer which she drank while standing at the bar.

Mrs. Iva Crane testified that she and Mrs. Grabowski stood at the bar about ten or fifteen minutes; that Tony Buondonno purchased the first round of three drinks which was placed on the bar by the licensee in front of Tony, Mrs. Grabowski and herself; that the licensee did not inquire as to her age; that she drank her whiskey and left the bar; that she was not present when the second round of drinks was served. Tony Buondonno testified that he purchased the first round of drinks; that Mrs. Crane mixed one of these drinks at the bar but did not consume it; that Mrs. Grabowski drank another of these whiskeys while standing some distance from the bar; that Mrs. Crane was not present when he purchased the second round of drinks but that he carried the drinks intended for her and Mrs. Grabowski to a nearby table. He was not certain whether this was after or before the investigators identified themselves. Licensee testified that Buondonno had purchased two rounds of drinks which he assumed "were for the ladies"; that he asked Mrs. Grabowski, "How old is that young lady?" and received the answer that "she is my daughter and is over twenty-one"; that he told them to take the drinks off the bar and to put them on the table. He testified also that he had served a coca-cola to Edna Deacon which she drank while standing some distance from the bar.

The testimony of Mrs. Crane and the investigators leads me to conclude that alcoholic beverages were sold and served to the minor, Iva Crane, and that the three women mentioned in charge (3) were served with beverages directly over the bar. I cannot credit Buondonno's testimony that Mrs. Crane merely mixed her drink at the bar but did not consume it or his testimony that Mrs. Grabowski was standing some distance from the bar when she was served. In view of the investigator's testimony, I do not believe the licensee's story that Edna Deacon was not served directly over the bar. Hence I find the licensee guilty as to charges (1), (2) and (3).

As to charge (4): Defendant admits that the answer to Question 37 in the application was incorrect. He contends it was an innocent mistake because the required information as to his suspension in 1937 was set forth in his answer to Question 31 therein, which reads as follows:

"Have you or has any person mentioned in this application ever been convicted of or committed any violation of the Alcoholic Beverage Control Act (P. L. 1933, c. 436, as amended and supplemented) or R. S. Title 33, c. 1?"

Despite the fact that the required information was set forth in answering Question 31, it appears nevertheless that Question 37 contained a false answer. R. S. 33:1-25 provides that:

"Fraud, misrepresentation, false statements, misleading statements, evasions or suppression of material facts in the securing of a license are grounds for revocation."

Hence, even if defendant did not knowingly misstate any fact, he is nevertheless guilty as to charge (4). The fact that the information was disclosed in answering Question 31 will be considered in fixing the penalty herein.

As to penalty: I shall impose the minimum penalty of ten-day suspension for sale to a minor on the finding of guilt as to charges (1) and (2) because no aggravating circumstances appear. Ordinarily, I would impose an additional penalty of three days because of the finding of guilt as to charge (3). However, I note from the records of this Department that in April 1937 defendant was found guilty of charges which included a charge of selling beverages to women directly over the bar, and hence this is his second offense. Accordingly, I shall suspend the license for five days because of the finding of guilt as to charge (3).

There is no evidence in the case to show that the issuing authority was in any way misled because of the false answer given to Question 37. However, licensees must learn to answer questions correctly. I believe that, under all of the circumstances, a further suspension of one day will be a sufficient penalty on the finding of guilt as to charge (4). The total suspension, therefore, will run for a period of sixteen days.

Subsequent to the institution of these proceedings, the above mentioned license expired and has been renewed by the issuance of plenary retail consumption license C-10 for the present fiscal year. In accordance with the provisions of Rule 3 of State Regulations No. 15, the order of suspension shall apply to the renewed license.

Accordingly, it is, on this 16th day of July, 1942,

ORDERED, that Plenary Retail Consumption License C-10, heretofore issued to Edward Markowitz, t/a 340 Club, by the Municipal Board of Alcoholic Beverage Control of the City of Camden, for premises at 340 Federal Street, Camden, be and the same is hereby suspended for a period of sixteen (16) days, commencing July 20, 1942, at 2:00 A.M. and terminating on August 5, 1942, at 2:00 A. M.

ALFRED E. DRISCOLL,
Commissioner.

7. ELIGIBILITY - SALE AND POSSESSION OF NARCOTICS - MORAL TURPITUDE -
 APPLICANT DISQUALIFIED.

July 17, 1942

Re: Case No. 445

In August 1938 applicant was convicted of the crime of selling and possessing narcotics in violation of the Harrison Act. He was sentenced to serve one year and a day in a Federal prison and served his sentence. The crime involved moral turpitude. Case No. 300, Bulletin 353, Item 13.

It is recommended that applicant be advised that he is ineligible to hold a liquor license or to be employed by a liquor licensee in this State.

Edward J. Dorton,
 Deputy Commissioner
 and Counsel.

APPROVED:

ALFRED E. DRISCOLL,
 Commissioner.

8. FAIR TRADE - NOTICE OF NEXT PUBLICATION.

July 20, 1942

The next official publication of minimum resale prices, pursuant to the fair trade rules (Regulations No. 30), will become effective on or about Monday, August 17, 1942. New items and changes in old items must be filed at the offices of this Department not later than Thursday, July 30, 1942.

Notification of the proportionate share of the aggregate expense involved will be made to participating companies as soon as the supplemental price list is mailed to all retail licensees.

ALFRED E. DRISCOLL,
 Commissioner.

9. DISCIPLINARY PROCEEDINGS - SLOT MACHINES - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

RAHWAY AERIE NO. 1863, F. O. EAGLES, 325 W. Grand Avenue, Rahway, N. J.,)

CONCLUSIONS AND ORDER

Holder of Club License CB-2 for fiscal year 1941-42 and now holder of Club License CB-2 for the current fiscal year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Rahway.)

Mortimer Katz, Esq., Attorney for Defendant-Licensee. William F. Wood, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleaded guilty to charges alleging that on April 16, 1942 it possessed on its licensed premises one five-cent and one one-cent jackpot slot machine, which was designed or might be used for the purpose of gambling or playing for money and other valuable things, in violation of Rules 7 and 8 of State Regulations No. 20.

Mere possession of such machine on the licensed premises is a violation of State Regulations. Yountakah Country Club, Inc., Bulletin 488, Item 4. The usual penalty for this offense, where, as here, the licensee's previous record is clear, is a ten-day suspension of the license, less five days for the guilty plea.

This proceeding, although instituted during the last licensing period, does not abate, but remains effective against the defendant's renewal license for the current fiscal year. State Regulations No. 15.

Accordingly, it is, on this 24th day of July, 1942,

ORDERED, that Club License CB-2 for the current fiscal year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Rahway, to Rahway Aerie No. 1863, F. O. Eagles, for premises 325 W. Grand Avenue, Rahway, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 A.M. on July 27, 1942, and terminating at 2:00 A.M. on August 1, 1942.

ALFRED E. DRISCOLL, Commissioner.

10. DISCIPLINARY PROCEEDINGS - SLOT MACHINE - 10 DAYS' SUSPENSION,
LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against)

FRATERNAL ORDER OF EAGLES,)
415 Broadway,)
Camden, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-4 for)
fiscal year 1941-42 and now holder)
of Club License CB-7 for the current)
fiscal year, issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Camden.)

Mortimer Katz, Esq., Attorney for Defendant-Licensee.
Abraham Merin, Esq., Attorney for the Department of
Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee pleaded guilty to charges alleging that on May 6, 1942 it possessed on its licensed premises a combination cigarette vending and slot machine, which was designed or might be used for the purpose of gambling or playing for money and cigarettes, in violation of Rules 7 and 8 of State Regulations No. 20.

The slot machine section of the cigarette vending apparatus was of the type that is generally known as the "one-arm bandit", except that on the reels were the names of cigarettes instead of the customary fruits or other markings, and with the further notable exception that it did not contain a jackpot.

Mere possession of such machine on the licensed premises is a violation of State Regulations. Yountakah Country Club, Inc., Bulletin 488, Item 4. The usual penalty for this offense, where, as here, the licensee's previous record is clear, is a ten-day suspension of the license, less five days for the guilty plea.

This proceeding, although instituted during the last licensing period, does not abate, but remains effective against the defendant's renewal license for the current fiscal year. State Regulations No. 15.

Accordingly, it is, on this 24th day of July, 1942,

ORDERED, that Club License CB-7 for the current fiscal year, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Fraternal Order of Eagles for premises at 415 Broadway, Camden, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 A.M. on July 27, 1942, and terminating at 2:00 A.M. on August 1, 1942.

ALFRED E. DRISCOLL,
Commissioner.

11. APPELLATE DECISIONS - STOCKTON HOTEL, INC. v. TRENTON.

STOCKTON HOTEL, INC.,)
 Appellant,)
 -vs-)
 BOARD OF COMMISSIONERS OF)
 THE CITY OF TRENTON,)
 Respondent.)
 -----)

ON APPEAL
 CONCLUSIONS AND ORDER

William H. Geraghty, Esq., Attorney for Appellant.
 Louis Josephson, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This appeal is from the revocation of appellant's plenary retail consumption license for 137 South Stockton Street, Trenton.

Respondent imposed such revocation on July 14, 1942, effective July 16, 1942, after finding appellant guilty of selling alcoholic beverages to minors (in violation of local ordinance, State regulation and statute); permitting minors to loiter upon the licensed premises (in violation of local ordinance); and permitting known prostitutes and other persons of ill repute upon the licensed premises (in violation of State regulation).

For completeness of the record, it may be noted that, previously, this Department, during July 1941, suspended appellant's license for ten days as a result of false answer in appellant's application. See Re Stockton Hotel, Inc., Bulletin 469, Item 10.

In the instant case, request was made in the petition of appeal for a stay of the revocation in question pending ultimate disposition of the appeal. Such request was denied.

At the hearing on the appeal the attorney for appellant stated that the appeal was being abandoned. In view of such fact, I see no reason for further entertaining this appeal.

Accordingly, it is, on this 27th day of July, 1942,

ORDERED, that the present appeal be and the same is hereby dismissed; and it is further

ORDERED, that the said revocation being appealed from be deemed as continuing in full force and effect.

ALFRED E. DRISCOLL,
 Commissioner.

12. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE (AGGRAVATING CIRCUMSTANCES) - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 - PERMITTING CONSUMPTION OF ALCOHOLIC BEVERAGES IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 20 - FAILURE TO EXPOSE INTERIOR OF PREMISES TO PUBLIC VIEW AS REQUIRED BY LOCAL ORDINANCE - PREVIOUS RECORD - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against)

MICHAEL DeLECCE, 12 Hudson Street, Camden, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-189 for the fiscal year 1941-42, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

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Michael DeLecce, Pro Se. William F. Wood, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleaded guilty to charges which may be summarized as follows:

On or about April 18, June 5 and June 20, 1942, the licensee sold alcoholic beverages during prohibited hours, in violation of Section 5 of the ordinance of the City of Camden adopted December 27, 1934.

On or about April 18, 1942 licensee failed to fully expose the interior of his premises to public view at the duly specified hours, in violation of the aforesaid ordinance.

On or about April 18, 1942 licensee sold alcoholic beverages to a minor, in violation of R. S. 33:1-77.

On or about April 18, 1942 licensee permitted the consumption of alcoholic beverages by a minor, in violation of Rule 1 of State Regulations No. 20.

The record presented discloses that agents of the Department of Alcoholic Beverage Control were served alcoholic beverages on the licensed premises during prohibited hours on April 18, June 5 and June 20, 1942.

The record further discloses that while the agents were on the premises they observed drinks being sold to a young man who appeared to be a minor. This was subsequently found to be the case.

The licensee adopted what he evidently considered to be an ingenious scheme to evade the law. He closed the downstairs barroom of the licensed premises at the proper closing hour; turned out all lights and drew all shades and drapes. Thereupon he and his employees sent the customers upstairs, and the business of dispensing alcoholic beverages was continued in notorious disregard of the law. The licensee stood at the locked door and admitted patrons to the premises in a manner reminiscent of the old "speakeasy" days. 12 Hudson Street

was known as a "late spot" where the law could be broken with immunity. More business was done between 2:00 A.M. and 5:00 A.M. than in any other period during the day or night.

From the reports of the agents, there can be no doubt but what the violations in question were deliberate. The law must be obeyed. Licensees must learn to stop selling and to close their premises at the time required by local ordinances or such regulations as may be adopted by the Department of Alcoholic Beverage Control. Those who continue selling during prohibited hours are not only violating the law but are engaging in a practice which is definitely and deliberately harmful to their fellow licensees who conscientiously obey the rules. Uniform closing hours and uniform respect for the same are essential not only to the public welfare but to the private welfare of those engaged in the industry.

The defendant in this case has a previous record of selling during prohibited hours. He has repeated the offense, adding to it the sale of alcoholic beverages to a minor as well as failing to expose the interior of his premises to public view during prohibited hours, as required by the local ordinance.

Some time ago the defendant-licensee received a "break" from the local excise board. It should be apparent from the case history herein that the dividends of lax enforcement are increased lawlessness rather than a healthy respect for the regulations.

Under the circumstances, I have no alternative but to revoke defendant's license. This penalty will be imposed despite defendant's failure to renew his license for the current fiscal year since it will result in disqualifying him from obtaining any further liquor license in New Jersey for a period of two years from the date hereof. R. S. 33:1-31. Cf. Re Log Cabin, Port Au Peck Inn, Inc., Bulletin 488, Item 9. The fact that the license has already expired is no bar to such revocation. State Regulations No. 15.

Accordingly, it is, on this 27th day of July, 1942,

ORDERED, that Plenary Retail Consumption License C-189, heretofore issued to Michael DeLecce by the Municipal Board of Alcoholic Beverage Control of the City of Camden for premises 12 Hudson Street, Camden, N. J., for the fiscal year 1941-42, be and the same is hereby revoked.

Alfred E. Truesdell
Commissioner.

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