

STATE OF NEW JERSEY  
 Department of Law and Public Safety  
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
 1100 Raymond Blvd. Newark 2, N. J.

July 2, 1963

BULLETIN 1520

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STATE OF NEW JERSEY  
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1100 Raymond Blvd. Newark 2, N. J.

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BULLETIN 1520

1. APPELLATE DECISIONS - NEST CLUB, INC. v. NEWARK

Nest Club, Inc., )  
Appellant, )  
v. ) On Appeal  
Municipal Board of Alcoholic ) CONCLUSIONS and ORDER  
Beverage Control of the City )  
of Newark, )  
Respondent. )  
----- )

James E. Abrams, Esq., Attorney for Appellant  
Norman N. Schiff, Esq., by Paul E. Parker, Esq., Attorney for Respondent

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent which on March 6, 1963, suspended appellant's license for a period of twenty days effective March 25, 1963, after finding it guilty on three charges alleging that on November 29, 1962, it violated Rule 1 of State Regulation No. 38 and Sec. 3.1(a) and 3.1(b) of the Revised Ordinances of the City of Newark. Appellant's premises are located at 241 Warren Street, Newark.

"When the appeal was filed, the Acting Director, pursuant to R.S. 33:1-31, entered an order on March 19, 1963, staying respondent's order of suspension until further order herein.

"Appellant in its petition of appeal alleges in substance that the action of respondent was erroneous in that its finding was insufficient in law and fact, against the weight of evidence and a result of mistake, bias and prejudice.

"Respondent in its answer denies appellant's allegations and contends that its decision was proper and that the penalty imposed was warranted by the facts adduced before it.

"The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, and the transcript of the proceedings before the issuing authority, together with the exhibits, were received in evidence and additional testimony was presented as provided by Rule 8 of said Regulation.

"Succinctly stated, the evidence adduced before the issuing authority is substantially as follows: At about 11:40 a.m. Sunday, August 26, 1962, ABC agents J and S arrived by car in the vicinity of the licensee's premises. Agent S remained in the car at a vantage point while Agent J proceeded to the tavern, walked through a hallway to the back yard of the premises and observed through the barred but open window of the ladies' room a man, later identified as Kenneth Reeves (secretary and treasurer of the corporate licensee) engaged in cleaning the area. Agent J called Reeves and asked him for a pint of Seagram 7 whiskey. Reeves went

into the barroom and within a few minutes returned and handed the agent a pint of the requested brand of liquor and accepted \$3.25 in payment. Agent J then rejoined Agent S and showed him his purchase. At 12:25 p.m. both agents entered the tavern, identified themselves to Reeves, showed him the pint bottle of Seagram 7 whiskey and informed him of the violation. Reeves orally admitted the sale, and the agents departed. The bottle of Seagram 7, having on its label the initials of the agents, the time the sale was made and price paid for the whiskey, was received in evidence.

"It further appears from the evidence that the proprietor and employee of a confectionery store next to and sharing the hallway of the licensed premises were arrested by the local police at or about the same time on the date alleged for selling to Agent J alcoholic beverages without a license.

"The attorney for the issuing authority, asserting that the testimony of Agent S (who was not present at the hearing) would not corroborate that of Agent J respecting the sale of the whiskey in question, rested his case. Kenneth Reeves was produced on behalf of the licensee and testified substantially as follows: On the date alleged he entered the licensed premises about 10:30 a.m. and proceeded to clean the place. At about 11 a.m. a man, who waxes his floor, knocked on the door and was admitted. About 12:05 p.m. Agent J came into the premises, went to the phone and in about three or four minutes departed. Believing that he had met the agent at Batons and Bronze Shield affairs, he suggested that he knew him, and Agent J said 'No-No- you don't know me.' At about 12:15 or 12:20 p.m. Agent J returned and went immediately to the telephone booth and, when he emerged, he (Reeves) asked 'What is wrong? Can't you even speak?' and Agent J replied 'Well, I made a raid next door,' and left. Reeves further testified that about 11:35 a.m. 'I seen the police cars there, and they went next door and they were making the raid there' and that Agent J was standing outside. Agent J then came into the tavern and said 'Look what you have been doing, supplying these people with liquor next door' and he said 'No, we have not been supplying them with liquor. I have nothing to do with them' When Agent J said 'Don't give me that stuff' he (Reeves) got 'peeved' and 'I told him he raided next door, it has not got a damn thing to do here.' Later Agent J returned with another fellow and a detective, put the pint of whiskey on the bar, and said 'Do you want to give me a statement that we bought this bottle here?' and he (Reeves) said 'You did not buy nothing out of here.' 'Oh', said the agent, 'you're one of those wise guys' and he replied 'Take whatever you want.... You got some ideas.... Here is the cash register and everything else. Do what you want' and Agent J remarked 'I gave you five dollars for the bottle' and he (Reeves) said 'Look at the change.... (Open it up and check it out. Here is the whole bar.' Reeves further testified that the ladies' room has a frosted window that can't be opened because there is a burglar alarm system attached to it.

"On cross examination Reeves testified that, when he first observed Agent S, the agent was standing outside with two detectives, four radio patrolmen and someone else, and that he stood at the window between 11:30 and 12 Noon watching what was going on next door. He further testified that the Batons and Bronze Shield are organizations of negro law enforcement officers, and that he knew that Agent J was associated with them.

"Agent J was recalled by the Board members and testified that he is not a member of the aforesaid organizations but has been in the company of some of their members.

"Both sides rested and decision on the charges was reserved. On March 6, 1963, the Board found the licensee guilty of the violations charged and imposed the twenty-day suspension of its license.

"At the hearing on appeal respondent Board rested its case on the transcript of the proceedings before it, which was marked Exhibit R-1 in evidence. Thereafter, Emmett Jenkins, Lucille Waller, Alfred Guilford, Carey Walton and John Bennett (none of whom was present at the hearing below) and Kenneth Reeves were produced on behalf of appellant.

"Jenkins testified in substance that he is a floor waxer and on the date alleged was employed by the licensee to clean and wax the floors; that he arrived at the licensed premises at approximately 11:30 a.m. and was admitted by Reeves; that he finished his work about 12:10 or 12:15 p.m. and that during his stay Reeves stood in the window, most of the time, looking outside because the police had raided the place next door; that Agent S came in and asked for change to make a phone call, 'It must have been twelve because the door was open; I don't remember him knocking on the door to get in' and that, when he came out of the phone booth, he said 'Thanks for the change' and walked out.

"On cross examination Jenkins testified that he didn't know Agent J and couldn't say it was he who asked for the change but Reeves at the time mentioned that the man was an ABC agent.

"Mrs. Waller testified in substance that on the date alleged she was working in the confectionery store next to the licensed premises; that at about 10:50 a.m. Agent J came into the store and purchased a can of beer from her and left, and that he returned between 11:15 and 11:40 a.m. and purchased from her another can of beer.

"Mr. Guilford testified that he is the proprietor of the confectionery store next to the licensed premises, and that he wasn't in the store when the agent purchased the beer.

"Mr. Walton testified that he lives above the licensed premises; that he entered the tavern about 12:10 p.m., at which time he observed Agent J coming out of the telephone booth and saw the floor waxer working near the men's room.

"Detective Bennett testified that, on the date alleged, he was detailed to a patrol car and that about 11:45 a.m. he and his partner, responding to a radio call from their dispatcher, proceeded to Warren and New Streets where they met Agent J who informed them that he had made a purchase of alcoholic beverages in the candy store at 243 Warren Street; that they then went to the store and Agent J identified the woman who made the sale, after which he said 'I have to go next door. I made a purchase;' that at 12:05 p.m. he went with Agent S into the licensed premises and heard the agent say to Reeves 'Let me see your license' and that Reeves took the license off the wall.

"Kenneth Reeves testified that at 11:35 a.m. he saw Agent J standing in front of the candy store; that he saw him again at 12:05, 12:10 p.m. when he came into the tavern to use the phone, and that he saw him a third time at 12:30 or 12:35 p.m. when he, another agent and Detective Bennett came into the premises. Reeves further testified that he knew Agent S was connected with the ABC because, prior to the date alleged, the agent had tried to purchase whiskey from him and had searched the entire building; that he had met Agent S casually at meetings of the Bronze Shield and Batons, and that on the date alleged he didn't sell to Agent J the pint of whiskey.

"Having carefully reviewed the transcript of the proceeding below, I find that the relevant evidence adequately supports the decision reached by respondent Board. 'The choice of accepting or rejecting the testimony of witnesses rests ... with the administrative agency....' Hornauer v. Division of Alcoholic Beverage Control, 40 N.J. Super. 501 (App. Div. 1956). I further find that the additional testimony presented on the appeal fails to substantiate the allegations set forth in appellant's petition. I conclude that respondent Board has established the truth of the charges preferred against the licensee by a fair preponderance of the believable evidence, and that the penalty it imposed is not excessive. I recommend that an order be entered affirming the action of respondent Board and dismissing the appeal."

No written exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the record herein, including the transcripts of the testimony, the exhibits and the Hearer's Report, I concur in the findings and recommended conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 5th day of June, 1963,

ORDERED that the action of respondent be and the same is hereby affirmed; and it is further

ORDERED that the twenty-day suspension heretofore imposed by respondent and stayed during the pendency of this appeal, be restored against License C-284 held by Nest Club, Inc. for premises at 241 Warren Street, Newark, to commence at 2:00 A. M. Wednesday, June 12, 1963, for the balance of its term, viz., until midnight, June 30, 1963; and it is further

ORDERED that any renewal license that may be granted for the 1963-64 licensing year shall be and remain under suspension until 2:00 A. M. Tuesday, July 2, 1963.

EMERSON A. TSCHUPP,  
ACTING DIRECTOR.

2. DISCIPLINARY PROCEEDINGS - FRONT - NO PENALTY IMPOSED IN VIEW OF CANCELLATION OF LICENSE.

CANCELLATION PROCEEDINGS - CLUB NOT BONA FIDE - LICENSE CANCELLED.

In the Matter of Disciplinary Proceedings against )

Brigantine Golf Club, Inc. )  
North Shore Drive and )  
Roosevelt Boulevard )  
Brigantine, New Jersey, )

CONCLUSIONS

and

ORDER

Holder of Club License CB-3, issued )  
by the Board of Commissioners of the )  
City of Brigantine. )

----- )  
No appearance on behalf of Licensee )

David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"The following charges were preferred against the licensee:

- '1. In your application dated June 12, 1962, filed by you with the Board of Commissioners of the City of Brigantine, upon which you obtained your current club license, you falsely stated "No" in answer to Question No. 29, which asks: "Has any individual, partnership, corporation or association, other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?", whereas in truth and fact Research Construction Corp. had such an interest in that it exercised all the rights and privileges of your license, received all the proceeds from the sale of alcoholic beverages under said license and was the real and beneficial owner of the licensed business; said false statement, misrepresentation and evasion and suppression of material facts being in violation of R.S. 33:1-25.
- '2. From June 9, 1962 to date, you knowingly aided and abetted Research Construction Corp. to exercise, contrary to R.S. 33:1-26, the rights and privileges of your successive club licenses; in violation of R.S. 33:1-52.'

"The licensee was also required to show cause why its license should not be cancelled and declared null and void for the following reason:

'Said license was improvidently issued in violation of R.S. 33:1-12(5) and Rule 2 of State Regulation No. 7 in that, at the time of issuance of such license and prior thereto, you were not a bona fide club.'

"On August 19, 1959, the certificate of incorporation of the club was filed and recorded in the office of the Secretary of

State in New Jersey, and Louis A. Aleli of 2507 Ocean Avenue, Brigantine, N. J., was named as the agent in charge and upon whom process against the club might be served.

"On May 2, 1963, a letter and a copy of the aforesaid charges and the order to show cause were forwarded by certified mail to the licensee club (hereinafter club) but on May 6, 1963, they were returned to the Division with a notation by the postal authorities that the club was 'Out of Business.' On May 6, 1963, a letter and a copy of the said charges and show-cause order were forwarded by certified mail to Louis A. Aleli aforementioned. Thereafter a return receipt dated May 8, 1963, signed by said Louis A. Aleli, was received by the Division. The said charges and show-cause order were returnable at 10:30 a.m. on May 15, 1963, for a hearing at this Division. In order to afford an opportunity for anyone who desired to appear on behalf of the club, the time of the hearing was extended until 11 a.m. In the absence of any communication with reference to the matter and failure to appear to contest the charges or show cause why the license should not be cancelled, the Division proceeded ex parte to prove the charges.

"The renewal application dated June 12, 1962, for the license in question, filed with the local issuing authority, listed Louis A. Aleli as president, treasurer and trustee; Frank A. Convery as secretary and trustee; Leo Zakzewski and Charles Makowski as trustees. Said officers were interviewed by ABC agents and they stated that since about June 1962 they were no longer officers or members of the club.

"When the agents interviewed Edward Zeller on June 26, 1962, he stated that he was president; Leon A. Katz of New York and his wife Natalie Katz, respectively, vice presidents, and Daniel Bishop, secretary of the club. Zeller also informed the agents that he knew nothing concerning the operation of the bar or the whereabouts of the records or documents of the club and referred them to Daniel Bishop. Zeller further stated that there were five regular members of the club (four of whom are the present officers thereof) but did not know the number of social members presently in the club.

"On September 6, 1962, when the agents questioned Bishop about his being secretary and treasurer of the club, he said that, as a result of a prior visit by the agents, Leon A. Katz called a meeting attended by Zeller, Katz and himself and, although he questioned the procedure, Katz nevertheless appointed him to be secretary and treasurer of the club. Bishop said that since August 11, 1962, he has not been connected with the club in any capacity whatsoever and, during the time he was allegedly the secretary and treasurer, he performed no duties as such.

"Leon A. Katz, aforementioned, disclosed to the agents that, by virtue of an agreement of sale, the club divested itself of all of the right, title and interest in the licensed premises and in the equipment, including the 'assignment' of the club liquor license. A written agreement dated May 29, 1962 (marked as an exhibit herein) between Brigantine Knolls, Inc. and Research Construction Corp., verifies such purported assignment of the license in question. Katz further stated that he was told by the 'former owners' of the club that there were twenty family members but that he never saw a record of them. He corroborated Bishop's assertion that he designated Zeller, Bishop, Natalie Katz and himself to be officers and directors of the club.

"An advertisement containing a form of membership application and announcing the opening on July 4, 1962, of 'Sportsmen's Club Bar Brigantine Country Club', operated by 'Dan Bishop', appeared in the Brigantine Shopping Guide on June 14, 1962. An applicant for membership by payment of \$1 yearly fee was issued a social membership card in the Brigantine Country Club Sportsmen's Club Lounge which admitted 'Member and Guests to all Club Lounge activities and entertainment.' Said members were also considered to be social members of the golf club but could not vote on club matters or hold office in the club. Thus the social members were not bona fide club members within the meaning of the Alcoholic Beverage Law or the State Regulation pertaining to the persons who could lawfully be served alcoholic beverages by a club licensee. See R.S. 33:1-12(5) and Rule 8 of State Regulation No. 7. Cf. Re Lithuanian Citizens Independent Aid Club, Bulletin 820, Item 2. Moreover, the club kept no bank account, could not produce records concerning membership, and there was a complete lack of knowledge on the part of the officers as to the activities and operation of the club.

"The investigation further discloses that the Research Construction Corp., after entering into the agreement to acquire the property and equipment, took immediate possession. On June 9, 1962, with Bishop in charge of the licensed premises, the Research Construction Corp. exercised the rights and privileges of the club liquor license as a real and beneficial owner thereof, and continued such illegal operation until August 11, 1962. Although there appears to be no formal dissolution of the club in question, there is sufficient evidence that it had ceased to exist as a bona fide club eligible for the 1962 renewal of its club license.

"Under the circumstances appearing herein, it is recommended that an order be entered cancelling the license now held by Brigantine Golf Club, Inc. In view of such recommendation, it is not deemed necessary to make any finding with respect to the charges herein nor to recommend any penalty of suspension or revocation of the license on the basis thereof. Cf. Re The Lakewood Golf Club, Bulletin 1386, Item 10; Re Newtonville Country Club, Bulletin 1447, Item 2."

No exceptions to the Hearer's Report were filed with me within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the entire record, including the transcript of the proceedings and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 4th day of June 1963,

ORDERED that Club License CB-3, for the 1962-63 licensing year, issued by the Board of Commissioners of the City of Brigantine to Brigantine Golf Club, Inc., for premises on North Shore Drive and Roosevelt Boulevard, Brigantine, be and the same is hereby cancelled and declared null and void, effective immediately.

EMERSON A. TSCHUPP,  
ACTING DIRECTOR.

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - EMPLOYMENT OF MINORS WITHOUT PERMIT - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against )

Alfred P. Laurino )  
701 Paterson Plank Road )  
Union City, New Jersey, )

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption License C-82, issued by the Board of Commissioners of the City of Union City. )  
----- )

Edward L. Keefe, Esq., Attorney for Licensee  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"The licensee pleaded not guilty to the following charges:

- '1. On Saturday night, January 5 and early Sunday morning January 6, 1963, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Georgiana ---, age 19 and Natalie ---. age 20 and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.
- '2. On the occasion aforesaid and prior thereto, you employed and allowed, permitted and suffered the employment in and upon your licensed premises of persons under the age of twenty-one (21) years viz., the above-named two persons, contrary to and in violation of Rule 3 of State Regulation No. 13.'

"When the matter came on for hearing, the attorney for the licensee stipulated that, if the ABC agents who investigated the licensee's business and Natalie --- (one of the alleged minors) were called upon to testify, their testimony would establish that, on the dates alleged, Natalie was twenty years of age; that she and Georgiana --- (the other alleged minor) were served alcoholic beverages in the licensed premises; that the licensee employed both females without requiring them to obtain employment permits issued by the Director; that both females, when they first sought employment, orally represented to the licensee that they were over twenty-one years of age, and that they showed the licensee birth or baptismal certificates; that the females later accompanied the licensee to the Union City Bureau of Liquor Control, Department of Public Safety, where they produced photographs of themselves, falsely stated they were of age, were fingerprinted, signed their fingerprint cards and were issued employees' certificates; and that both females appeared to the ABC agents to be minors.

"The following documents were received in evidence: (Exhibit S-1) certified copy of Natalie's birth record; (Exhibit L-1) a baptismal certificate indicating that Natalie was born on August 8, 1941; (Exhibit L-2) a photostat of the fingerprint card

and the employee's certificate issued by the Union City Bureau of Liquor Control to Natalie, and (Exhibit L-3) a photostat of the fingerprint card and the employee's certificate issued by the Union City Bureau of Liquor Control to Georgiana. Thereafter it was stipulated by the attorneys that, if the Division obtained a certified copy of Georgiana's birth certificate prior to a determination herein, it would be made part of the record to establish her age.

"The Division rested its case on the facts stipulated, after which Alfred Laurino (the licensee) and Mario Casamassillo (his bartender) were called to testify.

"Mr. Laurino testified in substance that in November 1962 Georgiana and Natalie came to his establishment seeking employment; that they appeared to him to be of age, and he informed them that they would have to go to police headquarters and present some form of identification and photographs of themselves; that the girls later appeared at his place of business with pictures and baptismal certificates; that he drove them to police headquarters and remained with them while they were interrogated by a detective as to their names, addresses, ages, height, etc.; that he observed them sign the fingerprint cards and that, after they were issued employees' certificates, he employed them to work in his licensed premises on week-ends only. He further testified that he was always of the opinion the girls were over twenty-one years of age, and that the night they were served alcoholic beverages they were on the premises as customers and not entertainers.

"Mr. Casamassillo testified in substance that on the dates alleged he was employed as a bartender by the licensee; that he had seen the 'police cards' of both girls and that from his observation they appeared to be twenty-one years of age or over, and that he didn't remember serving them alcoholic beverages 'but no doubt I did.' When asked on cross-examination 'If these girls did not have these police cards--you knew they had police cards--would you have questioned them?' and he said 'I can't answer that because I knew they had police cards,' and when asked 'If they did not have police cards were they of that age you might have asked them?' he replied 'I might have.'

"Upon completion of the testimony, the attorney for the licensee moved to dismiss the charges for reasons which are set forth more fully in a memorandum submitted by him wherein he states:

'It is licensee's contention that he was:

- (A) Convinced that both females were over the age of 21 years by their appearance and their representation in writing.
- (B) That the representation writing required by the statute and the Rules was more than satisfied by the representation which both females signed at the Bureau of Liquor Control, as contained in their respective applications, which are now in evidence before this Division.
- (C) That he relied in good faith upon such written representation and appearance and on the reasonable belief that said females were of age.

"Licensee further contends that his own opinion of the age of

the females was strengthened by the fact that his own employees were of the same opinion as testified to by the bartender, employed by him. But most important, his opinion of the age of these females was strengthened, confirmed and certified to by the Bureau of Liquor Control of the City of Union City.'

"After the hearing, and in accord with the stipulation entered into by the attorneys for the parties hereto, the Division obtained a certified copy of the birth record of Georgiana which shows that she was born on August 8, 1946.

"Considering the evidence adduced herein, which shows that Georgiana was sixteen years of age on the dates alleged; that both she and Natalie appeared to the ABC agents to be minors, and that from their appearances the licensee's bartender might have required proof of their ages had he not seen their 'police cards,' I find that, notwithstanding the minors' representations and writings (the pertinence of which is questionable), their appearances were such that an ordinary prudent person would not believe them to be of age. Hence one of the requirements necessary to establish the defense provided by R.S. 33:1-77 is lacking. I further find that, since Georgiana and Natalie were minors, their employment without requisite employment permit was in violation of Rule 3 of State Regulation No. 13. In view of the aforesaid, I conclude that the Division has established the truth of both charges by a fair preponderance of the believable evidence and, since the licensee has no prior adjudicated record, I recommend that his license be suspended for twenty-five days on Charge 1, the minimum penalty imposed for the sale of alcoholic beverages to two minors, one of whom is a sixteen-year-old (Re Somia, Bulletin 1494, Item 4; Re Alex L. Saldarini Post 453, Veterans of Foreign Wars of the United States, Bulletin 1403, Item 9), and for five days on Charge 2 (Re Ewtushek, Bulletin 1351, Item 2), making a total suspension of thirty days."

Written exceptions to the Hearer's Report and written argument to support the exceptions were filed with me by the licensee's attorney within the time limited by Rule 6 of State Regulation No. 16.

Having carefully considered the record herein, including the stipulations agreed upon by the attorneys for the parties hereto, the exhibits, the testimony of the licensee and his bartender, the summations of both attorneys, the memorandum filed on behalf of the licensee, the Hearer's Report and the exceptions and arguments with respect thereto, I concur in the findings and conclusion of the Hearer and adopt his recommendation.

Accordingly, it is, on this 3d day of June, 1963,

ORDERED that Plenary Retail Consumption License C-82, issued by the Board of Commissioners of the City of Union City to Alfred P. Laurino for premises 701 Paterson Plank Road, Union City, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1963, commencing at 3:00 A. M. Monday, June 10, 1963; and it is further

ORDERED that any renewal license that may be granted shall be and remain under suspension until 3:00 A. M. Wednesday, July 10, 1963.

EMERSON A. TSCHUPP,  
ACTING DIRECTOR.

4. DISQUALIFICATION REMOVAL PROCEEDINGS - FRAUDULENTLY ALTERING AND PUBLISHING POSTAL MONEY ORDERS - ORDER REMOVING DISQUALIFICATION.

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. 1746 )  
----- )

BY THE ACTING DIRECTOR:

Petitioner's criminal record discloses that on November 4, 1957, following a conviction in a Federal Court in another State on twelve charges of fraudulently altering and publishing six postal money orders, he was given a suspended sentence and placed on probation for eighteen months. Since the crimes of which the petitioner was convicted involve the element of moral turpitude (Re Case No. 1232, Bulletin 1077, Item 10), he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

At the hearing held herein, petitioner (31 years old) testified that he lives in a neighboring State; that for the past fifteen years he has been employed as a waiter; that he is presently working in such capacity in a licensed premises in this State and that on January 30, 1963, he filed an application for an employment permit with this Division.

Petitioner further testified that he is asking for the removal of his disqualification in order to continue his present employment and that, ever since his conviction on November 4, 1957, he has not been convicted of any crime or arrested.

The Police Department of the municipality wherein petitioner resides reports that there are no complaints or investigations presently pending against the petitioner.

The petitioner produced three character witnesses (two salesmen and a sales representative) who testified that they have known petitioner for more than five years last past and that, in their opinion, he is now an honest, law-abiding person with a good reputation.

Considering all of the aforesaid facts and circumstances, I am satisfied that the petitioner has conducted himself in a law-abiding manner for five years last past, and that his association with the alcoholic beverage industry in this State will not be contrary to the public interest.

Accordingly, it is, on this 7th day of June 1963,

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

EMERSON A. TSCHUPP,  
ACTING DIRECTOR.

5. DISQUALIFICATION - REMOVAL PROCEEDINGS - ABANDONMENT AND NEGLECT OF MINOR CHILDREN - ORDER REMOVING DISQUALIFICATION - DEFERRED EFFECTIVE DATE OF ORDER.

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. 1759 )  
- - - - - )

BY THE ACTING DIRECTOR:

Petitioner's criminal record discloses that on June 7, 1957, he was sentenced in a county court to serve a term of two-to-three years in New Jersey State Prison following a plea of guilty to an indictment charging abandonment and neglect of two minor children -- one born August 17, 1951, and the other July 20, 1952. Petitioner was paroled on June 9, 1958.

The crime of abandonment may or may not involve the element of moral turpitude, depending upon the facts in the case. Re Ulhich, Bulletin 70, Item 2. In view of the tender years of the children, the guilty plea and the severity of the sentence, in my opinion the aforesaid conviction involves the element of moral turpitude (cf. Re Case No. 3, Bulletin 96, Item 6) and the petitioner was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

At the hearing held herein, petitioner (34 years old) testified that he is married and living with his wife and three children; that his wife is expecting a fourth child; that for the past ten years he has resided in two neighboring municipalities and that, by an arrangement with a local agency, he is also contributing \$10 a week to the support of the two minor children mentioned in the indictment.

Petitioner further testified that, ever since February 8, 1963, when notified by this Division of his ineligibility to be employed by a licensee in New Jersey, he has been unemployed; that prior thereto he had been employed as a trucker's helper by a licensed rectifier for about two and a half years; that in his application for this job he denied that he had been convicted of a crime because he felt it would militate against his chances of employment and that he did not know that his conviction constituted a conviction of a crime. Petitioner is asking for the removal of his disqualification to be free to be employed in the alcoholic beverage industry in this State.

The Police Department of the municipality wherein the petitioner resides reports that there are no complaints or investigations presently pending against the petitioner.

Petitioner produced three character witnesses (two laborers and a polisher) who testified that they have known the petitioner for more than five years last past and, in their opinion, he is now an honest, law-abiding person with a good reputation.

I hesitate to grant the relief sought for two reasons:  
(1) petitioner's false statement in his aforesaid application for

employment, and (2) although disqualified, he worked for a licensed rectifier.

I cannot ignore petitioner's false statement under oath and the fact that, although disqualified, he worked for a licensee in New Jersey. I am, however, favorably influenced (1) by the fact that his criminal record shows only one conviction of crime which took place about six years ago; (2) by the testimony of his character witnesses, and (3) by his present attitude.

Considering all of the aforesaid facts and circumstances, I shall grant his application but shall withhold relief until thirty days from the date hereof.

Accordingly, it is, on this 17th day of June 1963,

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 Wednesday, July 17, 1963; provided, however, that petitioner shall not in the interim be associated with the alcoholic beverage industry in this State in any manner whatsoever.

EMERSON A. TSCHUPP,  
ACTING DIRECTOR.

6. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING DEFERRED SUSPENSION

In the Matter of Disciplinary )  
Proceedings against )  
Dontal, Inc. )  
t/a Mad House )  
River Styx Road )  
Hopatcong, N. J. )

O R D E R

Holder of Plenary Retail Consump- )  
tion License C-4, issued by the )  
Mayor and Common Council of the )  
Borough of Hopatcong )  
----- )

McGovern and Roseman, Esqs., by William J. McGovern, Esq.,  
Attorneys for Licensee  
David S. Piltzer, Esq., Appearing for the Division of Alcoholic  
Beverage Control

BY THE ACTING DIRECTOR:

On November 29, 1962, the Director entered an order in the above matter deferring the license suspension for fifteen days (for sale to minors on August 12, 1962) because it appeared that the licensed business was then being conducted only on a limited basis with full operation having been discontinued at the end of the summer season. Re Dontal, Inc., Bulletin 1491, Item 4.

I am satisfied that in view of the effective dates of the suspension to be fixed herein, the deferred suspension may now be imposed with effect.

Accordingly, it is, on this 17th day of June, 1963,

ORDERED that Plenary Retail Consumption License C-4, issued by the Mayor and Common Council of the Borough of Hopatcong to Dotal, Inc., t/a Mad House, for premises on River Styx Road, Hopatcong, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1963, commencing at 3:00 A. M. Monday, June 24, 1963, and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 3:00 A. M. Tuesday, July 9, 1963.

EMERSON A. TSCHUPP,  
ACTING DIRECTOR.

7. DISCIPLINARY PROCEEDINGS - ORDER IMPOSING DEFERRED SUSPENSION

In the Matter of Disciplinary Proceedings against )

Ben M. Horwech )  
701-703-705 Broadway )  
Bayonne, New Jersey )

Holder of Plenary Retail Consumption License C-108, issued by the Board of Commissioners of the City of Bayonne and transferred by the Municipal Council of the City of Bayonne during the pendency of these proceedings to )

O R D E R

James S. Root and James S. Root, Jr. )

for the same premises. )

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Vincent T. Dee, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

On January 9, 1962, the Director entered an order in the above matter deferring the license suspension of thirty days (for sale of alcoholic beverages to minors) because it appeared that the licensed business was not then being conducted. Re Horwech, Bulletin 1435, Item 2.

Records of the Division and reports of inspection disclose that following the decease of Ben M. Horwech, the license was extended on February 21, 1962 to Irving Horwech and Philip Horwech, Co-Executors of the Estate of Ben M. Horwech; that the license was transferred on May 8, 1963 to Jack Jaffe; that the license was again transferred on June 12, 1963 to James S. Root and James S. Root, Jr., all for the same premises, whereon no business has been conducted since October 25, 1961; and that the most recent transferees are about to resume the conduct of the licensed business. Consequently, I am satisfied that the deferred suspension may now be imposed.

Accordingly, it is, on this 17th day of June, 1963,

ORDERED that Plenary Retail Consumption License C-108, transferred by the Municipal Council of the City of Bayonne to James S. Root and James S. Root, Jr. for premises 701-703-705 Broadway, Bayonne, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1963, commencing at 2:00 A. M. Tuesday, June 18, 1963; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 A. M. Thursday, July 18, 1963.

EMERSON A. TSCHUPP,  
ACTING DIRECTOR.

8. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION

Auto. Susp. #227	)	
In the Matter of a Petition to Lift	)	
the Automatic Suspension of Plenary	)	
Retail Distribution License D-7,	)	On Petition
issued by the Mayor and Council of	)	
the Borough of East Paterson to	)	SUPPLEMENTAL ORDER
	)	
Alexander Milan	)	
423 Market Street	)	
East Paterson, N. J.	)	

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John G. Dluhy, Esq., Attorney for Petitioner.

BY THE ACTING DIRECTOR:

On April 19, 1963, an order was entered temporarily staying statutory automatic suspension of license of petitioner pending determination of disciplinary proceedings against the licensee. Re Milan, Bulletin 1513, Item 4.

It now appears from supplemental petition filed herein and the records of the Division that in disciplinary proceedings conducted by the municipal issuing authority, the license was suspended for twenty-five days, commencing June 12, 1963, after the licensee was found guilty on a charge alleging sale of alcoholic beverages to the same minor, which sale was the subject of the previous criminal conviction. It appearing that the suspension is adequate, I shall lift the automatic suspension in anticipation of the service of the municipal suspension. Re Hillman, Bulletin 1512, Item 5.

Accordingly, it is, on this 17th day of June, 1963,

ORDERED that the statutory automatic suspension of said license D-7 be and the same is hereby lifted, effective immediately.

EMERSON A. TSCHUPP,  
ACTING DIRECTOR.

9. DISCIPLINARY PROCEEDINGS - GAMBLING (WAGERING) - SALE TO A MINOR - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA

In the Matter of Disciplinary Proceedings against  
Walter Borkowski, Jr,  
260 Mill Street  
Belleville, N. J.  
Holder of Plenary Retail Consumption License C-17, issued by the Board of Commissioners of the Town of Belleville

CONCLUSIONS AND ORDER

Donohue & Donohue, Esqs., by Anthony T. Drollas, Esq., Attorneys for Licensee.

Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

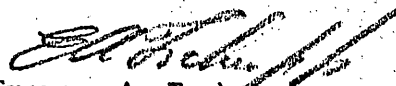
Licensee pleads non vult to charges alleging that on May 28, 1963, he (1) permitted the playing of a card game for money stakes, in violation of Rule 7 of State Regulation No. 20, and (2) sold drinks of beer to a minor, age 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended on the first charge for fifteen days (Re Toleno and Nagren, Bulletin 1512, Item 2) and on the second charge for ten days (Re Eagle Package Liquor Co., Inc., Bulletin 1496, Item 7), making a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 18th day of June, 1963,

ORDERED that Plenary Retail Consumption License C-17, issued by the Board of Commissioners of the Town of Belleville to Walter Borkowski, Jr. for premises 260 Mill Street, Belleville, be and the same is hereby suspended for the balance of its term, viz., until midnight, June 30, 1963, commencing at 2:00 A. M. Tuesday, June 25, 1963; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 A. M. Monday, July 15, 1963.

  
Emerson A. Tschupp,  
Acting Director.