

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

BULLETIN 532

OCTOBER 16, 1942.

1. DISCIPLINARY PROCEEDINGS -- FRONT - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - FAILURE TO MAKE FULL AND COMPLETE DISCLOSURE OF ALL MATERIAL FACTS TO ISSUING AUTHORITY AS REQUIRED BY R. S. 33:1-25 - LICENSE REVOKED.

In the Matter of Disciplinary  
Proceedings against

IRMA TUZENEW,  
T/a LAKEWOOD LOG CABIN INN,  
State Highway #4,  
Howell Township, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-17 for fiscal years  
1940-41 and 1941-42; and now holder  
of Plenary Retail Consumption Li-  
cense C-7 for the current fiscal  
year, issued by the Township  
Committee of Howell Township.

W. Durward McCloskey, Esq., Attorney for Defendant-Licensee.  
Richard E. Silberman, Esq., Attorney for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The defendant, holder of a plenary retail consumption li-  
cense for a tavern in Howell Township, pleads not guilty to the  
charges that:

(1) She has been permitting Harry Suckow to exercise the  
rights and privileges of her license, in violation of  
R. S. 33:1-26, 52.

(2) She failed to notify the Howell Township Committee, as  
required by R. S. 33:1-25, that Suckow obtained an inter-  
est in the licensed business in question.

The Department's case rests upon the theory that the de-  
fendant has, since August 1, 1941, been holding her license merely as  
a "front" for Harry Suckow.

From the pertinent background in the case it appears that  
Suckow has actually been interested in the premises in question and  
its respective licenses ever since Repeal. That background presents  
a long and rather complicated picture.

In 1933-34 Harry Suckow and George Tuzenew (the defend-  
ant's husband) owned the premises and obtained its first license in  
their joint names.

For the next fiscal year, 1934-35, the license was ob-  
tained in Suckow's name. In this year Suckow and Tuzenew were ar-  
rested in a raid on the premises for maintaining a bookmaking  
establishment at an outbuilding. This resulted in criminal prosecu-  
tion against them and also in the Township Committee's declaring

Suckow, in a local disciplinary action against him, ineligible to hold further license in the Township for two years.

Thereupon, the license for the next fiscal year, 1935-36, was obtained in the name of Robert Cosby, a former employee of the tavern, who paid nothing for the business although allegedly paying a year's rental of \$1200.00 for use of the premises.

Thereafter, Tuzenew having conveyed his one-half ownership in the real estate to his wife (the present defendant), the license for the next two fiscal years, 1936-37 and 1937-38, were obtained in her name. During these years bookmaking was again discovered at the premises and the license, in a local disciplinary proceeding, was thereupon suspended in 1938 for twenty days. In the meanwhile, Suckow was found guilty in his criminal case and took appeal up to the Court of Errors and Appeals. While that appeal was still pending, Suckow, following in Tuzenew's footsteps, conveyed his one-half ownership in the real estate to Sue O'Connor, his fiancée. Simultaneously she executed an unrecorded deed, allegedly put in escrow, reconveying this interest back to him.

For the next two fiscal years, 1938-39 and 1939-40, the license was obtained in Sue O'Connor's name. During this period Suckow was purportedly an employee at the tavern, earning \$15.00 per week (plus room and board and a "bonus") until November 1939, when, having lost his final appeal from his conviction, he was recommitted to jail to serve his term.

The license for the next fiscal year, 1940-41, the year in question, was then obtained in the defendant's name.

So much for the past history in the case.

Several weeks after the issuance of the 1940-41 license, Suckow was paroled from prison. Upon his parole he immediately reclaimed his one-half ownership of the real estate by obtaining the Sue O'Connor deed from escrow. At the same time he obtained a loan from a local bank and, on August 1, 1941, bought out the defendant's interest in the real estate for \$5,000.00, paying part in cash and giving a purchase money mortgage for the balance.

The Department contends that Suckow, in thus buying out the defendant's interest to become the sole owner of the real estate, also actually bought out and took over the business and proceeded to conduct it under the guise of the defendant's license.

Both the defendant and Suckow deny this contention. They claim that the business was not sold; that it belongs wholly to the defendant; that, under an oral arrangement, Suckow is merely conducting the business on her behalf as a general manager at a "salary" of 85% of the net profit; that, when financially able, he is to buy the business from her, nothing being mentioned, however, as to the purchase price although Suckow estimates it will be the comparatively nominal sum of \$500.00 or \$600.00.

I cannot accept this claim. In a signed statement to investigators of this Department, the defendant, while there too urging the managership arrangement, nevertheless admitted that the sale included the "fixtures" and "good will." Moreover, Suckow admittedly operates the business as he pleases; deposits the receipts in his own account; and apparently treats these moneys as entirely his own, paying therefrom all his personal expenses and even the interest due to the defendant on her mortgage. There is neither claim nor evidence that the defendant is to make up any possible loss in the

business or is to be held accountable to Suckow (now the full owner of the premises) for any rent -- things which would obviously be the case if the defendant were actually continuing as the owner of the business.

In view of the foregoing, I find, as fact, that Suckow's "managership" of the business is mere fiction; that he actually owns and, with the defendant's connivance, has been operating that business since August 1, 1941 under the guise of her license.

Hence I find the defendant guilty as charged.

The reason for Suckow's operating under such guise, rather than seeking a license in his own name, is not clear. It may perhaps be merely another link in what appears to be a series of Suckow-Tuzenew machinations with the license for these premises. Or it may be that Suckow suspected he might be unable to obtain a license in his own name. See Re Case No. 417, Bulletin 532, Item 2, being decided herewith, ruling Suckow to be actually disqualified by reason of his record.

However, whatever the actual reason for the "front", the fact remains that, under its guise, a disqualified person was operating the business.

On this score alone, and in view of the "not guilty" plea in the case, a substantial penalty is deservedly in order for the present violations.

Since the case involves, in addition, a long background of apparent machinations with the license for these premises, and a further aggravating background of bookmaking activities there, outright revocation is the only proper penalty.

Although this proceeding was instituted during the 1940-41 fiscal year, it nevertheless remains fully effective against the defendant's renewal license for the current year. See State Regulations No. 15.

Accordingly, it is, on this 5th day of October, 1942,

ORDERED, that Plenary Retail Consumption License No. C-7, heretofore issued to Irma Tuzenew, t/a Lakewood Log Cabin Inn, for the current fiscal year, for premises on State Highway #4, Howell Township, be and the same is hereby revoked, effective immediately.

ALFRED E. DRISCOLL,  
Commissioner.

2. ELIGIBILITY - FACTS EXAMINED - COMMERCIALIZED GAMBLING ON LARGE SCALE FOUND TO INVOLVE MORAL TURPITUDE - APPLICANT DECLARED INELIGIBLE TO HOLD A LIQUOR LICENSE OR TO BE EMPLOYED BY A LIQUOR LICENSEE.

October 5, 1942

Re: Case No. 417.

The Alcoholic Beverage Law provides that no one convicted of a crime involving moral turpitude may engage or work in the liquor business in this State. See R. S. 33:1-25, 26.

Respondent, being found working on licensed premises and having a criminal record, was called to a hearing to determine his eligibility.

In May 1935 respondent, while the holder of a plenary retail consumption license, was arrested in a raid (in which agents of this Department participated) for making book and maintaining a book-making establishment at a building on his premises. He was found guilty in September 1936 and thereafter, in October, was given a \$1500.00 fine and sentenced to a term of from one to three years in prison. His successive appeals to the New Jersey Supreme Court and to the Court of Errors and Appeals were denied. See State v. Suckow et al., 15 N. J. Misc. 584 (Sup. Ct. 1937); 120 N. J. L. 190 (E. & A. 1938). He was thereafter recommitted to jail and eventually paroled in July 1940 and his fine remitted.

Commercialized gambling may or may not involve moral turpitude, depending upon the facts. See Re Case No. 143, Bulletin 500, Item 6. In the present case it appears (from the Supreme Court's opinion in the case) that respondent conducted a regular bookmaking place on a substantial scale, there being as many as forty or fifty cars at the bookmaking place at the time of the raid and a complete set-up inside for conduct of such illegal activity.

Moreover, it appears, from past investigation by this Department, that respondent, while out on parole pending decision on his appeals, actually continued to operate a bookmaking establishment although at other premises.

Even if no heed be paid to this latter activity as being an after-occurring event, nevertheless I believe that respondent's crime, for which he was convicted, actually involves moral turpitude in view of the large and established scale upon which the bookmaking activities were being conducted by him. Cf. Re Case No. 283, Bulletin 337, Item 14; Re Case No. 189, Bulletin 485, Item 10.

It is unnecessary to determine whether respondent's conviction in 1928 for illegally possessing liquor likewise involves moral turpitude.

It is recommended that, on the basis of the conviction for bookmaking, respondent be declared ineligible to hold a liquor license or work for a liquor licensee in this State.

Nathan Davis,  
Attorney-in-Chief.

APPROVED:  
ALFRED E. DRISCOLL,  
Commissioner.

3. DISCIPLINARY PROCEEDINGS - SALE BY CLUB LICENSEE DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - SALE BY CLUB LICENSEE TO NON-MEMBERS - 20 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary  
Proceedings against

LASKOWSKI-WOJTKOWIAK POST  
#74 AMERICAN LEGION,  
1261 Kaighn Ave.,  
Camden, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Club License CB-22 issued  
by the Municipal Board of Alcoholic  
Beverage Control of the City of Camden.

C. Richard Allen, Esq., Attorney for Defendant-Licensee.  
Abraham Merin, Esq., Attorney for State Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The defendant club licensee pleads guilty to the following charges:

- (1) On Sunday, July 12, 1942 and on Sunday, July 19, 1942 it sold, served and delivered alcoholic beverages in violation of Section 5 of an Ordinance passed by the Board of Commissioners of the City of Camden on December 27, 1934, which Ordinance prohibits sale of alcoholic beverages after 2:00 A. M. on Sundays.
- (2) On July 12, July 17 and July 19, 1942 it sold alcoholic beverages to people who were not bona fide members or guests of members of its club, in violation of Rule 5 of State Regulations No. 7.

The record discloses that on Sunday evening, July 12, an agent of the Department of Alcoholic Beverage Control, together with a Polish acquaintance, entered the defendant's clubhouse. Neither the agent nor the acquaintance was a member. The agent offered to buy alcoholic beverages and proceeded to buy two rounds of whiskey for the group. Later the agent ordered and received two small glasses of beer.

On the following Friday evening, July 17, the same agent entered the club alone and proceeded to purchase alcoholic beverages for himself as well as for the bartender and an officer of the club.

On Sunday evening, July 19, the same agent, accompanied by another agent, again entered the club, whereupon both purchased alcoholic beverages from the bartender. A short time afterward they were joined by a third investigator, who in turn purchased a beer. At no time were any of the investigators asked by the bartender or anyone else whether they were members of the club. In fact, none of them was. Defendant's explanation is that the only reason these drinks were sold was that the club was extending Polish hospitality to a Polish person. While interesting, it is hardly an adequate excuse for a continued violation of the law.

Club licensees obtain their licenses for a fee considerably less than that charged plenary retail consumption licensees. It follows, therefore, that club licensees must confine their activities within the limitations imposed in their licenses. Club licensees may sell and serve members and bona fide guests. Club licensees are not

privileged to sell and serve to the general public. It is apparent that the defendant-licensee sold during prohibited hours in violation of a City ordinance, and also sold to non-members in violation of Rule 5 of State Regulations No. 7. In accord with previous rulings in cases involving club licensees, defendant's license will be suspended for a minimum period of ten days on each charge, or a total of twenty days, less five for the guilty plea. The outstanding record of service by the defendant-licensee makes the violations in question all the more regrettable. The future security of our country is no less dependent upon a considered observance of the law at home than upon the suppression of international lawlessness.

Accordingly, it is, on this 6th day of October, 1942,

ORDERED, that Club License CB-22, heretofore issued to Laskowski-Wojtkowiak Post #74 American Legion, for premises 1261 Kaighn Avenue, Camden, by the Municipal Board of Alcoholic Beverage Control of the City of Camden, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 A.M. October 9, 1942, and concluding at 2:00 A. M. October 24, 1942.

ALFRED E. DRISCOLL,  
Commissioner.

#### 4. DISCIPLINARY PROCEEDINGS - SALES ON ELECTION DAY - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against

THE ROSENBLUTH PHARMACY, INC.,  
109 Springfield Ave.,  
Newark, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distribution License D-10 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

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The Rosenbluth Pharmacy, Inc., by A. Rosenbluth, Secretary.  
Abraham Merin, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of selling alcoholic beverages on Primary Election Day, September 15, 1942, in violation of Rule 2 of State Regulations No. 20.

The usual penalty for this violation is a suspension for a period of ten days. Re Dill, Bulletin 477, Item 2. Five days will be remitted because of the guilty plea, leaving a net penalty of five days.

Accordingly, it is, on this 7th day of October, 1942,

ORDERED, that Plenary Retail Distribution License D-10, heretofore issued to The Rosenbluth Pharmacy, Inc. by the Municipal Board of Alcoholic Beverage Control of the City of Newark for premises 109 Springfield Avenue, Newark, be and the same is hereby suspended for a period of five (5) days, effective October 12, 1942, at 2:45 A.M. and concluding October 17, 1942, at 2:45 A. M.

ALFRED E. DRISCOLL,  
Commissioner.

5. DISCIPLINARY PROCEEDINGS - SALES ON ELECTION DAY - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary )  
Proceedings against )

UPPER MONTCLAIR COUNTRY CLUB, )  
Hepburn Road, )  
Clifton, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-15 issued by the )  
Municipal Council of the City of )  
Clifton. )  
- - - - - )

Upper Montclair Country Club, by Ernest A. Minier.  
Abraham Merin, Esq., Attorney for the Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of selling alcoholic beverages on Primary Election Day, September 15, 1942, in violation of Rule 2 of State Regulations No. 20.

The license will be suspended for five days. Re The Rosenbluth Pharmacy, Inc., Bulletin 532, Item 4.

Accordingly, it is, on this 7th day of October, 1942,

ORDERED, that Plenary Retail Consumption License C-15, heretofore issued to Upper Montclair Country Club by the Municipal Council of the City of Clifton, for premises on Hepburn Road, Clifton, be and the same is hereby suspended for a period of five (5) days, effective October 12, 1942, at 3:00 A.M. and concluding October 17, 1942, at 3:00 A. M.

ALFRED E. DRISCOLL,  
Commissioner.

6. DISCIPLINARY PROCEEDINGS - SALES ON ELECTION DAY - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary )  
Proceedings against )

THE GRAND UNION COMPANY, )  
298-300 Clifton Avenue, )  
Clifton, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Limited Distribution )  
License DL-4 issued by the )  
Municipal Council of the City )  
of Clifton. )  
- - - - - )

The Grand Union Company, by T. C. Butler, Secretary-Treasurer.  
Abraham Merin, Esq., Attorney for the Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of selling alcoholic beverages on Primary Election Day, September 15, 1942, in violation of Rule 2 of State Regulations No. 20.

The license will be suspended for five days. Re The Rosenbluth Pharmacy, Inc., Bulletin 532, Item 4.

Accordingly, it is, on this 7th day of October, 1942,

ORDERED, that Limited Distribution License DL-4, heretofore issued to The Grand Union Company by the Municipal Council of the City of Clifton, be and the same is hereby suspended for a period of five (5) days, effective October 12, 1942, at 3:00 A.M. and concluding October 17, 1942, at 3:00 A. M.

ALFRED E. DRISCOLL,  
Commissioner.

7. DISCIPLINARY PROCEEDINGS - SALES ON ELECTION DAY - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary  
Proceedings against

ANGELINA D'ALESSIO,  
T/a FLIPS TAVERN,  
48 Warren Street,  
Carteret, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-13 issued by the  
Borough Council of the Borough  
of Carteret.  
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Benedict W. Harrington, Esq., Attorney for Defendant-Licensee.  
Abraham Merin, Esq., Attorney for the Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of selling alcoholic beverages on Primary Election Day, September 15, 1942, in violation of Rule 2 of State Regulations No. 20, and also of local municipal regulation.

The license will be suspended for five days. Re The Rosenbluth Pharmacy, Inc., Bulletin 532, Item 4; Re Del Pomo, Bulletin 392, Item 7.

Accordingly, it is, on this 7th day of October, 1942,

ORDERED, that Plenary Retail Consumption License C-13, heretofore issued to Angelina D'Alessio, t/a Flips Tavern, by the Borough Council of the Borough of Carteret, for premises 48 Warren Street, Carteret, be and the same is hereby suspended for a period of five (5) days, effective October 12, 1942, at 2:00 A.M. and concluding October 17, 1942, at 2:00 A. M.

ALFRED E. DRISCOLL,  
Commissioner.



8. DISCIPLINARY PROCEEDINGS - SALES ON ELECTION DAY - OPEN DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - 15 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary  
Proceedings against

NATHAN NOVER,  
T/a SNUG TAVERN,  
133 South Street,  
Orange, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-26 issued by the  
Municipal Board of Alcoholic  
Beverage Control of the City of  
Orange.

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

BY THE COMMISSIONER:

The licensee has pleaded guilty to charges alleging that  
(1) he sold alcoholic beverages on Primary Election Day, September  
15, 1942, in violation of Rule 2 of State Regulations No. 20; and  
(2) he failed to close his licensed premises on said day, in viola-  
tion of local ordinance.

The license will be suspended for ten days on the first  
charge and for five days on the second charge, making a total pen-  
alty of fifteen days. Five days will be remitted because of the  
guilty plea, leaving a net penalty of ten days.

Accordingly, it is, on this 7th day of October, 1942,

ORDERED, that Plenary Retail Consumption License C-26, here-  
tofore issued to Nathan Nover, t/a Snug Tavern, by the Municipal  
Board of Alcoholic Beverage Control of the City of Orange, for prem-  
ises 133 South Street, Orange, be and the same is hereby suspended  
for a period of ten (10) days, effective October 12, 1942, at 2:00  
A. M. and concluding October 22, 1942, at 2:00 A. M.

ALFRED E. DRISCOLL,  
Commissioner.

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afforded to interested parties and the public, and the same shall be  
afforded to the public.

(1) The licensee has pleaded guilty to charges alleging that  
(1) he sold alcoholic beverages on Primary Election Day, September  
15, 1942, in violation of Rule 2 of State Regulations No. 20; and  
(2) he failed to close his licensed premises on said day, in viola-  
tion of local ordinance.

9. DISCIPLINARY PROCEEDINGS - SALES ON ELECTION DAY - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary  
Proceedings against

ANNA RINDOS,  
287 Communipaw Ave.,  
Jersey City, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-189 issued by the )  
Board of Commissioners of the City )  
of Jersey City. )  
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Anna Rindos, Pro Se.

William F. Wood, Esq., Attorney for the Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of selling alcoholic beverages on Primary Election Day, September 15, 1942, in violation of Rule 2 of State Regulations No. 20.

The license will be suspended for five days. Re The Rosenbluth Pharmacy, Inc., Bulletin 532, Item 4.

Accordingly, it is, on this 7th day of October, 1942,

ORDERED, that Plenary Retail Consumption License C-189, heretofore issued to Anna Rindos by the Board of Commissioners of the City of Jersey City, for premises 287 Communipaw Avenue, Jersey City, be and the same is hereby suspended for a period of five (5) days, effective October 12, 1942, at 2:00 A.M. and concluding October 17, 1942, at 2:00 A. M.

ALFRED E. DRISCOLL,  
Commissioner.

10. DISCIPLINARY PROCEEDINGS - SALES ON ELECTION DAY - 10 DAYS' SUSPENSION - SALES CONTRARY TO TERMS OF LICENSE, IN VIOLATION OF R. S. 33:1-2 - 5 DAYS' SUSPENSION - TOTAL: 15 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary  
Proceedings against

ELIZABETH SMITH,  
T/a SMITTY'S,  
58 Paterson Ave.,  
Hoboken, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-200 issued by the )  
Board of Commissioners of the )  
City of Hoboken. )  
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Elizabeth Smith, Pro Se.

William F. Wood, Esq., Attorney for the Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to charges alleging that (1) she sold alcoholic beverages on Primary Election Day, September 15, 1942, in violation of Rule 2 of State Regulations No. 20; and (2) she sold alcoholic beverages not pursuant to and within the terms of her plenary retail consumption license in that such sale was made off her licensed premises, in violation of R. S. 33:1-2.

The license will be suspended for ten days on the first charge (Re The Rosenbluth Pharmacy, Inc., Bulletin 532, Item 4), and for five days on the second charge (Re Buczek, Bulletin 436, Item 12), or a total of fifteen days. Five days will be remitted because of the guilty plea, leaving a net penalty of ten days.

Accordingly, it is, on this 7th day of October, 1942,

ORDERED, that Plenary Retail Consumption License C-200, heretofore issued to Elizabeth Smith, t/a Smitty's, by the Board of Commissioners of the City of Hoboken, for premises 58 Paterson Ave., Hoboken, be and the same is hereby suspended for a period of ten (10) days, effective October 12, 1942, at 2:00 A.M. and concluding October 22, 1942, at 2:00 A.M.

ALFRED E. DRISCOLL,  
Commissioner.

11. DISQUALIFICATION - APPLICATION TO LIFT - FACTS EXAMINED - GOOD CONDUCT FOR FIVE YEARS AND NOT CONTRARY TO PUBLIC INTEREST - APPLICATION 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. 236. )  
----- )

BY THE COMMISSIONER:

Petitioner in this proceeding prays that his disqualification resulting from the conviction of a crime be lifted pursuant to R. S. 33:1-31.2.

In 1926 petitioner was found guilty of breaking, entering, larceny and receiving and was sentenced to eighteen months in the Essex County Penitentiary. Later in the same year he was found guilty of carrying concealed weapons and was sentenced to eighteen months in the Essex County Penitentiary.

At the hearing petitioner vehemently denied that he had ever been convicted of breaking, entering and larceny but readily admitted that he had been convicted of the crime of carrying concealed weapons. Petitioner stated that the concealed weapons conviction was the outgrowth of a "mistake" on his part. He claims to have become incensed when a young lady with whom he had a date failed to answer his knock upon the door he thought to be hers and that he therefore proceeded to knock upon the door of the offending lady with considerable violence. He later realized that he was in the wrong house when the occupants became excited and called the police. Petitioner, realizing his mistake, became embarrassed and hurriedly left the house. The police subsequently arrested petitioner and took him to headquarters. A gun was found on his person. He explained that he carried this gun because he closed his place of business late at night and always carried large sums of money and therefore carried the gun for his protection. So much for his story! Whether or not the petitioner was convicted of breaking and entering in 1926, for the purpose of this hearing, is not especially material. The fact remains that he was convicted of carrying concealed weapons and this crime involves the element of moral turpitude.

At the hearing petitioner produced three character witnesses who had known him for at least ten or twelve years, one being a chauffeur who had worked for the same company since 1930, and the other two were respected businessmen. Two of the witnesses lived in the immediate neighborhood of the petitioner until five months ago when he married and changed his residence. They stated that the petitioner, for the past ten or twelve years, bore a fine reputation in the neighborhood in which he resided as an honest, hard-working person. The other witness has known the petitioner for fifteen years and is his present employer. It was his opinion that petitioner was law-abiding, well-behaved and of good character. Petitioner testified that he has always been steadily employed; that he has recently married and supports his wife and her two children by a former marriage. According to the records of this Department, there have been no complaints concerning the conduct of the petitioner since the last offense committed, nor does the record disclose any pending investigations.

I therefore conclude that petitioner has been law-abiding for at least the five years last past, and that he has lived a respectable and decent life, and that his association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 6th day of October, 1942,

ORDERED, that petitioner's disqualification be lifted in accordance with the provisions of R. S. 33:1-31.2.

ALFRED E. DRISCOLL,  
Commissioner.

## 12. DISCIPLINARY PROCEEDINGS - SLOT MACHINES - CHARGES DISMISSED FOR LACK OF JURISDICTION.

In the Matter of Disciplinary )  
Proceedings against )

ELKS CLUB, VINELAND LODGE #1422, )  
B. P. O. ELKS, )  
5 Elks Place and 12 N. 6th St., )  
Vineland, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Club License CB-1 for )  
fiscal year 1941-42 issued by the )  
Board of Commissioners of the )  
Borough of Vineland. )  
- - - - - )

Moe A. Joseph, Esq., Attorney for Defendant-Licensee.  
William F. Wood, Esq., Attorney for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

Defendant was served with charges alleging that, on December 22, 1941, it possessed on its licensed premises a number of slot machines in violation of Rule 7 and Rule 8 of State Regulations No. 20.

The defendant admits that the machines were found in the game room of its clubhouse. It contends, however, that the room is not part of its licensed premises.

If the defendant's contention is correct, the charges must be dismissed upon the ground that the gambling devices were not within the jurisdiction of the Department of Alcoholic Beverage Control.

The application for a license for the fiscal year 1941-42 contains the following questions and answers:

- "2. Location of premises to be licensed:  
Street and number - 12 No. 6th Street.

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- "4. Will the entire building constitute the licensed premises? Yes. Specify in detail the grounds, floors and rooms where alcoholic beverages are to be sold, served or stored? Club Bar on ground floor and Cocktail Lounge on second floor."

Both the game room and the club bar are located on the ground floor of the Elks clubhouse. The two rooms are apparently separated by a substantial partition. The cocktail lounge is located on the second floor of the clubhouse.

The answers to Question 4 are contradictory. If the licensee intended that the entire building, including the game room, should constitute the licensed premises, there would appear to have been no need to have answered the second portion of the question. Where a licensee describes his licensed premises as being located at a certain address, he may, of course, by appropriate action, limit the portion of the premises which are to be licensed. Re Cohen, Bulletin 295, Item 3. Where the description in the application is ambiguous and the licensee has exercised the licensed privilege in the questioned area, the license has been held to cover that area. Krump v. Caldwell, Bulletin 507, Item 4. Likewise, where the licensed premises are not clearly defined in the application, resort may be had to the licensee's action thereunder in determining what constitutes the licensed premises. Lackowitz v. Waterford, Bulletin 426, Item 8.

The testimony of the defendant's attorney, who has been Exalted Ruler of the lodge for the past five years, satisfies me that it was never the intent of the defendant to include the game room as part of the licensed premises. However, this case may not be disposed of merely by reference to the intention of the licensee. Evidence with respect to the licensee's intent, while perhaps worthy of note, is not dispositive of the issue raised by the charges. Actions speak more persuasively than words, particularly where the words relate to a previous intention known only to the speaker.

The testimony in this case discloses that no alcoholic beverages were sold, served, consumed or stored in the game room. In the application form for the 1942-43 license period, Question 4 has been changed, thus avoiding the likelihood of a repetition of the conflicting answers appearing in the instant application. Bulletin 497, Item 3.

Under the circumstances, I conclude that the game room in which the machines were found was not part of the licensed premises.

The charges will be dismissed for lack of jurisdiction.

Accordingly, it is, on this 7th day of October, 1942,

ORDERED, that the proceedings herein be dismissed.

ALFRED E. DRISCOLL,  
Commissioner.

13. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - DISCREPANCY IN ACID, SOLID CONTENT AND COLOR - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary  
Proceedings against

JOHN PICO,  
91 Heckel Street,  
Belleville, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-38, issued by the  
Board of Commissioners of the  
Town of Belleville.

Leo J. Berg, Esq., Attorney for Defendant-Licensee.  
Abraham Merin, Esq., Attorney for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded non vult to charges alleging that (1) on November 27, 1941 he possessed a quart bottle of "Calvert Special Blended Whiskey 86.8 Proof", the contents of which varied from a genuine sample, in violation of R. S. 33:1-50, and that (2) he refilled said bottle, without proper license therefor, in violation of R. S. 33:1-78.

Besides a wide discrepancy in acid and solid content, it appears that the beverage in the bottle in question contained only natural coloring, whereas an authentic sample of the whiskey involved herein contains mostly artificial coloring matter. The chemist testified that this indicated that the liquor in the seized bottle was a straight whiskey rather than a blended whiskey as called for by the label.

The licensee denied that he had refilled the bottle and also disclaimed any knowledge of the manner in which the violation occurred. Despite the absence of any personal participation in the violation or such lack of knowledge, the licensee must be held strictly accountable for any "refills" found in his liquor stock. Re Kurian, Bulletin 517, Item 2.

Since this is the licensee's first conviction and there are no aggravating or other attendant circumstances warranting a more substantial penalty, I shall suspend the license for a period of ten days. Re Kurian, supra.

Accordingly, it is, on this 7th day of October, 1942,

ORDERED, that Plenary Retail Consumption License C-38, heretofore issued to John Pico for premises 91 Heckel Street, Belleville, New Jersey, by the Board of Commissioners of the Town of Belleville, for the current fiscal year, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 A.M. October 12, 1942, and concluding at 3:00 A.M. October 22, 1942.

ALFRED E. DRISCOLL,  
Commissioner.

14. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - SUBSTITUTION OF STRAIGHT WHISKEY FOR BLENDED WHISKEY - PREVIOUS RECORD - 15 DAYS' SUSPENSION.

In the Matter of Disciplinary )  
Proceedings against )

MICHAEL SAWON,  
117 Front Street,  
Elizabeth, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-117, issued by the )  
Municipal Board of Alcoholic Bev- )  
erage Control of the City of )  
Elizabeth. )  
- - - - - )

Michael Sawon, Pro Se.

Abraham Merin, Esq., Attorney for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to charges alleging:

- (1) On July 10, 1941 he possessed a quart bottle of "Old Drum Brand Blended Whiskey 86 Proof", the contents of which varied from a genuine sample, in violation of R. S. 33:1-50.
- (2) He refilled said bottle, without proper license therefor, in violation of R. S. 33:1-78.

It appears that a chemical analysis of the beverage contained in the seized bottle disclosed that the bottle had been refilled with a straight whiskey of 89.8 proof instead of containing a blended whiskey of 86 proof. Although the licensee denied that he or any of his employees had tampered with the bottle, he was unable to give any explanation for the variance in the contents of the bottle. The licensee is nevertheless strictly responsible for any "refills" found in his liquor stock. Re Kurian, Bulletin 517, Item 2.

The licensee has a previous record. In March 1940 his license was suspended for three days for selling alcoholic beverages during prohibited hours. Because of such record, the usual penalty of ten days for the instant violation (Re Kurian, supra) will be increased to fifteen days.

Accordingly, it is, on this 7th day of October, 1942,

ORDERED, that Plenary Retail Consumption License C-117, heretofore issued to Michael Sawon for premises 117 Front Street, Elizabeth, New Jersey, by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth for the current fiscal year, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 A.M. October 12, 1942, and concluding at 2:00 A. M. October 27, 1942.

ALFRED E. DRISCOLL,  
Commissioner.

15. DISQUALIFICATION - APPLICATION TO LIFT - FACTS EXAMINED - GOOD CONDUCT FOR FIVE YEARS AND NOT CONTRARY TO PUBLIC INTEREST - APPLICATION 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. 242 )  
----- )

BY THE COMMISSIONER:

Petitioner in this proceeding prays that his disqualification resulting from the conviction of crimes be lifted pursuant to R. S. 33:1-31.2.

In 1932 petitioner was found guilty of assault and battery and sentenced to eighteen months in the Hudson County Penitentiary and served three months of this sentence. He was again found guilty of the same offense in 1936 and sentenced to a similar term in the same penal institution and served thirteen months.

At the hearing petitioner testified that prior to the first offense he had never been in any trouble and that the two convictions were the result of complaints by his wife following family arguments or disagreements.

At the hearing petitioner produced three character witnesses -- a lawyer and two businessmen. The lawyer has known petitioner for six years and the other two witnesses have known him for a period of ten and twenty-five years. All three men state that petitioner bears a fine reputation in the community in which he resides; that he is hard-working and has never been in any trouble except that which arose out of his marital difficulties. In the opinion of the three witnesses, petitioner was law-abiding, well-behaved and of good character. Petitioner testified that he has always been gainfully employed since his entry into this country.

According to the records of this Department, there have been no complaints concerning the conduct of the petitioner since the last offense referred to herein. A report from the Police Department of the city in which petitioner resides discloses that there are no complaints or pending investigations against petitioner.

I therefore conclude that petitioner has been law-abiding for at least five years last past and that he has lived a respectable and decent life and that his association with the alcoholic beverage industry will not be contrary to public interest.

It is to be noted that petitioner is an alien. He therefore is precluded from handling or selling alcoholic beverages.

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

ORDERED, that petitioner's disqualification be lifted in accordance with the provisions of R. S. 33:1-31.2.

*Alfred E. Griswell*  
Commissioner.