

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

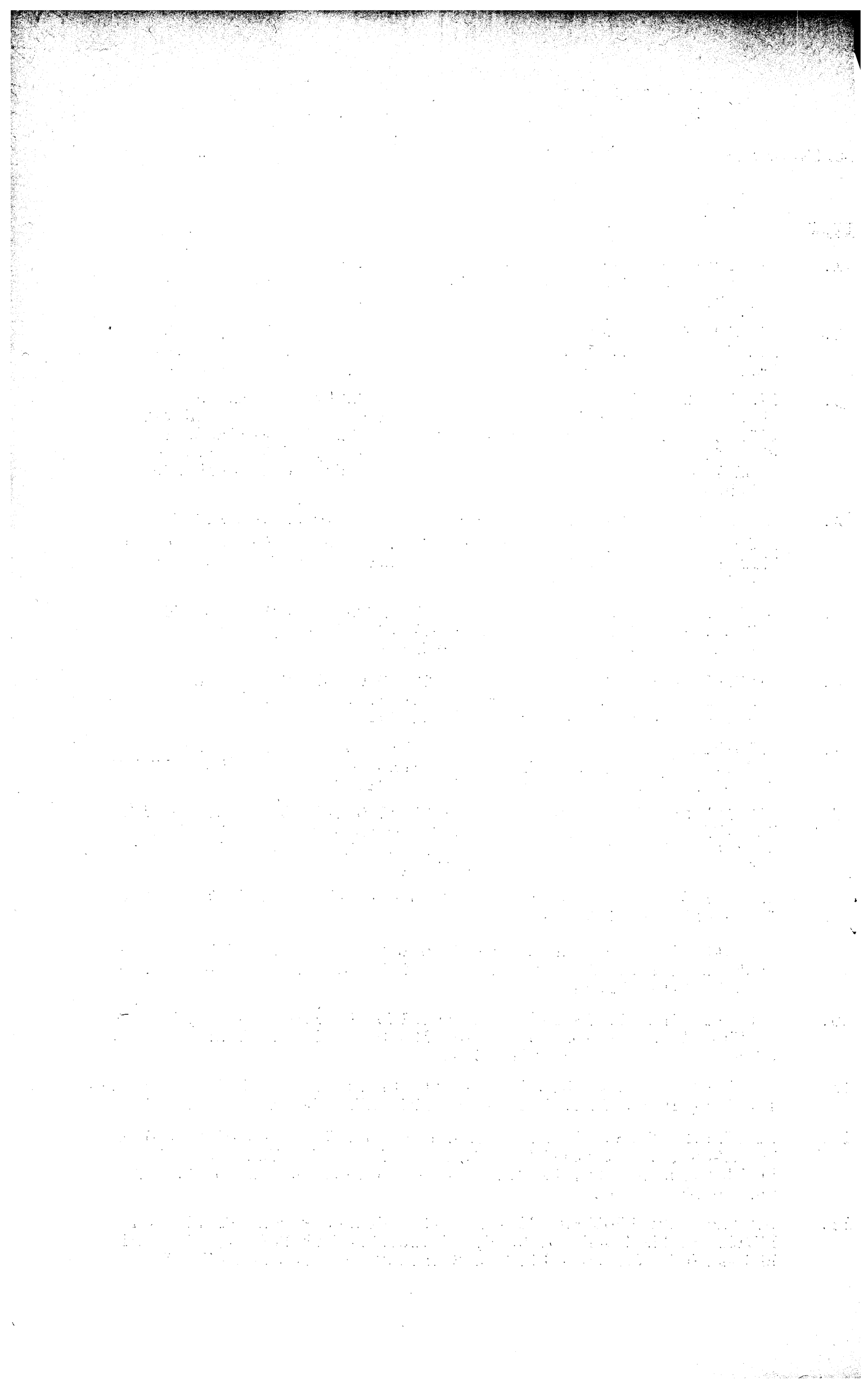
BULLETIN 616

APRIL 28, 1944

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

BULLETIN 616

APRIL 28, 1944

1. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - DISCREPANCY IN PROOF,  
ACIDS AND SOLIDS - PREVIOUS RECORD - 15 DAYS' SUSPENSION.

In the Matter of Disciplinary )  
Proceedings against )

ADA DEGEN )  
328 32nd Street )  
Union City, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-69, issued by the )  
Board of Commissioners of the City )  
of Union City. )

George R. Sommer, Esq., Attorney for Defendant-Licensee.  
Gaylord R. Hawkins, Esq., Appearing for Department of  
Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee has entered a plea of non vult to the follow-  
ing charge:

"On or about March 13, 1944, you possessed illicit alcoholic  
beverages at your licensed premises, viz., a 4/5th quart  
bottle labeled 'Calvert Reserve Blended Whiskey 86.8 Proof'  
and a 4/5th quart bottle labeled 'Lord Calvert Blended  
Whiskey 86.8 Proof', which bottles contained alcoholic  
beverages not genuine as labeled; such possession being in  
violation of R. S. 33:1-50."

On March 13, 1944, an agent of the Federal Alcohol Tax  
Unit seized the two bottles in question. The Federal agent likewise  
seized an unopened bottle labeled "Lord Calvert" for purposes of  
comparison. Analysis showed that the questioned bottles were short  
in proof, high in acid content and deficient in solids when compared  
with genuine samples.

The licensee denies that the alleged violation took place  
as the result of any act of her own and, according to her statement,  
is at a loss to understand when or how the violation actually  
occurred. As repeatedly pointed out, the licensee is responsible  
for any "refills" found upon the licensed premises. Re Baratta,  
Bulletin 596, Item 11.

The licensee has a prior conviction. On February 5, 1942  
her license was suspended for five days by the Board of Commissioners  
of Union City, upon her plea of guilty to sale during prohibited  
hours. Because of this previous record, a greater penalty must be  
imposed. I will, therefore, suspend her license for a period of fif-  
teen days.

Accordingly, it is, on this 21st day of April, 1944,

ORDERED that Plenary Retail Consumption License C-69, issued by the Board of Commissioners of the City of Union City to Ada Degen, for premises 328 32nd Street, Union City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 A.M. May 1, 1944 and terminating at 3:00 A.M. May 16, 1944.

ALFRED E. DRISCOLL,  
Commissioner

2. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE I OF STATE REGULATIONS NO. 20 - PREVIOUS RECORD - 20 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against )

SILVER STAR CAFE, INC. )  
452 Market Street )  
Paterson, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-196, issued by the Board of Alcoholic Beverage Control of the City of Paterson. )  
----- )

James J. Murner, Esq., Attorney for Defendant-Licensee.  
Milton H. Cooper, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant was charged with selling alcoholic beverages on January 29, 1944 and on dates prior thereto to two minors, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

The two minors in question are nineteen and eighteen years of age, respectively. They both testified that on January 29, 1944, they were served alcoholic beverages by the manager, or person in charge, of the licensed premises. Both minors were in uniform at the time and they further testified that they had been served alcoholic beverages on previous occasions.

The licensee, through its manager, or person in charge of its licensed premises, admits that on January 29, 1944 two minors, accompanied by a third companion, came to its place of business and that they were served with a Carstairs and coke, a beer and a birch beer. The party making the service explained that one of the minors, Vincent \_\_\_\_\_, was served Carstairs, the other minor, Alfred \_\_\_\_\_, with beer and the third one in the party was served with birch beer. He further stated that on a previous occasion he had inquired of Vincent \_\_\_\_\_ as to his age and that he was advised he was over twenty-one years of age. The other minor was apparently never asked his age, nor is it contended by the licensee that either of the minors was ever asked to sign a card or statement as to his age.

It was suggested during the course of the hearing that the two minors appeared to be over twenty-one years of age and apparently the licensee relies upon no defense other than the inquiry and general appearance of the minors. In Re Wooby, Bulletin 606, Item 6, and in subsequent decisions, I stated that a licensee must comply with all provisions of R. S. 33:1-77 in order to defend itself successfully against the charges of selling to minors.

The instant case is aggravated by the fact that the licensee has a previous conviction against it for the same offense. Re Silver Star Cafe, Inc., Bulletin 586, Item 5. In that case as in the instant one, the licensee apparently chose to rely upon the judgment of its manager, or employees, as to the ages of its customers. It is suggested that in the future it change its practice in this regard, lest some more drastic punishment be meted out. I find defendant guilty as charged and will impose a penalty of twenty days' suspension.

Accordingly, it is, on this 21st day of April, 1944,

ORDERED that Plenary Retail Consumption License C-196 issued by the Board of Alcoholic Beverage Control of the City of Paterson to Silver Star Cafe, Inc., for premises 452 Market Street, Paterson, be and the same is hereby suspended for a period of twenty (20) days, commencing at 3:00 A. M. April 28, 1944 and terminating at 3:00 A. M. May 18, 1944.

ALFRED E. DRISCOLL,  
Commissioner

- 3. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MEMBERS OF THE ARMED FORCES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - SALE OF ALCOHOLIC BEVERAGES TO PERSONS ACTUALLY OR APPARENTLY INTOXICATED, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary Proceedings against )  
 )  
 WILLIAM P. McCrory, )  
 117 South Mississippi Avenue, )  
 Atlantic City, New Jersey, )  
 )  
 Holder of Plenary Retail Consumption License C-236 issued by the Board of Commissioners of the City of Atlantic City. )  
 ----- )

CONCLUSIONS  
AND ORDER

Leon Leonard, Esq., Attorney for Defendant.  
Milton H. Cooper, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult to the following charges:

- "1. On Monday, March 27, 1944, after 1:00 A.M. and before 9:00 A.M., you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to persons wearing the uniform of one of the armed forces of the United States of America, viz., the United States Army, in violation of an Ordinance, adopted by the Board of Commissioners of the City of Atlantic City, on August 11, 1938, as amended by Section 1 of an Ordinance adopted by said Board on February 10, 1944.
- "2. On the occasion aforesaid, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to Private Herman --- and Private Paul ---,

persons actually or apparently intoxicated, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons on the licensed premises, in violation of Rule 1 of State Regulations No. 20."

The file herein discloses that on March 27, 1944, at approximately 3:00 A.M., two members of the military police entered defendant's premises and saw four soldiers in uniform, who were drinking alcoholic beverages. The file shows that after 1:00 A.M. on the morning in question, three of these servicemen had hailed a cab and, after inquiring of the driver where they could purchase alcoholic beverages after hours, were taken to defendant's premises. The file further shows that the two servicemen mentioned in charge (2) were actually intoxicated.

In attempted mitigation defendant alleges that the violation was an error of judgment and not an intentional error made with the desire to evade the law. I am convinced, however, that the violation of the curfew regulations was a deliberate act on the part of the licensee.

As to penalty: Defendant has no prior record. That is the only reason which prompts me to refrain from revoking the license because of these very serious violations. I have repeatedly said that I will enforce the curfew regulations adopted by municipalities at the request of our military authorities, and that sales to intoxicated members of the military forces constitute not only a serious violation but also an unpatriotic act. Under all the circumstances of this case, I shall suspend the license for the balance of its term.

Accordingly, it is, on this 21st day of April, 1944,

ORDERED that plenary retail consumption license C-236, issued by the Board of Commissioners of the City of Atlantic City to William P. McCrory for premises 117 South Mississippi Avenue, Atlantic City, be and the same is hereby suspended for the balance of its term, effective at 12:01 A.M. on April 28, 1944.

ALFRED E. DRISCOLL,  
Commissioner

4. MORAL TURPITUDE - CRIME OF RAPE INVOLVES MORAL TURPITUDE.

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

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

CONCLUSIONS  
AND ORDER

Case No. 329. )  
- - - - - )

BY THE COMMISSIONER:

Petitioner's criminal record includes a conviction, in April 1932, of the crime of conspiracy to rob and, in December 1933, a conviction for forcible rape. On the first conviction, petitioner was sentenced to probation for five years and, on the second conviction, to an indeterminate jail term, and paroled in October 1934. Since the latter date, petitioner's criminal fingerprint returns



A sailor, 18 years of age, and a soldier, 19 years of age, testified that on the evening of March 12, 1944, at about 10:00 P.M., they visited defendant's premises with two girls, who are not mentioned in the charges. The sailor testified that a waitress served a drink of "Carstair's and coke" to himself and a similar drink to the soldier. The soldier testified that they ordered "four Carstair's and soda," which were brought to their table by the waitress who had obtained the drinks from the bartender. The sailor testified also that, prior to his discharge from the Merchant Marine in June 1943, he had been twice served with alcoholic beverages in the licensed premises by the same bartender.

On behalf of defendant, the waitress testified that she did not serve either of the minors on March 12, 1944, and that in fact she had never seen them in the place. She admitted, however, that she was on duty from 6:00 P.M. on March 12, 1944, until 3:00 o'clock the following morning, and that she was the only waitress employed by defendant. The bartender testified that he began his employment at the Prince Tavern in November 1943, and that he did not serve either of the boys on the evening of March 12. Ernest Varallo, the President of defendant corporation, testified that he was tending bar in the licensed premises on the evening of March 12, and that he did not see either of the minors. He admitted that the bartender was also on duty at the same time, and that the waitress was picking up drinks at the bar and taking them to the tables in the booths which have a four-foot partition.

In view of the positive evidence of the minors, who apparently would have no motive for committing perjury in this case, I am satisfied that they were served with, and permitted to consume, alcoholic beverages on defendant's premises on the evening of March 12, 1944. The testimony produced by defendant is not sufficient to raise any serious doubt in my mind as to the truth of the minors' testimony concerning the service on that evening. There is no allegation in the case that any attempt was made to comply with the provisions of R. S. 33:1-77. I find, however, that the proof is not sufficient to establish the sale of alcoholic beverages to the sailor on any date prior to March 12, 1944. The bartender was not employed in the licensed premises until November 1943, and these sales are alleged to have been made prior to June 1943. Under all the circumstances, I find defendant guilty of the charges preferred in so far as said charges relate to March 12, 1944.

There appear to be no aggravating circumstances, and the licensee has no prior record. I shall suspend its license for a period of ten days.

Accordingly, it is, on this 21st day of April, 1944,

ORDERED that plenary retail consumption license C-339, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Prince Tavern, Inc., for premises 8 Prince Street, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 A.M. May 1, 1944, and terminating at 3:00 A.M. May 11, 1944.

ALFRED E. DRISCOLL,  
Commissioner

6. DISCIPLINARY PROCEEDINGS - PERMITTING GAMBLING ON LICENSED PREMISES, IN VIOLATION OF RULE 7 OF STATE REGULATIONS NO. 20 - PREVIOUS RECORD - 30 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against )  
 )  
 JOHN REVALLO, )  
 t/a JOHN REVALLO'S CAFE, )  
 1201 Mechanic Street, )  
 Camden, New Jersey, )  
 )  
 Holder of Plenary Retail Consumption License C-14 issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden. )  
 ----- )

CONCLUSIONS AND ORDER

John Revallo, Pro se.  
Edward F. Hodges, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleads guilty to the following charge:

"On March 18, 1944, you did allow, permit and suffer gambling, to wit, the playing of a card game called 'Poker,' for money, on your licensed premises, in violation of State Regulations No. 20, Rule 7."

On the afternoon in question, investigators of the Alcoholic Beverage Control Department entered the licensed premises around 3:00 P.M. The licensee was behind the bar at the time, and at a table directly in front of the bar the agents observed six men playing "Poker" and two or three other men standing by watching the game. After permitting the game to go on for a few minutes, the agents made their identity known, stopped the game and seized two one-dollar bills and a deck of cards for evidence. Only one of the players identified himself, he being a son-in-law of the licensee.

The licensee, in a signed statement, admitted that he had allowed his patrons to gamble on the premises. He further stated to the investigators that business had not been too good and that he had refrained from advising them to cease playing for fear of losing their patronage.

The licensee has three prior convictions against him. In March 1939 (Re Revallo, Bulletin 362, Item 1) his license was suspended for ten days because of a Fair Trade violation. In 1939 his license was suspended for five days by the local issuing authorities for possessing four bottles of off-proof liquor. In March 1942 (Re Revallo, Bulletin 499, Item 6) his license was suspended eight days for making a false answer in an application and for selling during prohibited hours in violation of the local ordinance. The licensee must certainly realize that continued violations demonstrate his unfitness to hold a license. His statement to the investigators that, if leniency is shown in this case, there will be no further violations is not convincing.

The defendant's cafe is located near the shipyards where thousands of war workers are employed. No further comment is

necessary other than to state that allowing gambling of any nature to exist in any licensed premises, and particularly in localities of this nature, will continue to call for the imposition of drastic penalties from this Department. I shall impose a suspension of thirty days, with a warning to the licensee that any further violation of any nature will lead to a much more severe penalty.

Accordingly, it is, on this 24th day of April, 1944,

ORDERED that plenary retail consumption license C-14, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to John Revallo, t/a John Revallo's Cafe, for premises 1201 Mechanic Street, Camden, be and the same is hereby suspended for thirty (30) days commencing at 2:00 A.M. May 1, 1944, and terminating at 2:00 A.M. May 31, 1944.

ALFRED E. DRISCOLL,  
Commissioner

7. ELIGIBILITY - CRIME OF LEWDNESS FOUND TO INVOLVE MORAL TURPITUDE-  
APPLICANT HELD INELIGIBLE TO HOLD A LIQUOR LICENSE OR TO BE  
EMPLOYED BY A LICENSEE IN THIS STATE.

April 25, 1944.

Re: Case No. 528.

Applicant seeks a determination as to his eligibility to be associated in any capacity with the alcoholic beverage industry in this state.

On March 13, 1935, applicant, then 18 years of age, was placed on probation for a period of two years by a judge of the Court of Quarter Sessions following his conviction of the crime of open lewdness. Again, on June 28, 1938, applicant was sentenced to an indefinite term in a state reformatory by a judge of a Court of Quarter Sessions, after being convicted of assault and battery upon three young girls. Applicant spent twenty-eight days of a three months prison sentence, beginning June 30, 1943, in a county prison, as a result of a conviction of simple assault and battery committed on a policewoman in an attempt to solicit her attention for immoral purposes.

Without determining whether the convictions for assault and battery involve moral turpitude, it has been determined that the crime of lewdness ordinarily does involve moral turpitude. Applicant has presented no evidence which would lead to a different conclusion in this case.

It is, therefore, recommended that applicant be advised that he is neither eligible to hold a liquor license nor to be employed by an alcoholic beverage licensee in this state.

Clarence E. Kremer,  
Attorney

APPROVED:

ALFRED E. DRISCOLL,  
Commissioner.

8. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE AND RULE 1 OF STATE REGULATIONS NO. 38 - PREVIOUS RECORD - 40 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against 14th WARD DEMOCRAT CLUB, INC., 2461 S. 7th Street, Camden, New Jersey, Holder of Club License CB-6 issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

CONCLUSIONS AND ORDER

14th Ward Democrat Club, Inc., Pro se. Edward F. Hodges, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleads guilty to charges that it violated a municipal ordinance prohibiting sale of alcoholic beverages on Sunday, and also violated Rule 1 of State Regulations No. 38 which prohibits retail sale of alcoholic beverages in original containers on Sunday for off-premises consumption.

The reports of two investigators of the Department of Alcoholic Beverage Control disclose that, on Sunday, March 26, 1944, at about 2:00 P.M., they observed a man leave the defendant's premises with a package which was found to contain two one-quart bottles of beer. A short time thereafter, the investigators, upon entering the bar room of the licensed premises, observed four men drinking beer.

As to penalty: Each of the offenses charged herein carries a minimum penalty of fifteen days suspension, making a total suspension of thirty days. Re Healey, Bulletin 600, Item 4. However, in 1937 the local issuing authority suspended defendant's license for twenty days after defendant had pleaded guilty to charges of selling during prohibited hours on Sunday, sales to non-members, and possession of slot machines. Since these violations occurred more than six years ago, I shall not follow the usual practice of doubling the penalty for a second similar offense. Under all the circumstances, I shall suspend defendant's license for forty days, less five days for the plea, making a net suspension of thirty-five days.

Accordingly, it is, on this 25th day of April, 1944,

ORDERED that Club License CB-6 issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to 14th Ward Democrat Club, Inc., for premises 2461 S. 7th Street, Camden, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 A.M. May 1, 1944, and terminating at 2:00 A.M. June 5, 1944.

ALFRED E. DRISCOLL, Commissioner

9. MORAL TURPITUDE - CRIME OF ATROCIOUS ASSAULT AND BATTERY FOUND TO INVOLVE MORAL TURPITUDE.

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

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

CONCLUSIONS  
AND ORDER

Case No. 330.  
- - - - - )

BY THE COMMISSIONER:

Petitioner, a Portuguese national, comes before me to lift any disqualification that may exist by reason of his being convicted of a crime.

Petitioner testified that, in 1935, he served twenty-six days of a thirty day sentence in a county penitentiary following his conviction of the crime of atrocious assault and battery. The criminal records received by the Department of Alcoholic Beverage Control disclose no other conviction of crime. Atrocious assault and battery is a crime involving moral turpitude.

The petitioner, for a number of years since his conviction, has been employed in several licensed premises as a counterman. His explanation for working for a liquor licensee was that he did not know that he was disqualified from so doing. Ignorance of the law cannot excuse a person in criminal or disciplinary proceedings. Knowledge of the law, however, is not a necessary ingredient of the good faith essential in rehabilitation proceedings such as in the instant matter. Re Case No. 61, Bulletin 338, Item 2. I shall accept his explanation.

Three witnesses, including a person who formerly worked with petitioner, testified that they have known him for five or more years and that he bears a good reputation as a law-abiding person.

I am satisfied, therefore, that petitioner has conducted himself in a law-abiding manner during five years immediately past and that his association with the alcoholic beverage industry will not be detrimental to the public interest. Consequently, I shall lift his disqualification which resulted by reason of his conviction of the crime of atrocious assault and battery.

Accordingly, it is, on this 25th day of April, 1944,

ORDERED that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby lifted in accordance with the provisions of R. S. 33:1-31.2. If proper application is made for an employment permit the permit may issue.

ALFRED E. DRISCOLL,  
Commissioner

10. DISCIPLINARY PROCEEDINGS - EXERCISING THE RIGHTS AND PRIVILEGES OF THE LICENSE PRIOR TO ACQUISITION OF SAME - ILLEGAL SITUATION CORRECTED - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against )

ANTHONY DE BISCO, )  
t/a SULPHUR SPRING TAVERN, )  
Springfield Ave. & Riverside Drive, )  
New Providence Township, )  
P. O. Berkeley Heights, N. J., )

Former Holder of Plenary Retail Consumption License C-5 issued by the Township Committee of the Township of New Providence. )

CONCLUSIONS  
AND ORDER

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In the Matter of Disciplinary Proceedings against )

EDITH DE BISCO and MICHAEL AMODEO, )  
t/a SULPHUR SPRING TAVERN, )  
Springfield Ave. & Riverside Drive, )  
New Providence Township, )  
P. O. Berkeley Heights, N. J. )

Now Holders of Plenary Retail Consumption License C-5 issued by the Township Committee of the Township of New Providence. )

John L. Hughes, Esq., Attorney for Defendant-licensees.  
Edward F. Ambrose, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensees, Edith DeBisco and Michael Amodeo, have pleaded non vult to the following charge:

"From July 1, 1943, and prior thereto, and until December 15, 1943, you, Michael Amodeo, exercised the rights and privileges of the successive plenary retail consumption licenses then being held by Anthony DeBisco for premises on Springfield Avenue and Riverside Drive, New Providence Township, New Jersey, in violation of R. S. 33:1-26."

The license was originally issued in the name of Anthony DeBisco. It is admitted that, for a period of time prior to the original licensee's death, Michael Amodeo, his nephew, was an undisclosed partner in the licensed business. When the "front" situation was first discovered by investigators of this Department, proceedings were instituted against the said Anthony DeBisco. Thereafter Anthony DeBisco died on December 15, 1943. The license was extended to Edith DeBisco as administratrix, and thereafter transferred to Edith DeBisco and Michael Amodeo. Proceedings were then instituted by this Department against Edith DeBisco and Michael Amodeo.

The only apparent reason for the concealment of the interest of Amodeo was that he had judgment creditors and feared that they

might levy upon his interest in the business. It does not appear that Amodeo was disqualified, at any time, from holding a license. The unlawful situation has been corrected by the transfer of the license to Edith DeBisco and Michael Amodeo. However, the Law has been violated and, in view of all the facts, I must impose a minimum penalty of ten days, which punishment shall be effective against the transferees. Rule 2 of State Regulations No. 15.

Accordingly, it is, on this 25th day of April, 1944,

ORDERED that the disciplinary proceedings instituted against Anthony DeBisco be and the same are hereby nolle prossed; and it is further

ORDERED that plenary retail consumption license C-5, issued by the Township Committee of the Township of New Providence to Anthony DeBisco and transferred during pendency of these proceedings to Edith DeBisco and Michael Amodeo for premises at Springfield Avenue and Riverside Drive, New Providence Township, be and the same is hereby suspended for ten (10) days commencing at 3:00 A.M. May 1, 1944, and terminating at 3:00 A.M. May 11, 1944.

ALFRED E. DRISCOLL,  
Commissioner

11. LICENSES - PUBLIC BUILDINGS - SALE OF LIQUOR IN A MUNICIPAL BUILDING CONTAINING MUNICIPAL DEPARTMENTS AND AGENCIES DISAPPROVED.

April 25, 1944

-----Volunteer Fire Company  
-----, New Jersey

Gentlemen:

I have your letter of April 19th stating that your organization wishes to apply for a Club License to dispense alcoholic beverages to its members and that the premises to be licensed are situated on the first floor of the municipal building in which other municipal departments and agencies are located.

With respect to the above our Law (R. S. 33:1-42) provides:

"No sale of alcoholic beverages shall be made in any public buildings belonging to or under the control of the state or any political subdivision thereof except as to the national guard as hereinbefore provided, and except as permitted by the commissioner in specified cases and subject to rules and regulations."

True, the above Section while prohibiting, in general, the issuance of liquor licenses for public buildings, allows the issuance thereof in specified cases with my permission. I wish to state at the outset that I seriously doubt the wisdom of issuing a liquor license to a Volunteer Fire Company, the members of which are constantly charged with the performance of duties involving the safety of the public. Aside from the above, however, I am opposed to the sale of liquor in public buildings and especially so in a municipal building containing the various municipal departments and agencies. I am sure

you will agree that the sale of liquor in a municipal building is contrary to sound public policy and might be a bad influence on the entire community.

While I fully appreciate the cooperative spirit that motivated your inquiry and am mindful of the splendid services performed by Volunteer Fire Companies to their respective communities, my advice is that your organization do not prosecute the matter further.

Very truly yours,

ALFRED E. DRISCOLL,  
Commissioner

12. DISCIPLINARY PROCEEDINGS - CHARGE OF SELLING ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20, DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.

In the Matter of Disciplinary Proceedings against )

JACKIE CLARK, )  
t/a "JACKIE CLARK'S," )  
Route #6 and Two Bridges Road, )  
Caldwell Township, )  
P.O. Caldwell, R.D., N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-13 issued by the Township Committee of the Township of Caldwell. )  
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Sidney Simandl, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded not guilty to the following charges:

"1. On Saturday night, January 15, 1944, you sold alcoholic beverages at your licensed premises to Lawrence ----, Joseph ---- and Thomas ----, minors, in violation of R. S. 33:1-77.

"2. On the aforesaid occasion, you sold, served and delivered, and allowed, permitted and suffered the service and delivery of alcoholic beverages at your licensed premises to Lawrence ----, Joseph ----, and Thomas ----, persons under the age of twenty-one (21) years and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon the licensed premises, in violation of Rule 1 of State Regulations No. 20."

The evidence shows that the three minors were in defendant's premises for a few minutes at some time between 9:00 P.M. and 10:00 P.M. on January 15, 1944. Each minor had one drink. The question to be decided is whether they were served beer or a non-alcoholic beverage. The drinks in question were not seized and, hence, I do not have the benefit of a chemical analysis. The alleged sales of alcoholic beverages were not otherwise corroborated and the case, therefore, presents

a square conflict between the testimony of the three minors and the testimony given by various credible witnesses produced on behalf of defendant.

Thomas --- testified that, while standing at the bar with Joseph ---, he ordered three beers from Thomas Dunlap, the bartender; that he and Joseph consumed their drinks at the bar and passed the third glass to Lawrence --- who was seated at a table. The two other minors corroborated his testimony.

On behalf of defendant, Thomas Dunlap, the bartender, testified that he saw only one of the minors, namely, Thomas ---, at the bar; that the minor asked for "three birches"; that he (the bartender) thereupon opened a quart bottle of birch beer and filled three glasses from the bottle. Dunlap further testified that, shortly thereafter, someone reported that a pocketbook was missing and he thereupon asked that the police be notified. One of the minors was subsequently charged by the local police with having taken the pocketbook. Henry Schneider, superintendent of a coal yard, testified that he was in defendant's premises on the evening of January 15 and that he saw the minor, Thomas ---, standing at the bar, and that he heard him order "three glasses of birch," which were served out of a bottle. Albert Sisco, manager of a business in Passaic, testified that he also was present in the licensed premises on the evening of January 15; that he was seated on a stool at the bar, and heard the minor, Thomas ---, order birch beer. He further testified that the bartender, Dunlap, opened a new bottle of birch beer, filled the three glasses and passed the bottle to him at his request. He further says that, within a few minutes thereafter, a lady complained she had lost her pocketbook, and that there was a commotion in the licensed premises.

These minors were, respectively, seventeen, fifteen and eighteen years of age when the alleged violations occurred. According to their testimony, they had previously visited at least two other licensed premises where they allege they consumed five or more glasses of beer. Their testimony is conflicting and not persuasive. On the other hand, it is to be noted that the testimony of the witnesses produced by the defendant, who has a clear record, fully supports the bartender's story that he did not violate R. S. 33:1-77 or Rule 1 of State Regulations No. 20, as charged.

After having carefully studied the entire record, it is my opinion that the Department has failed to sustain the burden of proof necessary to warrant a finding of guilt in this case and, therefore, the charges will be dismissed.

Although the conflict in the testimony has been resolved in the defendant's favor, he must nevertheless be extremely cautious in the future concerning the service of beverages to minors at his premises.

Accordingly, it is, on this 27th day of April, 1944,

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

ALFRED E. DRISCOLL,

Commissioner

13. DISCIPLINARY PROCEEDINGS - RETAIL LICENSEE PURCHASED ALCOHOLIC BEVERAGES FROM NON-LICENSEE, IN VIOLATION OF RULE 15 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary Proceedings against

JOHN GILMARTIN,  
1704 Manhattan Avenue  
Union City, New Jersey,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-117 issued by the Board of Commissioners of the City of Union City.

Alfred E. Modarelli, Esq., Attorney for Defendant.  
Harry Castelbaum, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult, with an explanation, to the following charge:

"During December 1943 and January and February 1944, you, a New Jersey retail licensee, without authority of special permit, purchased alcoholic beverages from persons who were not the holders of a New Jersey manufacturer's or wholesaler's license in that on an occasion in December 1943 you purchased a case of alcoholic beverages from Angelo Caruso, and about two weeks thereafter purchased two cases of alcoholic beverages from Angelo Caruso and Peter Chesna, and on February 18, 1944 purchased three cases of alcoholic beverages from Pasquale Cesaro and Peter Chesna, all of which alcoholic beverages had been stolen from John Bodnarik in Fords, New Jersey; your purchases from the aforesaid non-licensees being in violation of Rule 15 of State Regulations No. 20."

At the hearing defendant testified that, in December, 1943, one of his customers told him that he knew somebody from whom alcoholic beverages could be purchased, and that the customer assured him that the goods had not been stolen. Defendant further testified that, shortly thereafter, this customer and Angelo Caruso came to the licensed premises, at which time defendant purchased from Caruso a case of alcoholic beverages; that, a couple of weeks later, he purchased from Caruso and Peter Chesna two additional cases and that, some time later, he purchased from Chesna and a man named Pasquale Cesaro three additional cases of alcoholic beverages. Defendant further testified that he believed Caruso and Chesna "were running a beer truck"; that he did not know that the goods were stolen, and that he assumed he was buying on the black market.

The file in this case shows that Angelo Caruso was a former employee of Dutch Sales Co. Inc., the holder of a limited wholesale license, and that, at the times mentioned in the charge, Peter Chesna and Pasquale Cesaro were employed by the latter company. The Raritan Township Police, after arresting Chesna in March 1944, obtained a statement from him wherein he admitted that, while delivering beer at the licensed premises of John Bodnarik, he had stolen the cases of liquor which were subsequently sold to defendant Gilmartin.

It is unnecessary to determine in this proceeding whether or not defendant had any actual knowledge that the liquor was stolen. Apparently he was satisfied to accept the assurance of his customer, because he seems to have made no further inquiry from the men who made the deliveries to him. He admits that, in violation of Rule 15 of State Regulations No. 20, he purchased alcoholic beverages from persons who did not hold a New Jersey manufacturer's or wholesaler's license and he further admits that he was dealing on the black market. These violations go to the very root of control. A retail licensee's stock of liquor must be legitimate in origin and purchased from a licensed dealer.

I would be inclined to revoke the license in the instant case if it were not for the fact that the licensee's prior record is clear. Under all the circumstances of this case, I shall suspend the license for the balance of its term. Cf. Re Mylor, Bulletin 535, Item 6, wherein, under circumstances substantially similar to the present case, the license was suspended for a period of sixty days.

Accordingly, it is, on this 27th day of April, 1944,

ORDERED that plenary retail consumption license C-117, issued by the Board of Commissioners of the City of Union City to John Gilmartin for premises 1704 Manhattan Avenue, Union City, be and the same is hereby suspended for the balance of its term, effective at 3:00 A.M. May 3, 1944.

*Alfred E. Duvall*  
Commissioner