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

BULLETIN 537 NOVEMBER 12, 1942.

1. APPELLATE DECISIONS - PRUDENTI v. FORT LEE.

JOSEPHINE PRUDENTI,

Appellant,

-vs-

BOROUGH COUNCIL OF THE BOROUGH OF FORT LEE,

Respondent

ON APPEAL
CONCLUSIONS AND ORDER

Chandless, Weller & Kramer, Esqs., by Julius E. Kramer, Esq., Attorneys for Appellant.
Lawrence A. Cavinato, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from the denial of an application for the renewal of plenary retail consumption license C-20 for premises at 99 Main Street, Borough of Fort Lee.

The answer sets forth that the application was denied after objections to said renewal had been filed in the form of a petition signed by twenty-two residents of the Borough in the immediate vicinity of the licensed premises. The petition set forth that noise continued unabated within the licensed premises until three or four o'clock in the morning; that drunken persons came out shouting at one another, disturbing the peace of the neighborhood; that music emanated from the juke boxes at all hours of the night; and that drunken persons were permitted to rove about the licensed premises creating an undesirable atmosphere.

The records of this Department disclose that appellant obtained a license on July 18, 1941 by transfer of License C-20 from Joseph Lofaro. At the hearing herein the Borough Clerk testified that, on September 9, 1941, he advised appellant that he had received verbal complaints regarding excessive noise, music, etc., and suggested that she take appropriate action to prevent the reoccurrence of similar complaints. He further testified that, on December 15, 1941, after receiving further verbal complaints, he again wrote to licensee advising her that it was absolutely necessary, if she wished to continue her business in the future, that she prevent community singing, blowing of horns outside of the premises by her customers, and other activities which were creating ill-feeling against her premises in the minds of the adjacent property owners.

The evidence further shows that, on November 8, 1941, six persons were arrested outside of the licensed premises and charged with disorderly conduct.

It further appears that, on March 8, 1942, a man fell in front of the licensed premises and suffered injuries which required his removal to Englewood Hospital. The evidence in the case tends to show that there was a disturbance outside of the licensed premises on the latter date.

The testimony of Mr. Fred Allison, an attendance officer of the Borough of Fort Lee, and his wife, Mrs. Minnie Allison, leads me to conclude that the noise, loud talking, singing and swearing by patrons of the premises, both inside and outside of the licensed premises, continued at frequent intervals during almost all of the fiscal year 1941-42, despite the two warning letters sent by the Borough Clerk. The testimony of these two witnesses, who reside almost directly across the street from the licensed premises, was to the effect that these conditions sometimes prevailed until 5:00 A.M. and 6:00 A. M. Testimony of the two witnesses previously named was substantially corroborated by Mr. Edward G. Kaufer, a member of the Board of Education of the Borough of Fort Lee, and also by Mr. Christopher Weidig and Mrs. Mary Weidig, his wife; Mrs. Julia Lee and Mr. Arthur Grasso. All of these witnesses reside in or near the building in which the licensed premises are located.

On behalf of the licensee, she and her three daughters testified that the premises were always conducted in a proper manner. One of her daughters placed the blame for the disturbance on November 8, 1941 upon a male patron who had been refused a drink in the licensed premises because he appeared to be intoxicated. Three patrons, who reside in other municipalities and who frequently visited the licensed premises, testified that it had always been conducted in a proper manner. Another witness, who became a resident of the Borough of Fort Lee on May 15, 1942, testified to the same effect.

In view of the recited testimony and the several warnings given to appellant, I cannot say that respondent was unreasonable or abused its discretion in refusing to renew appellant's license for the current fiscal year. Conte v. Princeton, Bulletin 139, Item 8; Holland v. Bloomfield, Bulletin 142, Item 7; Callahan v. Keansburg, Bulletin 204, Item 6; Wilson v. Highlands, Bulletin 282, Item 8; Peditto v. Palmyra, Bulletin 389, Item 13; Heistein v. Randolph, Bulletin 531, Item 7.

The action of respondent is, therefore, affirmed.

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

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

ORDERED, that the extension of appellant's 1941-42 license, granted by order of July 7, 1942 to permit appellant to continue to operate pending disposition of this appeal, be and the same is hereby terminated, and that the appellant cease any alcoholic beverage activity thereunder forthwith.

ALFRED E. DRISCOLL,
Commissioner.

2. APPELLATE DECISIONS - DONOVAN v. SOUTH RIVER.

MARY DONOVAN,)
Appellant,)
-vs-) ON APPEAL
) CONCLUSIONS AND ORDER
BOROUGH COUNCIL OF THE)
BOROUGH OF SOUTH RIVER,)
Respondent)

Morris Spritzer, Esq., Attorney for Appellant.
George L. Burton, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from respondent's refusal, by a vote of four to two, to transfer appellant's plenary retail consumption license from 58 Ferry Street to 68 Jackson Street, South River.

The four Councilmen who voted against the application testified at the appeal hearing that their denial was based upon the ground that there already existed in the vicinity of the proposed premises a sufficient number of licensed establishments to service the needs of the people residing in that vicinity.

The neighborhood in question is mixed business and residential in character. Across the street from 68 Jackson Street are two taverns, one at 55 and the other at 51 Jackson Street, the former being 200 feet from the proposed site and the latter 250 feet away. In addition, there are two other consumption places within 400 feet of the premises where appellant desires to locate.

It is well settled that in a neighborhood of the character of that involved herein, it is within the sound discretion of the local issuing authority to determine, in the first instance, whether to permit the establishment of a licensed premises in the area. Sun Valley Tavern, Inc. v. Bogota, Bulletin 487, Item 2. In view of the number of taverns already situated in the proposed area, it cannot be said that respondent abused its discretion in refusing to allow a fifth tavern to be located in that vicinity.

Appellant argues, however, that respondent was motivated in its denial of appellant's application solely by a desire to reduce the number of liquor places outstanding in the municipality and that respondent, therefore, would arbitrarily refuse all place to place transfer applications. The evidence does not sustain this contention. All of the Councilmen testified that, although they were of the opinion that there was an overabundance of licenses issued in the Borough, they would not refuse to transfer a license if the application covered premises located in a suitable neighborhood. Indeed, the evidence indicates that shortly before its denial of the instant application, respondent had granted a place to place transfer of a consumption license.

Although not factually substantiated by the record, appellant also argues that all of the available business sections in the community are overcrowded with licensed premises, with the result that existing licensees are confined to their present locations, thereby placing them at the mercy of their landlords. Even if this were

true, it does not follow that a licensee must of necessity remain in one spot. He may always apply for a transfer to premises situated within the same neighborhood and such application may not be denied merely because of a sufficiency of licenses in that area. Cf. Dame v. Fort Lee, Bulletin 428, Item 5; Kelly v. Manalapan et al., Bulletin 531, Item 3. Moreover, the issuance of a liquor license does not carry with it an absolute right to a transfer to other premises. It is at all times subject to the condition that any such transfer may be denied whenever an issuing authority, in the exercise of a reasonable discretion, deems such denial necessary for the public interest.

The action of respondent is affirmed.

Accordingly, it is, on this 26th day of October, 1942,

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

ALFRED E. DRISCOLL,
Commissioner.

3. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against

WARREN A. QUINN,
701-3 Cass Street,
Trenton, N. J.,

Holder of Plenary Retail Consumption License C-77, issued by the Board of Commissioners of the City of Trenton for the fiscal years 1941-42 and 1942-43.

CONCLUSIONS AND ORDER

Andrew J. Duch, Esq., Attorney for Defendant-Licensee.
William F. Wood, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleads non vult to the charge that he sold liquor below the Fair Trade price, in violation of Rule 6 of State Regulations No. 30.

The facts are that, on October 29, 1941, licensee's bartender sold a pint bottle of The Wilken Family Blended Whiskey for $1.20 notwithstanding the fact that the established Fair Trade price for such item was then $1.39. See Bulletin 480.

At the hearing the testimony disclosed that the whiskey in question had been taken from a shelf on which was affixed a price tag of $1.20. After the purchase was made, investigators of the Department of Alcoholic Beverage Control visited the licensed premises with the purchaser, who attempted to buy another pint of the whiskey for $1.20. The bartender refused to sell at that price, informing the purchaser that the other bartender who had previously sold the pint bottle of whiskey had made a mistake in selling it to him at $1.20 and that he would sell the same for the price of $1.39. It appears that the Fair Trade price of The Wilken Family Blended Whiskey had been changed from $1.20 to $1.39 ten days before the sale in question.

Defendant has been in the tavern business continuously for sixty years, with the exception of the Prohibition era, during which time he suspended operation. His reputation appears to be excellent. The record indicates that his establishment is well run. Notwithstanding the fact that the licensee is privileged to stay open until 2:00 A.M., he voluntarily closes at 11:00 P.M. Further, his tavern is closed on Sunday. In view of licensee's record and reputation, I have had difficulty in reaching a decision in this case. In the face of the admitted violation, public policy requires some punishment lest a loophole be established which might be taken advantage of by those less worthy of consideration than the present licensee.

The licensee is responsible for the acts of his agents and servants, and their carelessness is not an excuse for a violation of the law. See Re Grant Lunch Corporation, Bulletin 517, Item 3. Nor can a bona fide mistake be excused. See Re Cooper, Bulletin 461, Item 6. However, in view of the plea of non vult, the defendant's frank admission of the sale, the fact that the licensee has no previous record and my determination that there was no deliberate attempt on the part of the licensee to violate the law, I shall impose the minimum penalty of ten days, with a remission of five days for the plea.

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

ORDERED, that Plenary Retail Consumption License C-77, heretofore issued to Warren A. Quinn by the Board of Commissioners of the City of Trenton for premises 701-3 Cass Street, Trenton, be and the same is hereby suspended for a period of five (5) days, commencing at 12:01 A.M. November 2, 1942 and terminating at 12:01 A.M. November 7, 1942.

ALFRED E. DRISCOLL,
Commissioner.

4. MUNICIPAL REGULATIONS - HEREIN OF THE FORM OF ORDINANCE PROHIBITING THE EMPLOYMENT OF WOMEN ENTERTAINERS, PERFORMERS AND BARMAIDS AND PERMITTING THE SERVICE OF ALCOHOLIC BEVERAGES BY WAITRESSES IN BONA FIDE RESTAURANTS OPERATED BY LICENSEES.

October 26, 1942

Joseph P. Breeze,
Borough Clerk,
Hasbrouck Heights, N. J.

Dear Mr. Breeze:

I have yours of October 15th dealing with the possibilities of a Borough ordinance to permit waitresses to convey alcoholic beverages from the bar to customers at dining room tables. I understand that you have several holders of "C" licenses who operate restaurants in conjunction with their beverage business, and that one such licensee, because of the extreme shortage of male waiters, has requested permission to employ waitresses for the serving of alcoholic beverages.

You ask for my suggestions as to how to handle this situation without changing the basic rule set forth in the Borough's existing regulation, which provides:

"The employment of any professional female entertainer or performer or any female as a bar-maid or waitress or in any other form of employment in connection with the actual sale of alcoholic beverages, shall be prohibited in or at any premises licensed hereunder, and such license shall be subject to revocation for the violation of the terms thereof."

There is nothing in the State Law or Regulations prohibiting the employment of waitresses to serve alcoholic beverages so long as the employee is fully qualified to hold a license in her own right. This refers to waitresses who <u>are</u> waitresses and not to lady "drink-hustlers" or to members of the world's oldest profession.

If the Mayor and Council are convinced of the need for permitting waitresses to serve liquor in the Borough, perhaps an ordinance along the following lines might serve their purpose:

"Section 1. (a) No holder of a plenary retail consumption license shall employ on licensed premises any professional female entertainer or performer.

(b) Where the principal business is the sale of alcoholic beverages, the holder of a plenary retail consumption license shall not employ any female to tend bar, or to sell or serve alcoholic beverages to patrons, or to act as a hostess or in any similar capacity.

(c) Where the principal business is other than the sale of alcoholic beverages, the holder of a plenary retail consumption license shall not employ any female to tend bar, or to sell or serve alcoholic beverages to patrons directly over such bar."

A separate section of the ordinance should explicitly repeal Paragraph 9 of the Borough's 1933 resolution.

These provisions may or may not have the effect that Mayor and Council desire and, therefore, they should study them with great care before taking action.

Kindly give me the thoughts of Council members in the light of the suggestion made herein. If there are further questions, please call upon us at any time.

Very truly yours,
ALFRED E. DRISCOLL,
Commissioner.

5. AUTOMATIC SUSPENSION - R. S. 33:1-31.1 - SALE OF ALCOHOLIC BEVERAGES TO A MINOR - AGGRAVATING CIRCUMSTANCES - PETITION TO LIFT DENIED.

In the Matter of Petition by ANTON POUTH, T/a HILL & DALE CAFE, P. O. New Hampton, Lebanon Township, N. J., To lift automatic suspension of Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Lebanon.	ON PETITION CONCLUSIONS AND ORDER

Herr & Fisher, Esqs., Attorneys for Petitioner.

BY THE COMMISSIONER:

On August 31, 1942 petitioner pleaded guilty in the Court of Quarter Sessions in the County of Hunterdon to an indictment alleging that he had sold liquor to a minor. In said proceedings he was fined the sum of $300.00. On the same date his license was picked up by an inspector of the Department of Alcoholic Beverage Control because licensee's conviction automatically suspended his license for the balance of its term. R. S. 33:1-31.1.

Pursuant to the section heretofore cited, petitioner herein requests me to enter an order lifting the automatic suspension. In his petition he sets forth that the minor to whom he sold the alcoholic beverages represented to him that he was twenty-one years of age and produced an automobile driver's license to substantiate his statement. Petitioner further says that, upon the advice of counsel, he pleaded guilty to the criminal charge because he had taken no written statement from the minor in accordance with the provisions of R. S. 33:1-77.

Petitioner further says that he is eighty-two years of age; that he and his wife are entirely dependent upon the income received from the licensed business; and that his record as a licensee is otherwise clear.

In order to determine whether relief should be given to petitioner, I have reviewed carefully the investigation file in this case. It appears that on August 1, 1942 the licensee was arrested and held for the Grand Jury by a Justice of the Peace on three charges, namely, sale to a minor, disorderly house, and open lewdness. Subsequently, the Grand Jury indicted him upon the first charge, to which indictment he thereafter pleaded guilty, as set forth above. No indictment was found on either of the other charges, but the Grand Jury instructed the prosecutor to advise me that it was the feeling of the Grand Jury that the licensee is morally unqualified to hold a liquor license. There is also evidence in the file which indicates that in July 1942 petitioner employed on his licensed premises a wayward girl, aged fifteen years, and that she and a number of other minors were served alcoholic beverages upon the licensed premises.

Considering all the facts of this case, I have decided not to exercise my discretionary power to lift the automatic suspension of the license.

Accordingly, it is, on this 29th day of October, 1942,

ORDERED, that the petition herein be and the same is hereby denied.

ALFRED E. DRISCOLL,
Commissioner.

6. APPEAL WITHDRAWN - RUBIN v. SUSSEX.

CHARLES RUBIN, T/a CLOVER COUNTRY CLUB,

Appellant,

-vs-

BOROUGH COUNCIL OF THE BOROUGH OF SUSSEX,

Respondent

ON APPEAL
CONCLUSIONS AND ORDER

Sidney Simandl, Esq., Attorney for Appellant.

Marshal Hunt, Esq., by Peter Friedman, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

Appellant appealed from the denial of his application for a plenary retail consumption license for premises at 19 Church Street, Borough of Sussex.

At the hearing scheduled to be held herein, the attorney for appellant requested leave to withdraw the appeal. The attorney for respondent having duly consented thereto, and no reason appearing why the request should not be granted,

It is, on this 29th day of October, 1942,

ORDERED, that leave be granted to withdraw the appeal and that proceedings herein be and the same are hereby discontinued.

ALFRED E. DRISCOLL,
Commissioner.

7. ELIGIBILITY - ISSUING WORTHLESS CHECKS - OBTAINING MONEY UNDER FALSE PRETENSES HELD NOT TO INVOLVE MORAL TURPITUDE - APPLICATION BY NON-RESIDENT FOR EMPLOYMENT PERMIT DENIED - WEAKNESS FOR ALCOHOL.

October 30, 1942

Re: Case No. 467

Applicant, who is not a five years' resident of New Jersey, seeks an employment permit to be allowed to work as a bartender in this State. See R. S. 33:1-26.

On January 31, 1938 applicant was found guilty of obtaining money under false pretenses and was sentenced to three months in jail. This was the result of issuing two spurious checks while under the influence of liquor. Under the facts in this case, I do not believe that the issue involves moral turpitude. Cf. Re Case No. 358, Bulletin 445, Item 5.

However, the applicant has a long record of arrests for drunkenness and, as recently as February 10, 1939, was sentenced, in Connecticut, to the State Farm for Inebriates.

At the hearing applicant testified that he has not touched any alcohol for "several weeks." This fact, however, scarcely overcomes his past record for drunkenness.

It would, in my opinion, be unwise to authorize the issuance of an employment permit allowing the applicant to be employed as a bartender. He definitely has a weakness for alcohol.

It is therefore recommended that the application for permit be denied. Without such permit, the applicant, lacking the five years' residence in this State, may not work for any liquor licensee in New Jersey.

It is further recommended that the applicant be given leave to reapply in six months' time and be given an opportunity to prove that he has successfully mastered his weakness for alcohol and, if this is found to be true, his application be reconsidered.

Herbert F. Myers, Jr.,
Legal Assistant.

APPROVED:
ALFRED E. DRISCOLL,
Commissioner.

8. ADVERTISING - SIGNS BEARING BRAND OR TRADE NAME - PROHIBITED ON EXTERIOR OF RETAIL LICENSED PREMISES.

October 27, 1942

Hon. Alfred E. Driscoll, Commissioner,
Department of Alcoholic Beverage Control,
Newark, N. J.

Dear Sir:

We should like to know whether it is permissible under the New Jersey Alcoholic Beverage Control Laws to paint the windows of a

liquor store or bar with our name, which would probably read WILEN CALIFORNIA WINES.

We should appreciate your notifying us whether we may go ahead with this at the earliest possible moment.

Very truly yours,
Wilen Brothers,
By- George H. Levin

October 31, 1942

Wilen Brothers,
Philadelphia, Pa.

Gentlemen:

I have your letter dated October 27th.

In the first place, signs or other advertising matter bearing the name, brand or trade-mark of any manufacturer or wholesaler of alcoholic beverages are prohibited on the exterior of retail licensed premises.

You may furnish to retailers inside signs advertising "Wilen California Wines." However, the painting of windows or bars with your name is prohibited by Rule 1 of State Regulations No. 21, which provides:

> "No manufacturer or wholesaler shall directly or indirectly furnish (by sale, loan, gift or otherwise), deliver, service or repair any fixtures, equipment, signs or other advertising matter to any retail licensee or at any retail licensed premises, subject to the following exceptions:
>
> "a. Manufacturers and wholesalers may furnish to retail licensees inside signs and advertising specialties (such as trays, coasters, display racks, menu-cards, and calendars), bearing their names, brands or trade-marks, provided, however, that the aggregate cost or reasonable value of the signs and advertising specialties does not exceed Fifty ($50.00) Dollars for each licensed premises in any one license year; and *****"

The plan which you propose in your letter is, therefore, disapproved.

Very truly yours,
ALFRED E. DRISCOLL,
Commissioner.

9. ACTIVITY REPORT FOR OCTOBER, 1942

To: Alfred E. Driscoll, Commissioner

ARRESTS: Licensees and employees - - - - 1 Bootleggers - - - - - - - 2
Total number of persons arrested- - - - - - - - - - - - - - - - - - 3

SEIZURES: Stills - 1 to 50 gallons daily capacity - - - - - - - - - - - 1
50 gallons and more daily capacity- - - - - - - - - 0
Total number of stills seized - - - - - - - - - - - - - - - - - - - 1
Mash - gallons- 200
Motor vehicles - Trucks - 0
Passenger cars - - - - - - - - - - - - - - - - 1
Total number of motor vehicles seized - - - - - - - - - - - - - - - 1
Beverage alcohol - gallons- 0
Brewed Malt alcoholic beverages (beer, ale, etc.) - gallons - - - - 0
Wine - gallons- 202.25
Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons - 13.05

RETAIL LICENSEES:
Number of premises in which were found:
Illicit (bootleg) liquor - 2 "Fronts" (concealed ownership) - 6
Gambling devices - - - - - 0 Improper beer tap markers- - - - 0
Prohibited signs - - - - - 1 Stock disposal permits necessary-14
Unqualified employees- - -96 Other types of violations- - - -29
Total number of premises where violations were found- - - - - - - 128
Total number of premises inspected- - - - - - - - - - - - - - - 2,087
Total number of unqualified employees found - - - - - - - - - - - 116
Total number of bottles gauged- - - - - - - - - - - - - - - - -13,783

STATE LICENSEES:
Premises inspected- 39
License applications investigated - - - - - - - - - - - - - - - - 7

COMPLAINTS:
Investigated, reviewed and closed - - - - - - - - - - - - - - - - 342
Investigation assigned, not yet completed - - - - - - - - - - - - 843

LABORATORY:
Analyses made - 110
"Shake-up" cases (alcohol, water and artificial coloring) - - - - 14
Liquor found to be not genuine as labeled - - - - - - - - - - - - 4

IDENTIFICATION BUREAU:
Criminal fingerprint identifications made - - - - - - - - - - - - 8
Persons fingerprinted for non-criminal purposes - - - - - - - - - 112
Identification contacts with other enforcement agencies - - - - - 84
Motor vehicle identifications via N.J. State Police Teletype- - - 0

DISCIPLINARY PROCEEDINGS:
Cases transmitted to municipalities - - - - - - - - - - - - - - - 14
Cases instituted at Department- - - - - - - - - - - - - - - - - - 27

HEARINGS HELD AT DEPARTMENT:
Appeals- - - - - - - - - - - - - 5 Tax revocations - - - - 5
Disciplinary proceedings - - - 43 Seizures- - - - - - - - 8
Eligibility- - - - - - - - - - 10
Total number of hearings held - - - - - - - - - - - - - - - - - - 71

PERMITS ISSUED:
Unqualified employees - 415
Solicitors- 63
Social affairs- 241
Home manufacture of wine- 798
Disposal of alcoholic beverages - - - - - - - - - - - - - - - - - 48
Miscellaneous permits - 217
Total number of permits issued- - - - - - - - - - - - - - - - - - 1,782

Respectfully submitted,
Sydney B. White,
Chief Inspector.

10. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - PREVIOUS RECORD - 20 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against	)
SARAH CHERLIN, T/a BENSON & CO., 328 Morris Ave., Elizabeth, N. J.,	) CONCLUSIONS AND ORDER
Holder of Plenary Retail Distribution License D-13, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth.	)

Sarah Cherlin, Pro Se.
Abraham Merin, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded guilty to a charge of selling a quart bottle of "Carstairs White Seal Blended Whiskey" (the Fair Trade price being $3.00) for $2.29, in violation of Rule 6 of State Regulations No. 30.

At the time the purchase was made the licensed premises were being renovated and price tags had been removed from the shelves. The licensee alleges that, due to the upset conditions, her husband, who sold the liquor, made a mistake and confused the price of Carstairs with the price of a gin about which the investigator had inquired.

I have reviewed the file and do not find sufficient evidence to conclude that there was a deliberate attempt by the licensee to cut-rate on the price of the item. Defendant has a previous record, having had her license suspended for a period of ten days, less five days for the guilty plea, in January of this year for a similar offense. See Re Cherlin, Bulletin 490, Item 3. Because of the prior record I shall double the penalty and impose a penalty of twenty days, with five days taken off for the guilty plea. Fair warning is given that a subsequent violation will merit a much severer penalty, if not revocation.

Accordingly, it is, on this 2nd day of November, 1942,

ORDERED, that Plenary Retail Distribution License D-13, heretofore issued to Sarah Cherlin, trading as Benson & Co., for premises 328 Morris Avenue, Elizabeth, New Jersey, by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth, be and the same is hereby suspended for a period of fifteen (15) days, beginning at 2:00 A.M. November 9, 1942, and concluding at 2:00 A.M. November 24, 1942.

ALFRED E. DRISCOLL,
Commissioner.

11. MISLEADING TRADE NAMES - LICENSEES PROHIBITED FROM ADOPTING CORPORATE TITLE OR TRADE NAME IMPLYING SANCTION OF STATE OR FEDERAL GOVERNMENTS.

November 2, 1942

Stephen Kedes, Starvos Yamourides and Christ Matengis,
T/a State Liquor Store,
Jersey City, N. J.

Gentlemen:

I have received a certification from the Jersey City clerk stating that plenary retail distribution license D-129 for the above premises has been issued to you, trading as State Liquor Store.

I call your attention to Rule 1 of State Regulations No. 26, which provides:

> "No licensee of any class shall use any corporate name, trade name, or other name, sign or symbol, which is calculated to or may convey the false impression that the licensee is owned or operated by or enjoys some special or official sanction from the United States Government, the State of New Jersey or any municipality thereof."

Your use of the trade name "State Liquor Store" clearly violates this rule. See Re Budenstein, Bulletin 27, Item 5, and Re Konvitz, Bulletin 41, Item 10.

Accordingly, you are hereby directed to cease and desist immediately from the use of that name. This means you must at once change any signs, stationery, etc., where such name appears, and must also send notice in writing to the Board of Commissioners of Jersey City advising them of your abandonment of that trade name.

If I do not receive your written assurance by Tuesday, November 10, 1942 that you have performed the foregoing, I shall have disciplinary proceedings instituted against you for the suspension or revocation of your license. See Re Konvitz, supra.

I further note, from our records, that you also hold plenary retail consumption license C-352 for premises at 741 Montgomery Street and 750 Bergen Avenue, and that you are using the trade name "State Coffee Shop" for your business there. Since that name does not contain any reference to liquor, its use is not objectionable to this Department.

Very truly yours,
ALFRED E. DRISCOLL,
Commissioner.

12. MORAL TURPITUDE - FACTS EXAMINED - CRIME OF RECEIVING STOLEN GOODS FOUND TO INVOLVE MORAL TURPITUDE.

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

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

Case No. 245.

CONCLUSIONS AND ORDER

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 1935 petitioner pleaded non vult to a charge of receiving a large quantity of stolen goods, was sentenced to pay a $1,000.00 fine and was placed on probation for a period of five years. Payment of the fine was subsequently waived and after two years petitioner was discharged from probation. The crime of which petitioner was convicted involved moral turpitude.

At the hearing petitioner testified that this was his first and only offense and that he had never been in trouble before nor has he been in trouble since. Since the date of his conviction petitioner has been steadily employed by a lawyer as a private investigator. For the past nineteen years he has lived in the same city where he now resides.

At the hearing petitioner produced two character witnesses, both of them businessmen in the city wherein he lives. Both testified that they had known petitioner for at least twenty-five years and have had contact with him during this time. They were of the opinion that petitioner bears a fine reputation in the community; that for the past seven years he has been law-abiding, well behaved and of good character.

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

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

Accordingly, it is, on this 4th day of November, 1942,

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

ALFRED E. DRISCOLL,
Commissioner.

13. DISQUALIFICATION - APPLICATION TO LIFT - FACTS REEXAMINED - BULLETIN 478, ITEM 10 REVERSED - APPLICATION TO LIFT GRANTED.

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

Case No. 177.

CONCLUSIONS AND ORDER

BY THE COMMISSIONER:

Petitioner has renewed his application to remove his disqualification (resulting from his conviction in 1935 of possessing an illicit still) from holding a liquor license or working for a liquor licensee in this State. His original application for removal of this disqualification was denied on the 19th day of September 1941 largely because there was a suspicion that he was implicated in his uncle's bootlegging activities in 1939 and 1940. See Case No. 177, Bulletin 478, Item 10.

Petitioner, in reapplying for lifting of his disqualification, protests anew that, despite the suspicious circumstances, actually he had nothing to do with, or had any knowledge of, his uncle's illegal activities. He urges that his continued law-abiding conduct since his petition was denied should tip the scales in his favor and induce me to accept his sworn statement that he has not engaged in any illicit liquor activities since 1935.

At the hearing on his present petition, petitioner, a resident of Connecticut, testified that he has continued to work as a truck driver for a large transportation company of that State; that he is prevented from earning the wages he is entitled to under the scale set by the Teamsters Union and his seniority rights, because he cannot transport beer from New Jersey to Connecticut, an important part of his employer's business. He testified further that he has been unremitting in his efforts to have his disqualification lifted because he wishes to regain his fellow employees' respect and confidence, which has been seriously impaired by his being barred from working in this State.

Petitioner says that his father, who had been in some bootlegging difficulties in 1933, has been steadily employed in an arms factory in Connecticut for the past five years, and that his uncle, who was unemployed at the time he engaged in bootlegging activities, is now, and has been for some time, employed as a salesman in a shoe store.

The President of the Teamsters Union "Local", of which petitioner is a member, and a business agent of that "Local", both appeared as character witnesses and testified that they have known petitioner for nine years and five years respectively, and that petitioner is regarded in the community as industrious and law-abiding.

In September 1941 I was then unwilling to lift petitioner's disqualification because of his seeming involvement in his uncle's then recent bootlegging activities. Since then, over a year has elapsed, during which petitioner has insistently maintained that he is innocent of any complicity in his uncle's activities. Petitioner is now about twenty-six years of age and has not been arrested for or convicted of any crime since 1935.

In view of the foregoing, petitioner has dispelled the suspicion that he engaged in illicit liquor activities in 1939 and 1940 and has demonstrated his integrity and honesty in a satisfactory manner.

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

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

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

Alfred E. Driscoll
Commissioner.

CHECKED BY N.J.S.