

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

BULLETIN 604

FEBRUARY 4, 1944.

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1944

THE UNITED STATES OF AMERICA  
DEPARTMENT OF THE ARMY  
OFFICE OF THE CHIEF OF STAFF

MEMORANDUM FOR THE CHIEF OF STAFF  
SUBJECT: [Illegible]

1. [Illegible]

2. [Illegible]

3. [Illegible]

4. [Illegible]

5. [Illegible]

6. [Illegible]

7. [Illegible]

8. [Illegible]

9. [Illegible]

10. [Illegible]

11. [Illegible]

12. [Illegible]

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

BULLETIN 604

FEBRUARY 4, 1944

1. DISCIPLINARY PROCEEDINGS - CHARGE OF SELLING ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20, DISMISSED FOR LACK OF EVIDENCE.

In the Matter of Disciplinary )  
Proceedings against )

ALBERTI'S, INC. )  
30-32 East Front Street )  
Trenton, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-171 issued by the )  
Board of Commissioners of the )  
City of Trenton. )  
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Abraham S. Lewis, Esq., Attorney for Defendant-Licensee.  
Milton H. Cooper, Esq., Attorney for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

On December 13, 1943 charges were served upon the defendant corporation alleging that, on December 1, 1943, it, through one of its employees, sold alcoholic beverages to Constance J. ----, a minor, aged twenty years, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

A hearing was held on December 23, 1943, at which time the defendant corporation appeared and entered a plea of not guilty. The Department produced two of its agents who testified as to the sale to the alleged minor. Although a subpoena to appear was served upon Constance J. ----, she failed to appear. The Hearer adjourned the hearing until January 6, 1944 to give the Department additional time to produce the alleged minor. On that date the Department stated its investigation disclosed that Constance J. ---- had left her place of employment, as well as the place where she resided in this State, prior to the date of the first hearing, and had announced to her landlady, at the time of her leaving, her intention of returning to Buffalo. The Department further states that it mailed a registered letter to her at the Buffalo address, and a return receipt signed by the minor was received. Nevertheless, she still failed to appear for the adjourned hearing. No indication exists that the alleged minor will ever be available to testify and, without her testimony, the age of the alleged minor cannot be established. Nor is there any evidence that the defendant is in any way responsible for the failure of the minor to appear and testify. It would manifestly be unfair to the licensee to permit such charges to hold over indefinitely. Re Ronchetti, Bulletin 519, Item 3.

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

ORDERED, that the above case be nolle prossed.

ALFRED E. DRISCOLL  
Commissioner.

2. AUTOMATIC SUSPENSION - R. S. 33:1-31.1 - SALE OF ALCOHOLIC BEVERAGES TO MINORS - LICENSEE PAID FINE OF \$100.00 - LICENSE SUSPENDED FOR 70 DAYS IN DISCIPLINARY PROCEEDINGS INSTITUTED BY LOCAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by )  
IRVING GLAZER and MARY SPESHOCK )  
1107 Madison Avenue )  
Paterson, N. J., )

To Lift the Automatic Suspension )  
of Plenary Retail Consumption )  
License C-156 issued by the Muni- )  
cipal Board of Alcoholic Beverage )  
Control of the City of Paterson. )

ON PETITION  
CONCLUSIONS AND ORDER

-----  
Reuben H. Reiffin, Esq., Attorney for Petitioners.

BY THE COMMISSIONER:

It appears from petition filed herein that, on January 14, 1944, Mary Speshock, one of the petitioners herein, was found guilty in the Court of Quarter Sessions for Passaic County of charges alleging that she had sold alcoholic beverages to minors, as a result of which she was sentenced to pay a fine of \$100.00.

It further appears from said petition and from the records of this Department that the Municipal Board of Alcoholic Beverage Control of the City of Paterson had previously suspended the license then held by petitioners for a period of seventy days, effective July 27, 1942, in disciplinary proceedings instituted by said Board on various charges, including a charge of selling alcoholic beverages to minors.

The indictment in the criminal proceedings and the charge in the disciplinary proceedings which relates to the sale of alcoholic beverages to minors were based upon the same facts. The case concerns the sale of beer to each of two young men who were then eighteen years of age.

Because of the conviction in criminal proceedings of one of the partners, the license held by petitioners has been automatically suspended for the balance of its term, R. S. 33:1-31.1. The petitioners pray herein that the automatic suspension may be lifted.

It has been the policy of this Department to lift an automatic suspension when, and only when, the license has been suspended for what appears, in view of all the facts, to be a sufficiently penalizing length of time. Re Solitare, Bulletin 538, Item 4. Under all the circumstances, the penalty imposed by the Municipal Board of Alcoholic Beverage Control of the City of Paterson appears to be adequate. Hence the relief prayed for in the petition will be granted.

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

ORDERED, that the automatic suspension of License C-156, held by Irving Glazer and Mary Speshock, be and the same is hereby lifted, effective immediately. The license certificate may be returned to the licensees.

ALFRED E. DRISCOLL  
Commissioner.

3. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACT - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - PERMITTING BOOKMAKING ON THE LICENSED PREMISES, IN VIOLATION OF RULE 7 OF STATE REGULATIONS NO. 20 - EMPLOYING DISQUALIFIED PERSON, IN VIOLATION OF MUNICIPAL REGULATION - ILLEGAL SITUATION CORRECTED - 35 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

DENNIS J. MURRAY  
T/a SECOND WARD TAVERN  
131 Pavonia Ave.  
Jersey City, 2, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-517, issued by the Board of Commissioners of the City of Jersey City, and transferred during the pendency of these proceedings to

PATRICK KANE & DENNIS J. MURRAY

for the same premises.

Dennis J. Murray, Pro Se.  
Gaylord R. Hawkins, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant entered a plea of non vult on charges preferred November 14, 1943, as follows:

"1. In your application, filed with the Board of Commissioners of the City of Jersey City and upon which you obtained your current plenary retail consumption license for premises at 131 Pavonia Ave., Jersey City, New Jersey, you stated 'No' in answer to Question No. 30, which asks: 'Has any individual....other than the applicant, any interest, directly or indirectly, in the license applied for, or in the business to be conducted under said license', whereas in truth and fact Patrick Kane was so interested in that he was actually an equal partner with you in the said business; such false statement being in violation of R. S. 33:1-25.

"2. From about March 1942 and until the present time, you knowingly aided and abetted the said Patrick Kane to exercise, contrary to R. S. 33:1-26, the rights and privileges of your plenary retail consumption license for the aforesaid premises, thereby yourself violating R. S. 33:1-52.

"3. On July 30 and August 3, 1943, you allowed, permitted and suffered bookmaking and gambling on and about your licensed premises, in violation of Rule 7 of State Regulations No. 20.

"4. On September 1 and 2, 1943, you engaged James Boyle as a bartender in connection with your licensed business although said James Boyle did not have an identification card as required by Section 17 of a Resolution passed by the Board of Commissioners of the City of Jersey City, New Jersey, on April 18, 1939; your said employment of James Boyle thereby being in violation of Section 18 of the aforesaid Resolution."

It appears that Kane has been a partner in this business since 1940, at which time the license was in the name of his then partner, George Bonaski. Bonaski entered the Army and sold his interest to Dennis J. Murray. The partnership was continued on a fifty-fifty basis by Murray and Kane. It is admitted that Kane did not want his name to appear on the license because, as he says, "I was in financial trouble, had judgments against me and for that reason I did not want my name to appear as half-owner in the business." There appears to be no other reason why Kane's name should not have appeared on the license and the issuing authority has now transferred the license to the joint names of Kane and Murray, in accordance with the facts as they here appear. In the absence of aggravating circumstances, I shall impose a penalty of ten days' suspension of the license for the violation of the law set forth in charges (1) and (2). Re Canzanese, Bulletin 582, Item 7.

As to charge (3): Patrick Kane was really acting as a "bookie" on the premises, taking bets on horse races and paying them. By the admission of Kane, he had been so acting at the tavern for approximately six weeks. It does not appear that Murray was at all involved in the bookmaking. Under the facts herein, this violation warrants a substantial penalty. In fact, had I not considered that there is no evidence that Murray was in any way involved in the gambling, a revocation might be warranted. Murray, of course, is fully responsible for all that happens on the premises, especially in view of the fact that the bookmaker was actually a partner in the business. In view of all the circumstances in the instant case, I shall suspend the license on this charge for a period of twenty (20) days. Cf. Re Marion, Bulletin 580, Item 6; Re J. Barnes Operating Corp., Bulletin 500, Item 7.

The fourth charge involves the employment of a bartender without the requisite identification card, pursuant to the regulations of the City of Jersey City. This bartender seems to have worked as a relief bartender. I shall suspend the license on this charge for an additional five days.

In consideration of the non vult plea, I shall remit five days of the total suspension, leaving a net suspension of thirty (30) days.

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

ORDERED, that Plenary Retail Consumption License C-517, issued by the Board of Commissioners of the City of Jersey City to Patrick Kane & Dennis J. Murray, for premises 131 Pavonia Avenue, Jersey City, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 A.M. January 31, 1944 and terminating at 2:00 A.M. March 1, 1944.

ALFRED E. DRISCOLL  
Commissioner.

4. SALE OF ALCOHOLIC BEVERAGES TO MINOR - RECOMMENDED MINIMUM PENALTY AGAINST LICENSEE - REASONS FOR SUCH RECOMMENDATION - REPREHENSIBLE CONDUCT OF MINOR NOT CONDONED - POSSIBLE PENALTIES AGAINST MINOR INDICATED.

January 26, 1944.

Board of Commissioners  
c/o Wilfred G. Turner, Clerk  
Union City, N. J.

Gentlemen:

Enclosed is synopsis of case against Joseph Kovacs, 4101 Park Avenue, the holder of Plenary Retail Consumption License C-72.

The Department recommends that disciplinary proceedings be instituted for the suspension or revocation of the license on the charges indicated in the synopsis.

Please have your records noted so that, while these proceedings are pending, there will be no transfer of license, or issuance of any additional license for these premises, except on the special condition that the transfer or issuance be subject to the outcome of these proceedings.

Upon receipt of your advice as to the time and place fixed for hearing, the necessary witnesses from this Department will be instructed to appear. You should also summon the other persons named as witnesses in the synopsis.

For your guidance, I may point out that in cases of selling or serving alcoholic beverages to a minor, the Department has steadfastly recommended a minimum penalty of at least a ten-day suspension of license, with no more than five days being remitted for entry of a guilty plea in advance of hearing. Where there are aggravating circumstances or where the licensee has a past record, the penalty should be increased commensurately. In this latter connection, it may be noted that the licensee has a past record -- viz., a one-day suspension in 1934 for selling or serving alcoholic beverages on an election day.

In making the above recommendation as to penalty, the Department takes full heed of the fact that often it may be difficult to determine whether or not a person is a minor. We know, from experience that a person's exact age cannot be determined by his appearance. However, we can all "spot" persons who are in that stage of life where they are generally youthful-looking and may be minors. In these cases, it is the licensee's imperative duty to make no assumptions whatsoever but, instead, to obtain from the patron proof positive of his age or, as provided by the Alcoholic Beverage Law (R. S. 33:1-77), a written representation by the patron that he is of age.

Of course, this imposes a heavy burden upon the licensee. But, in the final analysis, it must be remembered that licensees, by voluntarily entering the liquor business, necessarily assume this burden. It is especially important, during these war days, when, according to current reports, the juvenile delinquency rate is rising, that licensees be compelled to shoulder this burden. The Department, in all cases before it, has rigorously insisted upon this. See, for example, Re McGovern, Bulletin 559, Item 3, and cases cited therein.

The Department does not condone the reprehensible conduct of minors in going into liquor places and getting licensees into trouble by ordering alcoholic beverages. Hence the Department has approved ordinances, passed by various municipalities, imposing a penalty upon minors who obtain alcoholic beverages at liquor places. It may further be noted that, where any such minor actually misrepresents his age, he is guilty of disorderly conduct and punishable by fine under R. S. 33:1-81. Licensees who get into trouble because of such misrepresenting minors are free to bring a complaint of disorderly conduct against them under such statutory provision.

However, all this in no way relieves a licensee from his own full responsibility in the matter and he acquires a defense only if having complied with the statutory requirements, including a written representation from the minor. After all, it must be remembered throughout that the fundamental purpose of the law in prohibiting sale or service of alcoholic beverages to persons under twenty-one at liquor places is to protect minors against themselves and to benefit society by thus protecting the growing generation. In this light, I think it becomes clear that, while perhaps minors should be discouraged by threat of penalty against them, licensees even more pointedly must be required fully to comply with the law as to minors under threat of suspension or revocation of their licenses.

This letter goes into the matter at such length because of the growing importance of the question of sales to minors at liquor places.

Please take early action in this case and promptly certify such action to the Commissioner when taken.

Very truly yours,  
ALFRED E. DRISCOLL  
Commissioner.

By: Nathan Davis  
Attorney-in-Chief.

5. ELIGIBILITY - FACTS EXAMINED - CRIME OF RECEIVING STOLEN GOODS BY A SEVENTEEN YEAR OLD MINOR FOUND NOT TO INVOLVE MORAL TURPITUDE - APPLICANT NOT DISQUALIFIED.

January 27, 1944

Re: Case No. 525

Applicant desires to accept part-time employment in a licensed beverage establishment and seeks a determination as to whether or not he is disqualified by reason of conviction of a crime involving moral turpitude.

He was first convicted in 1931 for receiving stolen goods and committed to the State Reformatory at Rahway for an indefinite term, subsequently transferred to the State Reformatory at Annandale, and in April 1932 released under parole ending May 26, 1938.

At the time of this conviction and the resultant commitment to the Reformatory at Rahway, applicant was seventeen years of age. His conviction was the climax of a career, begun when he was fourteen, involving several arrests, but until the one in 1931 no convictions.

Under all the circumstances, and because of the age of applicant, we must endorse the humanitarian principle laid down by the late Commissioner Burnett and determine that the conviction of the crime of receiving stolen goods did not involve the element of moral turpitude. Re Case No. 36, Bulletin 149, Item 1; Re Case No. 72, Bulletin 375, Item 6.

During the term of his parole the applicant was arrested several times but not convicted until, as a result of an arrest in April of 1938, he was, according to the police record, convicted in Police Court on a charge of obtaining money under false pretenses and sentenced to seventy-five days.

A letter from applicant's parole officer says that his investigation of these arrests at the time disclosed that in no case was applicant responsible for the crimes charged. This includes the "false pretense" charge. In this case the parole officer insists that the sentence was reconsidered and "countermanded" and that applicant did not serve any time by reason of the charge.

The facts in reference to the "false pretense" charge, as testified to by applicant and confirmed by the parole officer, seem to indicate that the charge was poorly founded and rather involved a question that should have been submitted to the civil courts, being based on the sale of an automobile for the sum of \$35.00, with a \$15.00 down payment, the subsequent failure of the "car" and the agreement, but financial inability to return the down payment on the return of the automobile. Under all the circumstances and considering the report of the parole officer, any doubt should be resolved in favor of the applicant and it should be determined that said conviction on the "false pretense" charge did not involve the element of moral turpitude. Re Case No. 467, Bulletin 537, Item 7; Re Case No. 358, Bulletin 445, Item 5.

I recommend that applicant be advised that he is not ineligible to be employed by an alcoholic beverage licensee or to hold such a license within the meaning of the Alcoholic Beverage Law, R. S. 33:1-25.

Edward F. Hodges  
Attorney.

APPROVED:

ALFRED E. DRISCOLL  
Commissioner.

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL MILITARY CURFEW 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 )

FERDINAND DEGAILLER )  
1704 Black Horse Pike )  
Cardiff, Egg Harbor Township )  
P.O. RFD 1, Pleasantville, N.J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Township Committee of Egg Harbor Township. )  
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Ferdinand Degailler, Pro Se.  
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant-licensee was served with charges which may be summarized as follows:

- (1) The sale of alcoholic beverages to five minors, namely, John ----, George ----, Corporal Robert ----, Nicholas ---- and Joseph ----, in violation of R.S. 33:1-77 and Rule 1 of State Regulations No. 20;
- (2) The sale of alcoholic beverages in violation of a local ordinance of the Township of Egg Harbor, prohibiting the sale of alcoholic beverages to uniformed persons in military service after 11:30 P.M.;
- (3) The sale of alcoholic beverages to persons actually or apparently intoxicated, in violation of Rule 1 of State Regulations No. 20.

The licensee tendered a plea of non vult which, for the purpose of these proceedings, I will accept as being fully equivalent to that of a guilty plea.

An examination of the record discloses that this is a case involving particularly aggravated violations.

One party of three minors, including Corporal Robert ----, entered the licensed premises about 12:15 A. M. on October 18, 1943, and remained in the tavern for over an hour. Each of these three minors was served with a considerable number of alcoholic beverages by the licensee. The corporal was twenty years of age. His two companions were only seventeen years of age.

On the evening of October 18, 1943, ABC agents visited the licensed premises and observed the licensee serve alcoholic beverages to two additional minors, namely, Nicholas ----, age eighteen, and Joseph ----, age sixteen.

With respect to the charge of selling to a person actually or apparently intoxicated, there is no question but that Corporal Robert ---- was actually, as well as apparently, intoxicated when he was served alcoholic beverages. This fact was admitted by the Corporal and confirmed by his companions. The licensee had been informed that it was Robert's purpose to get "pie-eyed." This juvenile statement was in itself sufficient to have put a prudent licensee on his guard. To make a bad situation worse, all the drinks were served personally by the licensee and the last drink served the Corporal while he was under the influence of alcoholic beverages was "on the house." The sale of alcoholic beverages to members of our armed forces who are actually or apparently intoxicated is an unpardonable and unpatriotic act.

The record further discloses that the licensee is clearly guilty of having sold alcoholic beverages to members of the armed forces in violation of Section 2 of an ordinance adopted by the Township Committee of the Township of Egg Harbor on June 1, 1943.

Local ordinances passed at the request of and in support of the program of our military authorities for liquor control among our fighting men in this State must be observed. Sales to soldiers in violation of curfew ordinances will not be permitted, and licensees would be well-advised to avoid even the appearance of violating the spirit of the ordinance.

Considering all the facts in this case -- the obvious aggravation resulting from the minors' ages (see Re Brighton Hotel Co., Bulletin 590, Item 15), the defendant's disregard of all regulations and his explanation that he is otherwise employed (a dangerous practice) -- a substantial penalty is fully indicated. The defendant escapes revocation only because his previous record is clear. I will suspend his license for the balance of its term.

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

ORDERED, that Plenary Retail Consumption License C-6, issued by the Township Committee of Egg Harbor Township to Ferdinand Degallier for premises at 1704 Black Horse Pike, Cardiff, Egg Harbor Township, be and the same is hereby suspended for the balance of its term, effective at 12:01 A.M. February 5, 1944.

ALFRED E. DRISCOLL  
Commissioner.

7. GAMBLING DEVICES - RULE 7 OF STATE REGULATIONS NO. 20 SPECIFICALLY PROHIBITS BAGATELLE AND PIN BALL MACHINES ON LICENSED PREMISES.

January 27, 1944

Mr. Stanley R. James  
New York, 10, N. Y.

Dear Mr. James:

I have your letter of January 20th, stating that the Mayor and Council of the Borough of Montvale, wherein you are a Councilman and Chairman of the Ordinance Committee, have recently discussed the advisability of eliminating the license fee on bagatelle and music box machines. You state, further, that the authorization to collect this fee is covered by your local "liquor license ordinance", and in the opinion of Council the collection of such a fee is no longer necessary. Under these circumstances, you request my suggestion as to the advisability of making such a change.

Among Montvale's regulations, submitted to this Department, there is no alcoholic beverage ordinance or resolution relating to a fee for bagatelle and music box machines. The Borough's only "gambling" regulations appearing in our records are contained in Sections 7, 8 and 9 of an ordinance adopted by the Mayor and Council December 11, 1935. Those sections prohibit designated gambling and gambling devices on licensed premises. They do not mention bagatelle machines by name.

It is possible that the indicated fee-authorizing provisions are included in a general Borough ordinance as distinguished from an alcoholic beverage ordinance. In that event, such a music box provision is a matter of general municipal law outside of my jurisdiction. (See Re Tomlinson, Bulletin 235, Item 6, a copy of which you will find in the office of the Borough Clerk.)

Your inquiry regarding bagatelle machines raises entirely different, and important, considerations.

Rule 7 of State Regulations No. 20 reads:

"No licensee shall engage in or allow, permit or suffer any pool-selling, book-making or any playing for money at faro, roulette, rouge et noir or any unlawful game or gambling of any kind, or any device or apparatus designed for any such purpose, or any machine or device commonly known as a bagatelle or pin ball machine on or about the licensed premises."  
(Underscoring mine.) (See Bulletin 498, Item 1; and Stafford v. Garrett, 128 N.J.L. 623, Sup. Ct. 1942, Bulletin 498, Item 2.)

It should be clearly understood that a bagatelle or pin ball machine is not permitted on licensed premises; and that a licensee's violation of the quoted Rule 7 is cause for suspension or revocation of the license. (See N. S. 33:1-31, paragraph g.)

Very truly yours,  
ALFRED E. DRISCOLL  
Commissioner.

8. ELIGIBILITY - FACTS EXAMINED - CRIME OF OPERATING A LOTTERY FOUND NOT TO INVOLVE MORAL TURPITUDE - APPLICANT HELD ELIGIBLE TO HOLD A LIQUOR LICENSE OR TO BE EMPLOYED BY A LIQUOR LICENSEE.

January 27, 1944

Re: Case No. 526

Applicant seeks a determination as to whether or not his conviction of crime disqualifies him under the provisions of R. S. 33:1-25.

Applicant's record discloses that he was arrested on February 6, 1929, charged with operating a lottery, and upon conviction was sentenced to thirty days in a county jail and fined \$100.00; and that on February 2, 1940 he was again arrested and charged with sale and possession of lottery slips and on conviction was sentenced to six months in Essex County Penitentiary. This sentence was suspended and applicant was placed on probation to pay a fine of \$250.00.

From the evidence it appears that both convictions actually resulted from his possession of lottery slips. He testified that he was not one of the principals involved in the conduct and operation of the unlawful enterprise, but rather a minor employee engaged in selling the "slips" on a commission basis, earning therefrom an income of approximately \$25.00 a week. The comparatively mild sentences imposed would seem to corroborate this testimony. A careful analysis of the facts leads me to conclude that the crimes did not involve moral turpitude, Re Case No. 295, Bulletin 351, Item 10; Re Case No. 296, Bulletin 353, Item 12; Re Case No. 315, Bulletin 396, Item 4; Re Case No. 354, Bulletin 435, Item 2, nor does the fact that applicant has been twice convicted of similar offenses change this result, particularly in view of the fact that the arrests were eleven years apart and the evidence indicates that during those eleven years applicant was gainfully employed in other businesses. There is nothing to indicate that he has a reckless disregard for law and order. Cf. Re Case No. 315, supra.

Applicant was again arrested in March of 1940 on a charge of manslaughter by an automobile. This charge, however, was dismissed by the Grand Jury in 1940 and obviously cannot be considered in passing upon his eligibility.

It is recommended that applicant be declared eligible, despite the aforesaid convictions, to hold a license or to be employed by a liquor licensee in this State.

Edward F. Hodges  
Attorney.

APPROVED:

ALFRED E. DRISCOLL  
Commissioner.

## 9. RECAPITULATION OF ACTIVITY FOR PERIOD FROM JULY 1, 1943 THROUGH DECEMBER 31, 1943

To: Alfred E. Driscoll, Commissioner.

<u>ARRESTS:</u>	<u>JULY</u>	<u>AUG.</u>	<u>SEPT.</u>	<u>OCT.</u>	<u>NOV.</u>	<u>DEC.</u>	<u>TOTAL</u>
Licensees and employees	15	16	9	5	3	5	53
Bootleggers	6	11	14	13	20	22	86
Total number of persons arrested	21	27	23	18	23	27	139
<u>SEIZURES:</u>							
<u>Stills</u>							
1 to 50 gallons daily capacity	1	0	0	0	0	1	2
50 gallons and more daily capacity	0	0	3	1	2	1	7
Total number of stills seized	1	0	3	1	2	2	9
<u>Mash - gallons</u>	0	0	1,850	1,650	28,836	1,150	33,486
<u>Motor vehicles - Trucks</u>	0	0	1	1	3	4	9
<u>Passenger cars</u>	0	5	5	1	7	6	24
Total number of motor vehicles seized	0	5	6	2	10	10	33
<u>Beverage alcohol - gallons</u>	0	0	75.63	0	920	0	995.63
<u>Brewed malt alcoholic beverages (beer, ale, etc.) - gallons</u>							
	17.08	131.40	92	89.45	11.91	0.50	342.34
<u>Wine - gallons</u>	6	1.22	16.46	1.40	0	2.25	27.33
<u>Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons</u>							
	0	36.17	26.80	168.92	1,125.85	420.52	1,778.26
<u>RETAIL LICENSEES:</u>							
Total number of premises inspected	1,536	1,232	1,402	1,672	1,404	1,150	8,396
Total number of bottles gauged	11,518	9,758	9,753	11,518	9,711	7,621	59,879
Total number of premises where violations were found	86	111	122	131	91	69	610
Total number of violations found	108	150	162	149	93	71	733
<u>Types of violations found:</u>							
Illicit (bootleg) liquor	17	17	12	14	3	7	70
Gambling devices	2	0	4	0	0	0	6
Prohibited signs	2	2	12	0	0	0	16
Unqualified employees	46	93	45	33	19	11	247
"Fronts" (concealed ownership)	9	6	6	3	5	4	33
Improper beer tap markers	5	4	8	12	3	0	32
Stock disposal permits necessary	24	21	14	8	4	6	77
No sign denoting legal sale hours - off-premises consumption (Reg. 38)	*	*	52	77	51	40	220
Other types of violations	3	7	9	2	8	3	32
<u>MILITARY AREA PATROL INSPECTIONS:</u>							
	545	476	360	519	425	572	2,897
<u>STATE LICENSEES:</u>							
Premises inspected	68	61	83	83	33	4	332
License applications investigated	34	8	12	17	18	14	103

\* Regulations No. 38 became effective August 16, 1943

	<u>JULY</u>	<u>AUG.</u>	<u>SEPT.</u>	<u>OCT.</u>	<u>NOV.</u>	<u>DEC.</u>	<u>TOTAL</u>
<u>COMPLAINTS:</u>							
Investigated, reviewed and closed	314	393	326	415	478	352	2,278
Investigation assigned, not yet completed	---	---	---	---	---	376	
<u>LABORATORY:</u>							
Analyses made	65	175	141	110	135	107	733
"Shake-up" cases (alcohol, water and artificial coloring)	3	5	10	4	9	14	45
Liquor found to be not genuine as labeled	8	17	19	8	6	5	63
<u>IDENTIFICATION BUREAU:</u>							
Criminal fingerprint identifications made	19	30	29	18	34	17	147
Persons fingerprinted for non-criminal purposes	1,179	554	234	200	196	145	2,508
Identification contacts with other enforcement agencies	1,243	487	239	201	167	171	2,508
Motor vehicle identifications via N. J. State Police Teletype	17	10	3	17	17	19	83
<u>DISCIPLINARY PROCEEDINGS:</u>							
Cases transmitted to municipalities	18	23	14	18	22	15	110
Cases instituted at Department	23	25	32	29	22	25	156
Cancellation proceedings at Department	0	0	2	0	1	0	3
<u>HEARINGS HELD AT DEPARTMENT:</u>							
Total number of hearings held	48	45	50	60	44	35	282
Appeals	15	10	5	4	5	1	40
Disciplinary proceedings	18	22	29	39	26	19	153
Eligibility	12	11	15	9	9	4	60
Seizures	3	2	1	5	4	8	23
Tax revocations	0	0	0	2	0	3	5
Application for license	0	0	0	1	0	0	1
<u>PERMITS ISSUED:</u>							
Total number of permits issued	4,255	1,391	780	1,095	1,021	580	9,122
Unqualified employees	1,503	903	235	210	173	133	3,157
Solicitors	1,786	37	47	37	42	53	2,002
Social affairs	140	158	154	148	186	109	895
Home manufacture of wine	72	26	132	521	458	141	1,350
Disposal of alcoholic beverages	113	124	108	74	77	60	556
Miscellaneous permits	641	143	104	105	85	84	1,162

Respectfully submitted,  
 Sydney B. White  
 Chief Inspector.

10. DISCIPLINARY PROCEEDINGS - CHARGE OF VIOLATING CHAPTER 87, P. L. 1939, AND REGULATIONS NO. 34 DISMISSED.

In the Matter of Disciplinary Proceedings against the following holders of State Licenses or Solicitors' Permits issued by the State Commissioner of Alcoholic Beverage Control for the fiscal year 1940-41:

- BELMONT DISTRIBUTING CO., Newark, N. J.  
Plenary Wholesale License W-3
- JULIUS BERGMAN, Newark, N. J.  
Solicitor's Permit No. 1821
- LEWIS CASTELBAUM, Newark, N. J.  
Solicitor's Permit No. 2341
- SAM ENGLANDER, Passaic, N. J.  
Solicitor's Permit No. 2561
- SCHENLEY DISTRIBUTORS, INC., New York, N.Y.  
Plenary Export Wholesale License EW-11
- EMANUEL KREMER, Newark, N. J.  
Solicitor's Permit No. 527
- JOSEPH H. REINFELD, INC., Newark, N. J.  
Plenary Export Wholesale License EW-8  
Warehouse Receipts License WR-2
- JACK ROSENBERG, Newark, N. J.  
Solicitor's Permit No. 1382
- GREENSPAN BROS. CO., Perth Amboy, N.J.  
Plenary Export Wholesale License EW-1
- MORTIMER WALTER GREENSPAN, Perth Amboy, N.J.  
Solicitor's Permit No. 579
- OLDETYME DISTILLERS CORPORATION,  
Jersey City, N. J.  
Plenary Export Wholesale License EW-3
- CHARLES HUGH SCOFIELD, Bayonne, N. J.  
Solicitor's Permit No. 2172
- AUSTIN, NICHOLS & CO., INC., Newark, N.J.  
Plenary Wholesale License W-64
- JULES JUDIS LUBOWITT, Hillside, N. J.  
Solicitor's Permit No. 1446.

CONCLUSIONS AND ORDER

John J. Meehan, Esq., Attorney for Belmont Distributing Co., Julius Bergman, Lewis Castelbaum, Sam Englander, Schenley Distributors, Inc., Emanuel Kremer, Oldetyme Distillers Corporation and Charles Hugh Scofield.  
 Harold Simandl, Esq., Attorney for Joseph H. Reinfield, Inc. and Jack Rosenberg.  
 John E. Toolan, Esq., Attorney for Greenspan Bros. Co. and Mortimer Walter Greenspan.  
 Carl Ehlermann, Esq., Attorney for Austin, Nichols & Co., Inc. and Jules Judis Lubowitt.  
 Emerson A. Tschupp, Esq. and Richard E. Silberman, Esq., Attorneys for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

These proceedings were instituted prior to the appointment of the present Commissioner.

Following the service of charges alleging violations of State Regulations No. 34 and Chapter 87 of the Pamphlet Laws of 1939 (R. S. 33:1-89 et seq.), known as the anti-discriminatory price

law, one of the defendants applied for and was allowed a writ of certiorari by the New Jersey Supreme Court. The hearings in all of the disciplinary cases were thereupon adjourned without date, pending a decision in the certiorari proceedings.

In the meantime, an investigation of the trade practices sought to be controlled by Chapter 87 of the Pamphlet Laws of 1939, disclosed that licensees, in addition to those named in these proceedings, were apparently engaging in trade practices which were in conflict with the spirit, if not the letter, of the anti-discriminatory price law and the supporting regulations. It was apparent that some licensees and permittees were taking advantage of highly technical interpretations of Regulations No. 34, and were continuing to engage in discriminatory practices contrary to the public policy of the State as established by the legislature. It was further found that the position and purpose of the Department of Alcoholic Beverage Control with respect to the anti-discriminatory price law and the regulations promulgated pursuant thereto required clarification.

Accordingly, on November 1, 1941, State Regulations No. 35 were promulgated by the present Commissioner. His purpose at that time was twofold - namely, to make more definite the Department's position and to compel compliance by the alcoholic beverage industry with the provisions of Chapter 87 of the Pamphlet Laws of 1939. Regulations No. 35 were designed to insure the even-handed enforcement of that law by the Department of Alcoholic Beverage Control. Simultaneously with the promulgation of Regulations No. 35, the Commissioner announced that Regulations No. 34, as amplified by the new Regulations No. 35, would be strictly enforced. The promulgation of the new regulations left no further room for difference with respect to the policy or intent of the Department. Technical "loop-holes" previously relied upon by some members of the industry in their effort to circumvent the obvious purpose of Chapter 87, were eliminated.

The certiorari proceedings to review the legality of the Commissioner's action against one of the above-named defendants have been discontinued and the New Jersey Supreme Court has entered an order dismissing the writ. Regulations No. 34 and the anti-discriminatory price law remain in full force and effect.

The dismissal of the writ cleared the way for the final disposition of these proceedings. In view of the widespread character of the alleged improper trade practices and because all of the instant charges allege violations occurring prior to the promulgation of Regulations No. 35, at which time the Department's position with respect to Chapter 87 was fully defined, it is my opinion that in common fairness and in the interest of an impartial administration of the control law, the charges herein should be nolle prossed. It is to be noted that the violations alleged in the charges occurred prior to the clarification of the Department's position in November of 1941 and the promulgation of Regulations No. 35.

In taking this action, it may be well to remind all licensees that the Department, in keeping with the Commissioner's announcement of November 1, 1941, will continue to enforce strictly Regulations Nos. 34 and 35, as well as all other regulations. See Re Reinfeld, Inc., Bulletin 601, item 1; Re Browne-Vintners, Bulletin 601, item 2.

Accordingly, it is, on this 28th day of January, 1944,

ORDERED, that all of the charges in the above mentioned disciplinary proceedings be and the same are hereby nolle prossed.

*Alfred E. Wilson*  
Commissioner.