

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

BULLETIN 568

MAY 17, 1943.

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

BULLETIN 568

MAY 17, 1943.

1. REGULATIONS NO. 37 - LICENSEES - COMPLIANCE WITH "OFF LIMITS", "OUT OF BOUNDS" AND "CURFEW" ORDERS OF THE MILITARY AND NAVAL AUTHORITIES REQUIRED.

TO ALL NEW JERSEY RETAIL LICENSEES:

Most of us are contributing in various ways toward the successful prosecution of a hard and bitter war. Our military and naval authorities find it necessary from time to time, to declare certain premises "off limits" or "out of bounds"; and to establish, in certain areas, a curfew after which sales of alcoholic beverages are not to be made to uniformed members of the armed forces. Certainly, the large majority of New Jersey licensees can be counted upon to comply with such orders voluntarily and wholeheartedly, but to assure fullest compliance the following State Regulations are hereby promulgated:

"REGULATIONS NO. 37

"1. During the effective period of any order made by a properly authorized officer or agency of the armed forces of the United States, whereby any licensed premises have been declared 'off limits' or 'out of bounds', no licensee shall allow, permit or suffer any person wearing the uniform of the armed forces of the United States or of an Allied Nation to remain on said licensed premises; or sell or deliver, or allow, permit or suffer the sale or delivery of any alcoholic beverage, directly or indirectly, to any such person.

"2. Whenever a properly authorized officer or agency of the armed forces of the United States has issued an operative order, effective in a designated area, forbidding sales of alcoholic beverages to any person wearing the uniform of the armed forces of the United States during certain hours specified in such order, no licensee within said area shall, during those hours, sell, serve or deliver, or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, directly or indirectly, to any person wearing the uniform of the armed forces of the United States or of an Allied Nation, or allow, permit or suffer any such person to consume any alcoholic beverage upon the licensed premises.

"3. Rules 1 and 2 shall apply to a licensee after written notice of the declaration or order therein has been delivered to the licensee, his agent or employee.

"These rules are effective immediately."

Violation of any of the foregoing rules shall be cause for suspension or revocation of the license.

The primary purpose of the foregoing rules is to assist the military and naval authorities. Irrespective of these rules, or of such other regulations and special rulings as may from time to time be made by this Department, licensees are expected, as heretofore, to comply with all requests which our military and naval authorities shall make.

ALFRED E. DRISCOLL
Commissioner.

Dated: May 15, 1943.

2. DISCIPLINARY PROCEEDINGS - EXERCISING THE RIGHTS AND PRIVILEGES OF THE LICENSE PRIOR TO TRANSFER - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)

AGNES NARANOWICZ)
T/a BROOKSIDE INN)
368 Somerset Street)
New Brunswick, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-85, issued by the Board of Commissioners of the City of New Brunswick.)
-----)

Herman H. Anekstein, Esq., Attorney for Defendant-Licensee.
Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleaded non vult to the following charge:

"From October 6, 1936 and until March 23, 1943, you exercised the rights and privileges of the successive plenary retail consumption licenses then being held by John A. Marz for premises at 368 Somerset Street, New Brunswick, New Jersey, in violation of R. S. 33:1-26."

In 1936 one John A. Marz, who was then engaged to marry defendant's daughter, applied for a plenary retail consumption license. It was apparently understood that the defendant herein would "set up" John and her daughter in the tavern business when they were married. The daughter died before the marriage. Unfortunately, the business had been started and operated by defendant herein under the Marz license.

Because of the defendant's investment in the business and her unfounded fear that as a Polish national she would be ineligible to hold the license, Marz continued to make the applications. The licenses were issued in his name but defendant continued to operate the business until March 23, 1943, when, during the course of the Department's investigation, she had the license transferred to herself.

There does not seem to have been any criminal intent in this course of conduct. However, there is no question but that the licensee believed that she was "beating", and intended to circumvent the plain provisions of the law. The fact that she believed she was ineligible makes her intention more obvious.

Such an attempt, involving, as it did, the issuance of a license based upon perjury, and continuing, as it did, for six and one-half years, is a serious violation. I will, however, take into consideration the evident motive which started this train of circumstances and the fact that the licensee has no other record either during the period when the license was in the name of John A. Marz or since the time when the license was transferred to her. I must, however, impose such a penalty as will point the moral "You can't beat the law" and suspend the license for ten days.

Accordingly, it is, on this 7th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-85, heretofore issued by the Board of Commissioners of the City of New Brunswick to Agnes Naranowicz, t/a Brookside Inn, for premises 368 Somerset Street, New Brunswick, be and the same is hereby suspended for ten (10) days, commencing at 2:00 A.M. May 12, 1943, and terminating at 2:00 A.M. May 22, 1943.

ALFRED E. DRISCOLL
Commissioner.

3. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - 15 DAYS' SUSPENSION, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

LANDO LANDI
227 South Avenue
Dunellen, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of Dunellen.

-----)
Henry Handelman, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant-licensee pleaded non vult to the following charge:

"On Friday morning, April 2, 1943, from 1:30 A. M. until about 2:00 A.M., you sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and allowed the consumption thereof on your licensed premises, in violation of Section 16 of an Ordinance adopted July 2, 1934 by the Mayor and Council of the Borough of Dunellen, as amended by an Ordinance of said Mayor and Council adopted April 7, 1941, which Section prohibits any such activity between 1:00 A.M. and 7:00 A.M. on week-days."

The Departmental file discloses that about 1:30 A.M. on April 2, 1943, an investigator of the Department of Alcoholic Beverage Control, together with an officer of the military police from Camp Kilmer, entered the licensed premises. The investigator and military policeman sat at the bar directly in front of a sign which stated, "Positively closed 1:00 A.M. to 7:00 A.M." They were advised by the bartender that it would be necessary for them to move from the bar to the "lunch counter." The latter was merely a continuation of the bar.

After moving, the investigators observed two men enter, each of whom was served a glass of beer by the bartender. The investigator then ordered two glasses of whiskey. The military policeman subsequently purchased a pint bottle of Park & Tilford Whiskey from the bartender.

Defendant stated in mitigation of the violation that on the night in question he was ill and in bed and was unable to personally

take charge of closing his establishment. He further stated that he forgot to instruct the bartender to close promptly on the closing hour, nor did he advise him as to the time of the closing hour. While it is unfortunate that the licensee was ill, nevertheless he is responsible for the acts of his agents, servants and employees.

The licensee has no previous record. Taking this into consideration, together with the fact that there are no aggravating circumstances surrounding the violation, I shall suspend the license for a period of fifteen days, with a remission of five days for the guilty plea, making a net suspension of ten days.

Accordingly, it is, on this 7th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-6, heretofore issued by the Borough Council of the Borough of Dunellen to Lando Landi for premises 227 South Avenue, Dunellen, be and the same is hereby suspended for ten (10) days, commencing at 1:00 A.M. May 11, 1943, and terminating at 1:00 A.M. May 21, 1943.

ALFRED E. DRISCOLL
Commissioner.

- 4. AUTOMATIC SUSPENSION - R. S. 33:1-31.1 - SALE OF ALCOHOLIC BEVERAGES TO MINORS - LICENSEE PAID FINE OF \$100.00 - LICENSE PREVIOUSLY SUSPENDED BY MUNICIPAL ISSUING AUTHORITY FOR 40 DAYS - APPLICATION TO LIFT GRANTED UPON EXPIRATION OF SUSPENSION IMPOSED BY ISSUING AUTHORITY.

In the Matter of Petition by)
WILLIAM DIERCK)
T/a HOTEL REVERE)
20 Community Place)
Morristown, N. J.,)
to lift the Automatic Suspension)
of Plenary Retail Consumption)
License C-25 issued by the Board)
of Aldermen of the Town of)
Morristown.)
-----)

ON PETITION
CONCLUSIONS AND ORDER

David C. Salmon, Esq., Attorney for Petitioner.

BY THE COMMISSIONER:

It appears from petition filed herein that, on May 6, 1943, the licensee pleaded non vult in the Court of Special Sessions, Morris County, to an indictment alleging that he had sold alcoholic beverages to minors and that he has paid the fine of \$100.00 imposed as a result of said conviction. It further appears from the petition and from our records that the Board of Aldermen of the Town of Morristown had previously suspended petitioner's license for a period of forty days, effective from April 3, 1943, at 7:00 A.M. to May 13, 1943, at 7:00 A.M., after the licensee, in disciplinary proceedings instituted by said Board, had pleaded guilty to charges of selling alcoholic beverages to minors.

The indictment in the criminal proceedings and the charges in the disciplinary proceedings were based upon the same facts. Because of the criminal conviction, petitioner's license has been automatically suspended for the balance of its term. R. S. 33:1-31.1. The petitioner herein prays that the automatic suspension may be lifted when the suspension imposed by the Board of Aldermen expires.

This case concerns the sale of a glass of beer to each of three boys who were then nineteen years of age. 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. Petitioner has no previous record and, under all the circumstances, the penalty imposed by the Board of Aldermen appears to be adequate. Hence, I shall grant the relief prayed for in the petition.

Accordingly, it is, on this 11th day of May, 1943,

ORDERED, that the automatic suspension of License C-25, held by William Dierck, t/a Hotel Revere, be lifted at 7:00 A.M. on Thursday, May 13, 1943. The license may be returned to the licensee at that time.

ALFRED E. DRISCOLL
Commissioner.

- 5. DISCIPLINARY PROCEEDINGS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - HOLDER OF LICENSE IN EACH OF TWO MUNICIPALITIES - "FARMING ONE OUT" - THE LATTER LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO PETITION TO LIFT UPON EXPIRATION OF 20 DAYS AND CORRECTION OF ILLEGAL SITUATION - REMAINING LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against
GIOVINO DiPAOLO
T/a JACK'S CAFE
245 Chestnut Street
Camden, New Jersey,
Holder of Plenary Retail Consumption License C-48, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden,
and
GIOVINO DiPAOLO
(Giovini DiPaolo)
T/a RED LION INN
Red Lion, about 3 1/2 miles south of Vincentown,
Southampton Township, N. J.,
Holder of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Southampton.

CONCLUSIONS
AND
ORDER

Rocco Palese, Esq., Attorney for Defendant-Licensee.
Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee has pleaded non vult to charges as follows:

"1. From on or about May 1938 until May 1940, you knowingly aided and abetted Jack Brady to exercise, contrary to R. S. 33:1-26, the rights and privileges of your Plenary Retail Consumption License in the City of Camden, thereby yourself violating R. S. 33:1-52.

"2. From on or about May 1940 and until the present time, you knowingly aided and abetted Robert Bowens to exercise, contrary to R. S. 33:1-26, the rights and privileges of your Plenary Retail Consumption License in the City of Camden, thereby yourself violating R. S. 33:1-52."

The licensee asked to be placed upon the witness stand and permitted to testify as to the background and circumstances of this violation. His testimony failed to disclose any mitigating circumstances.

The violation was a scheme of the licensee to control the license of the Camden property owned by him. It is admitted that the property, if the license had been transferred, would have lost substantial rental value. In the words of the alleged tenant, Mr. Bowens, he rented the "premises and the license" from Mr. DiPaolo. This cannot be. There is no property in a license which would make it the object of a lease. R. S. 33:1-26 as amended by P. L. 1943, Chapter 152.

The defendant-licensee has made a clean breast of all the facts. The alleged tenant gave a frank statement to the Department's investigators. It does not appear that the tenant is disqualified. The licensee has indicated his desire to transfer the license to the tenant. The tenant, however, is not guiltless. He knew the law was being violated.

To correct the unlawful situation, I shall suspend the license held by DiPaolo for the premises 245 Chestnut Street, Camden, for the balance of its term. I will grant leave to any one qualified, to whom the license shall be properly transferred subject to the suspension, to apply to me by verified petition for an order to lift said suspension. In no event, however, will the suspension be lifted until after twenty days from the effective date thereof.

Mr. DiPaolo, who concocted this scheme resulting in the violation, is primarily liable. I shall effectively punish him by a suspension of the license held by him in Southampton Township for a period of twenty days. Re Stetz, Bulletin 512, Item 3.

Accordingly, it is, on this 10th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-48, heretofore issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Giovino DiPaolo, t/a Jack's Cafe, for premises 245 Chestnut Street, Camden, be and the same is hereby suspended for the balance of its term, effective May 15, 1943, at 2:00 A.M.; and it is further

ORDERED, that if it satisfactorily appears, on verified petition and proper proof, that the "front" herein has been fully and properly corrected, the said suspension may be lifted, provided, however, that in no event shall such suspension be lifted prior to the expiration of twenty (20) days from the effective date of the suspension; and it is further

ORDERED, that Plenary Retail Consumption License C-2, heretofore issued by the Township Committee of the Township of Southampton to Giovino DiPaolo (Giovini DiPaolo), t/a Red Lion Inn, for premises at Red Lion, about 3½ miles south of Vincentown, Southampton Township, be and the same is hereby suspended for twenty (20) days, effective May 15, 1943, at 2:00 A.M., and concluding at 2:00 A.M. June 4, 1943.

ALFRED E. DRISCOLL
Commissioner.

6. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACTS - NON-RESIDENT STOCKHOLDER OF CORPORATE LICENSEE DISQUALIFIED BY BENEFICIAL INTEREST IN MORE THAN 10% OF CORPORATE STOCK - ILLEGAL SITUATION CORRECTED - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against

TENAFLY TAVERN, INC.
18 East Railroad Avenue
Tenafly, N. J.,

Holder of Plenary Retail Consumption License C-9 issued by the Mayor and Council of the Borough of Tenafly.

CONCLUSIONS AND ORDER

In the Matter of Disciplinary Proceedings against

RICHARD CHINI
18 East Railroad Avenue
Tenafly, N. J.,

Holder of Employment Permit No. 2257 issued by the Commissioner of Alcoholic Beverage Control.)

Pierce H. Deamer, Jr., Esq., Attorney for Defendant-Licensee and Defendant-Permittee.
Richard C. Gossweiler, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleaded guilty to a charge alleging that it falsely concealed in its license application that Richard Chini was the real and beneficial owner of all of its corporate stock, in violation of R. S. 33:1-25.

The defendant-permittee pleaded guilty to a charge alleging that he falsely concealed in his permit application that he had an interest in the plenary retail consumption license issued to defendant-licensee, in violation of R. S. 33:1-25.

In April 1942 Richard Chini purchased the liquor business in question, as well as the building wherein it is located. Because he was not a five-year resident of this State and, therefore, ineligible at that time to hold a liquor license, the license was transferred to Tenafly Tavern, Inc. Ten shares of the capital stock of this corporation were issued, one share to Chini and nine shares to two dummy stockholders. Chini was actually the owner of all of this stock, the dummy stockholders having no interest in the licensed business. This disguise of Chini's actual ownership of the licensed business was unlawful in that, under R. S. 33:1-12.1, he was likewise disqualified, by reason of his non-residence, from being the actual and/or beneficial owner of more than ten per cent. of the capital stock of the corporate licensee.

Chini claims that, in adopting the corporate guise, he followed the advice of a real estate agent who was instrumental in effecting the sale of the business to him. Chini frankly disclosed the true situation when questioned by ABC agents and there do not appear to be any aggravating circumstances in the case.

Nevertheless, by means of the corporate artifice, Chini illegally engaged in the liquor business under a license which he was then personally ineligible to hold. To accomplish this purpose the corporate licensee, in its application, suppressed the material facts concerning Chini's interest in the licensed business. The licensee thus committed a violation for which it must be penalized.

In determining what penalty should be imposed, it is to be noted that after the case was heard there was a change in public policy concerning non-residents engaging in the liquor business in this State. This change is expressed by the recent amendment to Section 25 of the Alcoholic Beverage Law (P.L. 1943, c. 46) eliminating the requirement that an applicant for a retail liquor license must have five years' residence in this State. This section now merely requires that a person be a resident of the State at the time he applies for such license and that he thereafter maintains such residence. Chini, who has resided in this State since April 1942, is therefore now qualified to own more than ten per cent. of the capital stock of a corporate licensee.

It further appears that Richard Chini now holds eight shares, and that two individuals (who apparently are qualifying shareholders) each hold one share of the stock of the corporate licensee, and that the local authority has been notified in accordance with the provisions of R. S. 33:1-34 of such changes in stock ownership. The unlawful arrangement has, therefore, been fully corrected.

In view of the foregoing, especially the changed residence requirement, I shall suspend the license for a period of ten days.

I shall take no action concerning Chini's employment permit because he now resides in New Jersey, and hence, by virtue of the recent amendment to R. S. 33:1-25 referred to, which no longer requires an employment permit to enable him to work upon licensed premises. Re Richards, Bulletin 561, Item 9. Therefore, suspension or revocation of such permit will seemingly serve no useful purpose.

Accordingly, it is, on this 11th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-9, heretofore issued by the Mayor and Council of the Borough of Tenafly to Tenafly Tavern, Inc., for premises 18 East Railroad Avenue, Tenafly, be and the same is hereby suspended for a period of ten (10) days, commencing at 1:00 A.M. May 17, 1943, and terminating at 1:00 A. M. May 27, 1943.

ALFRED E. DRISCOLL
Commissioner.

7. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACTS (NON-RESIDENCE) - ILLEGAL SITUATION CORRECTED - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)

FENNIA GRILL, INC.)
T/a FENNIA GRILL)
Main Road)
Randolph Township)
P. O. Mt. Freedom, N. J.,)

Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Randolph, and which license has, during the pendency of these proceedings, been transferred by said Township Committed to)

EMIL SORVO)
for the same premises,)

-and-)

EMIL SORVO)
Main Road)
Mt. Freedom, N. J.,)

Holder of Employment Permit No. 229, issued by the State Commissioner of Alcoholic Beverage Control.)

CONCLUSIONS
AND
ORDER

Morris H. Saltz, Esq., Attorney for Defendant-Licensee and Defendant-Permittee.

Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleaded non vult to charges alleging, in substance, the falsification and suppression of material facts in the application for the license upon which the present license, C-7, was granted by the Township Committee of the Township of Randolph.

The defendant-permittee pleaded non vult to a charge which may be summarized as a misrepresentation, suppression or evasion of material facts in his application to this Department for the purpose of obtaining an employment permit.

The plea of non vult is fully equivalent to a plea of guilty. (State v. Henson, 66 N. J. L. 601)

Defendant-permittee has secured the transfer of the license to himself, personally. It appears from the record that the only disqualification of the said permittee to hold the license was that of residence, which disqualification has now been removed by amendment to the Act, approved March 27, 1943, and now known as Chapter 48, P. L. 1943.

However, any punishment shall be fully effective against the transferee. Regulations No. 15, Rule 3. I shall suspend the license for ten days.

I shall take no action concerning Sorvo's employment permit because he resides in New Jersey and no longer requires an employment permit to enable him to work upon licensed premises.

Accordingly, it is, on this 11th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-7, heretofore issued by the Township Committee of the Township of Randolph to Fennia Grill, Inc., t/a Fennia Grill, and transferred during pendency of these proceedings to Emil Sorvo for premises Main Road, Randolph Township, be and the same is hereby suspended for ten (10) days, effective May 17, 1943, at 2:00 A.M., and terminating at 2:00 A.M. May 27, 1943.

ALFRED E. DRISCOLL
Commissioner.

8. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN LICENSE APPLICATION
CONCEALING MATERIAL FACTS - NON-RESIDENT STOCKHOLDER OF CORPORATE
LICENSEE DISQUALIFIED BY BENEFICIAL INTEREST IN MORE THAN 10% OF
CORPORATE STOCK - ILLEGAL SITUATION CORRECTED - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary)
Proceedings against)

ENTERPRISE BUTTER & EGG CO.)
615 Anderson Avenue)
Cliffside Park, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distri-)
bution License D-8, issued by)
the Borough Council of the Borough)
of Cliffside Park.)

Albert S. Gross, Esq., Attorney for Defendant-Licensee.
Harry Castelbaum, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant-licensee pleads non vult to the following charge:

"In your application, filed with the Borough Council of the Borough of Cliffside Park and upon which you obtained your current Plenary Retail Distribution License, you, after listing the following as the stockholders in your corporation - Abraham Cohen 5 shares, Stella Cohen 5 shares, and Nathan Ratner 90 shares, falsely stated 'No' in answer to Question 24 which asks: 'Has any stockholder of the applicant corporation any beneficial interest, directly or indirectly, in the stock of any other stockholder of the applicant corporation?', whereas in truth and in fact Abraham Cohen and Stella Cohen were the real and beneficial owners of all of the capital stock of your company; such false statement being in violation of R. S. 33:1-25."

The records disclose the corporate licensee operates a combination delicatessen and liquor store. In March 1939 Abraham Cohen and his wife Stella Cohen, residents of New York, purchased the business. As they were disqualified to hold a license through lack of five years' residence in this state, 90% of the corporation's capital stock was issued to Nathan Ratner, who was qualified as to residence, 5% to Mr. Cohen and the remaining 5% to Mrs. Cohen. There was no consideration for the stock issued to Nathan Ratner and he never had any interest in or control over the business. The arrangement was made for the purpose of circumventing the statutory disqualification of Mr. and Mrs. Cohen. The "front" thus created has been continued from year to year.

The defendant made a frank disclosure and in mitigation of the offense claims Mr. and Mrs. Cohen acted in good faith on the advice of their lawyer. Upon learning from investigators of this Department that the corporate arrangement was illegal, they made a redistribution of the stock to the true owners thereof as follows: 90 shares to Abraham Cohen, 5 shares to Stella Cohen and the remaining 5 shares to Sanford Cohen. These stockholders are all residents of New Jersey. The recent amendment to Section 25 of the Alcoholic Beverage Law (P. L. 1943, c. 46) eliminates the requirement that an individual applicant for a retail liquor license must have five years' residence in this state. The law now requires the individual to be a (bona fide) resident of the state at the time he applies for a license and that he thereafter continues such residence. In view of the amendment, it now appears that Abraham Cohen is no longer disqualified from holding a retail license, and hence he may own more than 10% of defendant's stock. The local authority has been notified of such changes in stock ownership in compliance with the provisions of R. S. 33:1-34.

It appears that this is defendant's first offense of any nature, and in view of all the facts in the case, especially the changed residence requirement, I shall suspend the license for a period of ten days because of the false answer in the application.

Accordingly, it is, on this 11th day of May, 1943,

ORDERED, that Plenary Retail Distribution License D-8, issued by the Borough Council of the Borough of Cliffside Park to Enterprise Butter & Egg Co., for premises 613 Anderson Avenue, Cliffside Park, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 A.M. May 17, 1943, and terminating at 3:00 A. M. May 27, 1943.

ALFRED E. DRISCOLL
Commissioner.

9. DISCIPLINARY PROCEEDINGS - POSSESSION ON LICENSED PREMISES OF "PIN BALL" MACHINE IN VIOLATION OF RULE 7 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against
 PACKER HOTEL CO., INC.
 62-64½ Smith Street
 Perth Amboy, N. J.,
 Holder of Plenary Retail Consumption License C-1, issued by the Board of Commissioners of the City of Perth Amboy.

CONCLUSIONS AND ORDER

Louis Spiegel, Esq., Attorney for Defendant-Licensee.
 Harry Castelbaum, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to the following charge:

"On March 24, 1943 you possessed, allowed, permitted and suffered on your licensed premises a machine or device commonly known as a bagatelle or pin-ball machine, viz., a 5-ball bumper type machine bearing the designation Keeney 'Skyray', in violation of Rule 7 of State Regulations No. 20."

In considering the penalty, I am obliged to refer to the fact that a pin-ball machine is a gambling device. Re Hunter v. Teaneck, N. J. Supreme Court, 128 N.J.L. 164, Bulletin 498, Item 3; Re Stafford v. Garrett, 128 N.J.L. 623, Bulletin 498, Item 2. The minimum penalty for a device designed for gambling purposes is ten days. Re Stafford, Bulletin 461, Item 3; Re Breslin, Bulletin 434, Item 10; Re Hamburg Department Store, Inc., Bulletin 436, Item 5. The licensee has no other record. Therefore, I shall impose the minimum penalty and suspend the license for ten days, less five days for the guilty plea.

Accordingly, it is, on this 12th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-1, heretofore issued by the Board of Commissioners of the City of Perth Amboy to Packer Hotel Co., Inc., for premises 62-64½ Smith Street, Perth Amboy, be and the same is hereby suspended for five (5) days, effective May 17, 1943, at 2:00 A.M., and terminating May 22, 1943, at 2:00 A. M.

ALFRED E. DRISCOLL
 Commissioner.

10. DISCIPLINARY PROCEEDINGS - SUSPENSION FOR BALANCE OF TERM WITH LEAVE TO PETITION TO LIFT AFTER EXPIRATION OF 30 DAYS AND CORRECTION OF UNLAWFUL SITUATION - UNLAWFUL SITUATION CORRECTED AND 30 DAYS HAVING EXPIRED - APPLICATION TO LIFT GRANTED.

In the Matter of Disciplinary Proceedings against)
)
 JOHN YURICK, SR.)
 T/a JOHNNY'S)
 Northerly Side of State)
 Highway #10, about 625')
 easterly of Jefferson Road)
 Malapardis, Hanover Township)
 P. O. Whippany R.D., N. J.,)
)
 Holder of Plenary Retail Consumption License C-7 issued by the)
 Township Committee of the)
 Township of Hanover.)
 -----)

ON PETITION
O R D E R

Harold Gurevitz, Esq., Attorney for Petitioner.

BY THE COMMISSIONER:

On April 5, 1943, I suspended the license of defendant John Yurick, Sr. for the balance of its term, effective April 9, 1943, after he had pleaded non vult to charges alleging that he was a "front" for John Yurick, Jr.

In said order it was provided that, if the "front" was fully and properly corrected, leave would be given to make application, by verified petition, to lift said suspension provided that at least thirty days thereof were served. Re Yurick, Bulletin 561, Item 2.

Pursuant to said leave, defendant filed a petition wherein it is set forth that John Yurick, Jr. has severed his connection with the licensed premises and is employed elsewhere. It is also set forth therein that a bona fide sale of the business had been made to Michael Yurick and that application had been made to transfer the license to him. A certified copy of a resolution adopted by the Township Committee of the Township of Hanover has been received by me. It appears therefrom that, on May 10, 1943, said Township Committee transferred License C-7 to Michael Yurick subject to the suspension herein imposed.

It appearing from the petition and the certified copy of the resolution that the unlawful situation has been corrected, and it further appearing that thirty days of the suspension have been served, the suspension will be lifted.

Accordingly, it is, on this 13th day of May, 1943,

ORDERED, that the suspension heretofore imposed be lifted, and that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Hanover, be and the same is hereby restored to full force and operation, effective immediately.

ALFRED E. DRISCOLL
Commissioner.

11. DISCIPLINARY PROCEEDINGS - FRONT - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACTS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO PETITION TO LIFT UPON EXPIRATION OF 10 DAYS AND BONA FIDE CORRECTION OF ILLEGAL SITUATION.

In the Matter of Disciplinary Proceedings against)

THOMAS CULHANE)
591 Anderson Avenue)
Cliffside Park, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-27, issued by the Mayor and Council of the Borough of Cliffside Park.)
-----)

Thomas Culhane, Pro Se.
Edward F. Ambrose, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to charges alleging, in substance, that he in fact is not the owner of the business licensed but is a "front" for James P. McCabe, the actual owner of the business.

The defendant certifies that there is now pending before the Mayor and Council of the Borough of Cliffside Park an application to transfer this license to McCabe, and that McCabe is qualified. Mr. McCabe stated that his only disqualification was that of residence. He is now a resident of New Jersey. The requirement of five years' residence in this State has been removed by act of the Legislature of the State. P.L. 1943, c. 46.

In view of the illegal situation now existing, I shall suspend the license for the balance of its term. After the license has been properly transferred to Mr. McCabe, I shall give permission to him to make application, by verified petition, to lift the suspension, provided that the suspension will not be lifted until after ten days from the effective date thereof.

Accordingly, it is, on this 13th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-27, heretofore issued by the Mayor and Council of the Borough of Cliffside Park to Thomas Culhane, for premises 591 Anderson Avenue, Cliffside Park, be and the same is hereby suspended for the balance of its term, effective at 3:00 A.M. May 17, 1943; and it is further

ORDERED that, upon a correction of the existing unlawful situation by a bona fide transfer, application may be made to me to lift the suspension, provided, however, that such suspension shall not be lifted prior to the expiration of ten (10) days from the effective date of such suspension.

ALFRED E. DRISCOLL
Commissioner.

12. CANCELLATION PROCEEDINGS - FACTS EXAMINED - PROCEEDINGS DISMISSED.

In the Matter of Cancellation)
 Proceedings against)
)
 JOSEPH F. WEBER ASSOCIATION)
 1156 Springfield Avenue)
 Irvington, N. J.,)
)
 Holder of Club License CB-2)
 issued by the Board of Commis-)
 sioners of the Town of Irvington.)
 - - - - -)

CONCLUSIONS
AND ORDER

Saul C. Schutzman, Esq., Attorney for Defendant-Licensee.
 Edward F. Ambrose, Esq., Attorney for Department of Alcoholic
 Beverage Control.

BY THE COMMISSIONER:

The licensee was called upon to show cause why its club li-
 cense should not be cancelled on the ground that it was improvidently
 issued, in violation of Rule 2 of State Regulations No. 7, in that the
 licensee had not been in exclusive, continuous possession and use of
 a clubhouse or club quarters for a period of at least three years
 continuously immediately prior to the submission of its application
 for license.

The club filed its application for license with the local
 issuing authority on June 9, 1942. At the hearing it produced an
 original lease, dated February 15, 1939, between Irvington Anchors
 Inc., as lessor, and itself, as lessee, by which the lessor let unto
 the lessee two rooms on the second floor of a three-story building at
 1154-56 Springfield Avenue, Irvington, for a period of two years and
 ten months, commencing March 1, 1939 and terminating December 31,
 1941.

The proofs show that, during the entire term of the lease, the
 club retained exclusive possession of the demised premises and held
 its meetings there at regular intervals. At the expiration of the
 lease on December 31, 1941, the club continued in such exclusive pos-
 session until June 1942, when it negotiated with the landlord a lease
 of the entire building containing the present licensed premises.

I am satisfied, upon consideration of all of the evidence,
 that the license in question was not improvidently issued for the
 reason stated and, therefore, the proceedings will be dismissed.

Accordingly, it is, on this 13th day of May, 1943,

ORDERED, that these proceedings be and the same are hereby
 dismissed.

ALFRED E. DRISCOLL
 Commissioner.

13. TRANSFERS - APPLICATION FOR TRANSFER OF LICENSE MUST BE APPROVED BY ISSUING AUTHORITY WITHIN THE TERM OF THE LICENSE - APPLICANT FOR TRANSFER MUST COMPLY WITH ALL STATUTORY REQUISITES DURING THE LIFE OF THE LICENSE SOUGHT TO BE TRANSFERRED - LICENSE MUST BE ACTUALLY TRANSFERRED ON OR BEFORE JUNE 30th - PROSPECTIVE PURCHASER OF LICENSE MAY FILE SIMULTANEOUS APPLICATIONS FOR TRANSFER AND RENEWAL OF EXISTING LICENSE.

May 12, 1943

Dear Commissioner:

Two present licensees are going to retire from business on June 30, 1943 because of ill health. Their places of business are to be taken over by relatives.

The new applicants are going to advertise their notice of intention for the transfers next month along with the other licensees seeking a renewal of their present licenses.

Is this procedure legal? Or must the transfers be obtained before June 30, 1943, and, if granted, must the new applicants apply again before July 1, 1943?

Very truly yours,
George A. Bowen
Borough Clerk.

May 17, 1943

George A. Bowen
Borough Clerk
South River, N. J.

Dear Sir:

I have your letter dated May 12, 1943.

All necessary steps to transfer the licenses now in existence must be completed and the license actually transferred on or before June 30, 1943. This is so because the present licenses expire at midnight on June 30, and thereafter there is nothing to transfer. See Re Madden, Bulletin 198, Item 1.

It is not improper for the prospective purchasers to file simultaneous applications for transfer of the existing license and renewal of the license in their respective names for the coming fiscal year and thereafter to cause separate advertisements covering the transfer and renewal of the license to be published. In other words, the new applicants need not wait until the old license is actually transferred before taking the necessary steps to apply for a renewal. Zager v. Passaic, Bulletin 385, Item 9.

I might add that a special permit to transfer any liquor on hand from the present licensees to the new licensees must be obtained from this Department as soon as the present license is transferred.

Very truly yours,

Alfred E. Griswold
Commissioner.