

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

BULLETIN 654

FEBRUARY 26, 1945

1. DISCRIMINATORY PRICES AND DISCOUNTS - REGULATIONS NO. 34 - AMENDED TO PROVIDE FOR UNIFORM POSTING OF WHOLESALE PRICES AND THEIR PUBLICATION BY THE DEPARTMENT IN PAMPHLET FORM; SCHEDULE OF PERMISSIVE DISCOUNTS ABROGATED AND, IN ITS STEAD, A SINGLE PERMISSIVE DISCOUNT OF 2% FOR CASH.

REGULATIONS NO. 34 - DISCRIMINATORY PRICES AND DISCOUNTS - RULES 1, 2, 3 AND 5 AMENDED; RULE 9 ABROGATED.

From time to time, members of the alcoholic beverage industry in New Jersey have urged various changes in State Regulations No. 34. Although we are in a war period, when sweeping economic and trade predictions may be perilous, certain changes in the Regulations appear to be desirable.

Under our present system, the forms used for posting price statements and for service upon retail licensees vary beyond all justification, from post cards to mimeographed sheets to oversized pages. The result has been continued confusion.

It is generally agreed that service of individual and separate price statements by the wholesalers upon retail licensees, either personally or by mail, has been unsatisfactory. Recurring complaints from retailers reveal that service of price statements upon complete customer lists by wholesalers is rarely accomplished. In many instances, price statements are not served until after new items have been introduced or price changes effected.

Frequency of price changes, with attendant confusion among retail licensees, and more particularly the tendency of successive price changes to reduce mark-ups for the retailer after consumer prices have been established in a Minimum Resale Price Pamphlet, is another objectionable trade practice which the Department seeks to correct.

The question of discounts and evils resulting from "loading up" retailers in order to qualify purchases for entrance into higher brackets of discounts (as per schedules set forth in Rule 5 of State Regulations No. 34) has long been under serious study by the Department. Experience has demonstrated that prior to the current period of shortages and restrictions in supplies, the manipulations of permissive discount schedules were, in part, responsible for the economic distress of retailers unable to pay their bills. Certain retailers were thus forced to engage in practices which were not in the public interest. Limiting discounts to a single permissive discount for cash should go far toward removing many dangerous trade practices of the past and should be a promising step forward in preparation for post-war conditions.

Amended Regulations No. 34 relate principally to:

- (a) The prescribing of a form in which price lists shall be filed with the Department. (The form is herewith attached.)
- (b) The prescribing of the publication in pamphlet form of submitted wholesale price lists. Printing and

- distribution of such pamphlets to retail licensees, under Department supervision, with cost of publication and mailing to be borne proportionately by all participating licensees.
- (c) Hereafter new items and changes in prices of formerly posted items are to be filed on or before the 10th day of the month and will remain effective throughout the following month and until changed in accordance with new posting requirements. Under amended rules, the first filing in March 1945 (effective during April 1945 and until changed) must be a complete one including new items and formerly listed items as well, even though there is no change in the prices of formerly listed items.
- (d) A single permissive discount not in excess of 2% for cash to be computed and allowed on the total purchase price of a single complete delivery of a bona fide purchase order consisting of alcoholic beverages excepting malt beverages.
- (e) Permissive schedule of discounts as now set forth in Rule 5 of Regulations No. 34 is herewith abrogated.
- (f) The amending of Rule 3 to prescribed wholesale prices and discounts when published by the Department of Alcoholic Beverage Control, as the official prices and discounts during the period they are in effect and the provision for public inspection of wholesale price lists and discount statements from and after the date of mailing.
- (g) The abrogation of Rule 9 for the reason that its provisions are no longer applicable under the new procedures for price filing and for the publication and mailing of wholesale price lists and discount statements under Department supervision.

A complete and comprehensive listing is necessary to the effective operation of the new procedures and should impose no undue hardship. After the full listing on or before March 10, 1945, to be effective and published on April 1, 1945, only changes and new items need be filed on or before the 10th day of each month thereafter, such changes and additions to be effective and published in a supplemental publication on the 1st day of the month following the submission of the price listings.

To effect the changes hereinbefore noted, Rules 1, 2, 3 and 5 of Regulations No. 34 are amended in the following manner:

(For purposes of completeness, State Regulations No. 34, as amended, are set forth in full, although the only changes therein are in the provisions of Rules 1, 2, 3 and 5 and the necessary abrogation of Rule 9 to conform with those changes.)

REGULATIONS NO. 34 - RULES GOVERNING WHOLESALE PRICES AND
MAXIMUM DISCOUNTS, REBATES, FREE GOODS, ALLOWANCES AND OTHER
INDUCEMENTS TO RETAILERS - RULES 1, 2, 3 AND 5 AMENDED;
RULE 9 ABROGATED.

Rule 1. No manufacturer or wholesaler shall sell to a retailer any alcoholic beverages other than malt alcoholic beverages without first filing his wholesale prices with the State Department of Alcoholic Beverage Control, in the form prescribed by the State Commissioner:

- (a) A complete wholesale price list, duly authenticated, of all such alcoholic beverages, which shall contain with respect to each item (1) the exact brand or trade name, (2) nature of contents, (3) age and proof or alcoholic content where stated on the label, (4) number of units per case, (5) capacity of each individual unit, and (6) the wholesale bottle and standard case prices, and, at the option of the manufacturer or wholesaler, the one-half and one-quarter standard case prices, which prices shall be individual for each item and not in combination with any other item; and
- (b) A statement, duly authenticated, of the discount, if any, to be allowed within the permissible limit set forth in Rule 5 hereof, which discount shall apply uniformly to all retailers.

No manufacturer shall file wholesale price and discount statements in behalf of any wholesaler or wholesalers and no wholesaler shall file wholesale price and discount statements in behalf of another wholesaler.

Rule 2. Price lists and discount statements filed by a manufacturer or wholesaler shall apply uniformly to all of his retail customers and shall be and remain in force and shall be maintained until a statement of changes is filed and published and becomes effective in accordance herewith.

(a) A complete list of wholesale prices and statement of discounts must be filed in the office of the Department of Alcoholic Beverage Control on or before the 10th day of March 1945 to become effective on the 1st day of April 1945. Thereafter, changes in wholesale prices and discounts may be made by filing on or before the 10th day of any month a statement of the changes which shall take effect on the 1st day of the following month.

(b) Each complete list of wholesale prices and statement of discounts filed on or before March 10, 1945 and each statement of changes in prices and discounts filed thereafter, shall be available for inspection at the Department by manufacturers or wholesalers until 5:00 P.M. of the 13th day of the month of filing. A manufacturer or wholesaler may amend his filed price list and statement of discounts in order to meet lower and competing prices and discounts for alcoholic beverages of the same brand or trade name, and of like age and quality, filed pursuant to these regulations by any other

manufacturer or wholesaler selling such brand in this State, provided such amended prices and discounts are filed before 5:00 P.M. of the 14th day of the month, and provided further, that such amended prices are not lower and discounts not greater than those to be met.

(c) Whenever such wholesale price lists and discount statements are submitted in accordance with conditions herewith, the State Commissioner shall cause them to be published in pamphlet form and mailed to all retail licensees not later than three (3) days before the 1st day of each month.

(d) All licensees who are hereinabove required to file price statements shall be chargeable with a proportionate cost of the printing and mailing of the pamphlets so published. In addition, the cost of the supplemental pamphlets containing additions and changes to be issued on the 1st day of every month following the publication of the complete price statement on April 1, 1945, shall be similarly apportioned among all participating licensees.

(e) The State Commissioner may, upon adequate cause being shown therefor, suspend the foregoing provisions so as to permit wholesale prices and discounts and changes in such prices and discounts, to take effect upon such shorter notice as he may prescribe.

Rule 3. Wholesale prices and discounts published by the Department of Alcoholic Beverage Control shall be the official prices and discounts during the period that they remain in effect.

The Department's publications of wholesale price lists and discount statements shall be open to public inspection in the offices of the Department from and after the date when they are mailed to retail licensees.

Rule 4. No manufacturer or wholesaler shall sell to a retailer any alcoholic beverage other than malt beverages except at the wholesale price established in accordance with Rules 1 and 2 hereof, less the discount allowed pursuant to Rule 5 hereof. No manufacturer or wholesaler shall furnish to a retailer any rebate, allowance, grant of money or any thing of value (whether by sale, loan, gift or otherwise), or other discount or inducement, including "free goods", "deals", "combination sales", and similar transactions, whether furnished directly by the licensee or indirectly by an employee, except as provided in Rules 7 and 8 hereof and by Regulations No. 21.

Rule 5. No manufacturer or wholesaler shall grant to a retailer any discount except a discount for cash on or before delivery, which discount shall not be in excess of two per centum (2%). Nothing in this rule shall be construed to require manufacturers or wholesalers to offer any discount, but a discount, if granted, must be computed and allowed on the total purchase price of a single complete delivery of an entire purchase order, and must be clearly and fully entered in writing on the invoice for the items delivered.

Rule 6. No manufacturer or wholesaler shall discriminate in price, directly or indirectly, between different retailers purchasing alcoholic beverages other than malt beverages bearing the

same brand or trade name and of like age and quality.

Rule 7. A manufacturer or wholesaler may furnish or give to a retailer, either directly, or indirectly through an employee or salesman, and whether paid for by the manufacturer or wholesaler or by the employee or salesman, gifts of personal effects, such as keyholders, wallets, neckties, and pencils, and may purchase from the retailer tickets, subscriptions or admissions for dances, outings, picnics, dinners, and advertisements in the publications or periodicals of retailers or retailers' associations, to the extent of ten dollars (\$10.00), in aggregate cost or reasonable value for each retail premises in any one license year.

Each manufacturer and wholesaler of alcoholic beverages other than malt beverages shall prepare and execute, not later than the tenth of each month and covering the previous calendar month, a complete itemized affidavit of all salaries, commissions, expenses, allowances, gifts, and all other things of value allowed or given by the licensee, directly or indirectly, to each of its stockholders, officers, directors, solicitors, missionary men, or other employees or representatives of the licensee who contact, directly or indirectly, the retailers to whom the licensee is privileged to sell such beverages. Such affidavits shall be kept on the licensed premises and shall be available at all reasonable times for a period of one year from the date of the affidavit for inspection by duly accredited representatives of this Department.

Upon demand, any retailer may be required to submit affidavit to this Department relative to any of the details of any purchase of alcoholic beverages made by such retailer from any manufacturer or wholesaler.

Rule 8. A manufacturer or wholesaler may furnish or give to a retailer, who has not previously purchased the particular product, as a sample, not more than one pint of any brand of any type of alcoholic beverage, or if the brand is not packaged in containers of less than one quart, not more than one quart of such brand of such type of alcoholic beverage; provided, however, that any alcoholic beverage furnished as a sample shall have printed or stamped in ink on its brand label, the words "SAMPLE - NOT FOR SALE" in letters not less than one-half inch high and of proportionate width. Nothing hereinabove contained shall apply to malt beverages.

Rule 9. ABROGATED.

Rule 10. Violation of any of the foregoing rules by any manufacturer, wholesaler or retailer, directly or indirectly, shall constitute ground for suspension or revocation of license.

The foregoing rules are hereby promulgated, effective March 1, 1945.

ALFRED E. DRISCOLL,
Commissioner.

Dated: February 16, 1945.

2. BONUSES, ALLOWANCES AND SIMILAR INDUCEMENTS - REGULATIONS NO. 35 - RULES 4 AND 5 AMENDED TO AUTHORIZE QUARTERLY FILING OF REPORTS 3100 AND 3110 BY MANUFACTURERS, WHOLESALERS AND THEIR SOLICITORS - DATE OF FILING FIRST QUARTERLY REPORT APRIL 10, 1945.

REGULATIONS NO. 35 - RULES 4 AND 5, GOVERNING FILING OF REPORTS, AMENDED.

Regulations No. 35 were promulgated as a remedy for alleged abuses incident to the award of bonuses by manufacturers and wholesalers to their salesmen and were intended to implement the strict enforcement of the Anti-Discriminatory Price Law and Regulations No. 34 which prohibit rebates, free goods, allowances, gifts or things of value to retailers.

Experience in the administration of Regulations No. 35 since November 1, 1941 has demonstrated the effectiveness of the regular filing of reports by licensed solicitors and wholesalers in maintaining a close and constant check by the Department on earnings received and paid. The result has been practically the elimination of economic pressure to promote unduly the sale of specific products through the award of bonuses to salesmen with the intention of passing on such bonuses to retailers. I am determined to maintain the benefits gained in the operation of Regulations No. 35.

However, I am convinced that with current shortages of paper supplies and an increasing problem of reduced manpower brought about by the necessities of war, the rules of Regulations No. 35 requiring the monthly filing of reports on forms 3100 and 3110 on or before the 10th day of each month by wholesalers and their solicitors are imposing undue hardships and inconveniences. Therefore, it is my decision that forms 3100 and 3110 heretofore required to be filed monthly on or before the 10th day of each month pursuant to the rules of Regulations No. 35, shall be filed every three months, beginning with the first quarterly filing on April 10th, 1945. Thereafter, on July 10th, October 10th, and January 10th, wholesalers and solicitors shall file forms 3100 and 3110, respectively, setting forth the required information for the three-month period immediately preceding the date of filing. Under the amended plan of filing, the report submitted on April 10, 1945 shall contain the information on earnings for January, February and March 1945 irrespective of the reports already filed for the month of January 1945.

To effect the changes hereinbefore noted, Rules 4 and 5 of Regulations No. 35 are amended, effective immediately, in the following manner:

Rule 4. On or before the 10th day of April, 1945, and thereafter, on or before July 10th, October 10th and January 10th, each manufacturer and wholesaler engaged in the sale in New Jersey of alcoholic beverages other than malt alcoholic beverages shall file with the State Commissioner of Alcoholic Beverage Control a statement, under oath, in a form to be prescribed by the Commissioner, reporting in detail all moneys paid by such manufacturer or wholesaler to each holder of a New Jersey Solicitor's Permit employed during the then preceding quarterly period for which such report is due.

Rule 5. On or before the 10th day of April, 1945, and thereafter, on or before July 10th, October 10th and January 10th, each holder of a New Jersey Solicitor's Permit shall file with the

State Commissioner of Alcoholic Beverage Control, a statement, under oath, in a form to be prescribed by the Commissioner, reporting in detail all moneys received by him, directly or indirectly, from any licensed manufacturer or wholesaler of alcoholic beverages other than malt alcoholic beverages, together with a statement of cash payments made by him directly or indirectly to New Jersey licensed retailers during the then preceding quarterly period for which such report is due.

Manufacturers and wholesalers are hereby requested to notify each of their solicitors of the change in Rule 5, as hereinabove amended.

ALFRED E. DRISCOLL
Commissioner.

Dated: February 16, 1945.

3. EXTENSION OF CREDIT BY MANUFACTURERS AND WHOLESALERS TO RETAIL LICENSEES - STATE REGULATIONS NO. 39 PROMULGATED, PROVIDING FOR A MAXIMUM CREDIT PERIOD OF THIRTY (30) DAYS FROM DATE OF DELIVERY.

TO ALL NEW JERSEY LICENSEES:

EXTENSION OF CREDIT BY MANUFACTURERS AND WHOLESALERS TO RETAIL LICENSEES - STATE REGULATIONS NO. 39 PROMULGATED.

Long credit extensions to retail licensees constitute a violation of the spirit (and perhaps the letter) of Revised Statutes 33:1-43 prohibiting a licensed manufacturer or wholesaler from having an interest in a retail business. Such credit extensions undermine an orderly market within the trade itself and react inevitably to the public harm. Too often, such extensions have induced retailers to "load up" far beyond their actual purchasing capacities. A retailer thus beholden and tied to a vendor ceases to be the master of his own establishment. In their efforts to extricate themselves many retailers have, in the past, resorted to practices violative of control laws and regulations and harmful to the consuming public and the public welfare generally.

It is in no sense the Department's duty or responsibility to act as a collection agency for manufacturers and wholesalers. Whatever the explanations given therefor, manufacturers and wholesalers who in past years made inordinate credit extensions to retail customers were themselves directly to blame for the resulting large sums long uncollected.

Under recent and present conditions, the problem of long credit extensions to retailers is almost non-existent and promises to remain so at least for the duration of the war. Now, therefore, is a particularly appropriate time to establish a reasonable credit regulation which should go a long way toward preventing a recurrence - when the market again changes - of the former serious and troublesome credit situation in the alcoholic beverage industry in New Jersey.

Pursuant to the authority granted in R. S. 33:1-39, and after long discussion with the various branches of the trade, the following State Regulations No. 39 are hereby promulgated:

REGULATIONS NO. 39 - CREDIT

Rule 1. No manufacturer or wholesaler shall sell or offer for sale any alcoholic beverages to any retail licensee and no retail licensee shall purchase or offer to purchase any alcoholic beverages from any manufacturer or wholesaler except for cash to be paid upon delivery of such alcoholic beverages or on credit terms which require that payment be made within a period not in excess of thirty days after date of delivery to the retail licensee.

Nothing in these regulations shall be construed to require any manufacturer or wholesaler to extend credit to any retail licensee.

Rule 2. For the purposes of these regulations:

- (a) A retail licensee shall be deemed in "default" if he has failed to make payment in full for alcoholic beverages, sold to him after the effective date of these regulations by a manufacturer or wholesaler, within thirty (30) days after delivery to him of such alcoholic beverages, and he shall be deemed to remain in default until such full payment is made.
- (b) "Payment" shall mean the full legal discharge of the debt by cash or its equivalent. Pledges, notes, and post-dated checks shall not be deemed the equivalent of cash, and the issuance of credit memoranda for the purpose of circumventing these regulations is prohibited and will not be deemed the equivalent of cash.

Rule 3. No manufacturer or wholesaler shall deliver any alcoholic beverages to a retail licensee who is in default to him under Rule 2(a), except for cash.

Rule 4.

- (a) Each manufacturer and wholesaler shall give written notice, by registered mail, to each retail licensee who is in default to him under Rule 2(a), within five (5) days after the default occurs. The notice shall state the date of delivery in respect to which the default exists and the amount of money in which the retailer is in default, and shall contain the following statement: "Rule 5 of State Regulations No. 39 prohibits you from accepting delivery of any alcoholic beverages from any manufacturer or wholesaler except for cash until you have paid in full the amount of the default shown in this notice."
- (b) Each manufacturer and wholesaler shall file with the State Commissioner a copy of each written notice required under paragraph (a) of this rule, within five (5) days after the particular default occurs.
- (c) When a retail licensee ceases to be in default to a manufacturer or wholesaler the manufacturer or wholesaler shall, within three (3) days thereafter, file with the State Commissioner a notice to that effect. The notice shall state the name and address of the retail licensee, the date of delivery in respect to

which the default existed, the amount paid to terminate the default and the date and form of such payment.

- (d) Notice filed with the State Commissioner pursuant to paragraphs (b) and (c) of this rule shall be available for inspection at the Department's offices during regular business hours.

Rule 5. No retail licensee who is in default to a manufacturer or wholesaler and who has been notified of such default pursuant to paragraph (a) of Rule 4, shall accept delivery except for cash of any alcoholic beverages from any manufacturer or wholesaler while the default continues.

Rule 6. No manufacturer or wholesaler shall knowingly sell or deliver any alcoholic beverages except for cash to a retail licensee who is in default to any manufacturer or wholesaler under Rule 2(a).

Rule 7. Each delivery of alcoholic beverages to a retail licensee shall be accompanied by an original and duplicate invoice of sale bearing the name of the retail licensee, the names, types and quantities of the products to be delivered, the price and terms of sale, and the place and date of actual delivery. The original invoice shall be signed by the retail licensee or his agent, showing acceptance of the merchandise, and shall be retained by the retail licensee. The duplicate invoice shall, after having been signed by the retail licensee or his agent, be retained by the manufacturer or wholesaler. Original and duplicate invoices shall be kept at the licensed premises of the retailer and of the manufacturer or wholesaler, respectively, for a period of one year from the date thereof and shall be available for inspection by representatives of the Department of Alcoholic Beverage Control.

Rule 8. A violation of these rules shall be cause for suspension or revocation of license.

These rules are effective Thursday, March 1, 1945.

Dated: February 23, 1945.

ALFRED E. DRISCOLL
Commissioner

4. DISCIPLINARY PROCEEDINGS - CHARGE OF FAILING TO GIVE WRITTEN NOTICE OF CHANGE OF FACTS SET FORTH IN APPLICATION FOR LICENSE, IN VIOLATION OF R.S. 33:1-34, DISMISSED - PERMITTING FEMALE EMPLOYEES TO ACCEPT ALCOHOLIC BEVERAGES AT THE EXPENSE OF PATRONS, IN VIOLATION OF RULE 22 OF STATE REGULATIONS NO. 20 - PERMITTING PERSONS OF ILL-REPUTE UPON THE LICENSED PREMISES, IN VIOLATION OF RULE 4 OF STATE REGULATIONS NO. 20 - PERMITTING IMMORAL ACTIVITIES UPON THE LICENSED PREMISES, IN VIOLATION OF RULE 5 OF STATE REGULATIONS NO. 20 - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R.S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against)

TAP HOUSE BAR AND GRILL, INC.,)
 64 Main Street,)
 Hackensack, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-30 for the fiscal year 1943-44)
 and now holder of Plenary Retail Consumption License C-52 for the current)
 fiscal year 1944-45, both issued by the)
 City Council of the City of Hackensack.)
 -----)

Herbert F. Myers, Jr., Esq., Attorney for Defendant-licensee.
 Edward F. Ambrose, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee, a corporation of the State of New Jersey, through its attorney, pleads not guilty to the following charges:

"1. You failed to file with the City Council of the City of Hackensack within ten days after the occurrence thereof, a written notice of change occurring in the facts set forth in answer to Question 30 of your application for your current plenary retail consumption license, such change being that on or about April 1, 1944, Barbara Allen became interested, directly or indirectly, in your license and the business conducted thereunder, your failure to file the aforesaid notice of such change being in violation of R.S. 33:1-34.

"2. On April 26, 27 and 29, 1944 and on May 2, 5, 8 and 10, 1944 and on divers other dates you allowed, permitted and suffered Barbara Allen, a female employed on your licensed premises, to accept drinks of beverages at the expense of and as a gift from customers and patrons, in violation of Rule 22 of State Regulations No. 20.

"2a. On April 29, 1944 and on divers other dates prior thereto, you allowed, permitted and suffered Mary E. Wood, a female employed on your licensed premises, to accept drinks of beverages at the expense of and as a gift from customers and patrons, in violation of Rule 22 of State Regulations No. 20.

"3. On all the occasions above-mentioned and on divers other dates you allowed, permitted and suffered known persons of ill-repute in and upon the licensed premises, in violation of Rule 4 of State Regulations No. 20.

"4. On all the occasions above-mentioned you allowed, permitted and suffered lewd and immoral activities in and upon the licensed premises, in violation of Rule 5 of State Regulations No. 20.

"5. On April 27, 1944 and on May 5, 1944 and on divers other dates between April 10, 1944 and May 20, 1944, you sold alcoholic beverages at your licensed premises to Henrietta _____, a minor, in violation of R. S. 33:1-77.

"6. On all the occasions last aforesaid, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages at your licensed premises to Henrietta _____, a person under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such person upon the licensed premises, in violation of Rule 1 of State Regulations No. 20."

Several investigators of the Department of Alcoholic Beverage Control testified that at various times during the months of April and May 1944 they had visited the defendant's licensed premises. One investigator testified that he was in the defendant's tavern on April 26, 27, and 29 and on May 2, 5, 10 and 23, on which dates he fraternized with the employees of the corporate licensee. This investigator states that on his first visit he met Barbara Allen, called "Bobby", the woman in charge of the business, and Mary Wood, a waitress, known also as "Dixie"; that these women accepted drinks of alcoholic beverages at his expense; that he also observed Barbara Allen and Mary Wood drinking with various other patrons, who paid for the drinks that the women consumed; and that "Bobby" made certain suggestive remarks when waiting on male customers and accompanied these remarks by a suggestive stroking of her body. This investigator testified that on April 27, 1944 he saw one Henrietta _____, a minor, drinking beer on the defendant's licensed premises and that on this occasion he "treated" "Bobby" to drinks of alcoholic beverages. He testified that on April 29 and May 2, he purchased drinks for "Dixie" and "Bobby". He further testified that, on May 5 and 10, he discussed with "Bobby" the activities of several girls who had been in the establishment on the occasion of his previous visits and that "Bobby" admitted that they carried on immoral activities with male customers after being escorted by these men from the licensed premises. "Bobby" also admitted, according to him, that she witnessed one of the girls and a bartender engaged in sexual intercourse on the licensed premises. Barbara Allen, at the hearing, emphatically denied that she had made such an admission.

Another investigator corroborated the first investigator's testimony with reference to "Bobby" and "Dixie" accepting drinks at the expense of male patrons and alleged that on several occasions he was permitted to purchase alcoholic beverages for these women at his expense.

Henrietta _____, 17 years of age, testified that she had alcoholic beverages served to her on defendant's licensed premises on several occasions during April and May 1944. Henrietta _____ stated that she was at the tavern almost every evening during May, up

to the time she was taken into custody by the police authorities. She admitted that she had sexual intercourse with the bartender in the tavern one morning between 7:00 A. M. and 10:00 A. M. upon her return there after being out with the bartender.

Dixie _____, Dora _____ and Marie _____, witnesses produced by the Department of Alcoholic Beverage Control, repudiated statements given to ABC agents at the time the investigation was in progress. They were extremely vague as to occurrences during the months of April and May 1944.

Barbara Allen admitted asserting to the ABC investigators that she was a partner in the liquor business, her explanation being, "I wanted a lot of respect . . ." The officers of defendant corporation denied that Barbara Allen had any interest in the licensed business. The records fail to disclose that Barbara Allen has any interest in the business. Hence, I must dismiss charge (1).

After careful consideration of the evidence relating to the remaining charges, I am satisfied that the investigators have described with accuracy the conditions existing in the defendant's licensed premises. There is no doubt in my mind but that Barbara Allen acted in an indecent manner on the licensed premises and that she not only encouraged Henrietta _____ and Marie _____ to make the licensed premises a rendezvous for meeting men for immoral purposes but that she was aware of the immoral activities in which they were engaged. Barbara Allen's testimony in the instant case is not worthy of belief. The corporate licensee is chargeable with and accountable for the offenses committed on the licensed premises by its employees or agents. Re Clover Inn, Inc., Bulletin 327, Item 2.

I find the defendant guilty of charges (2), (2a), (3), (4), (5) and (6). Upon consideration of all of the circumstances, it is apparent that the only penalty commensurate with the gravity of the violations herein charged is an outright revocation of the license.

Accordingly, it is, on this 13th day of February, 1945,

ORDERED that plenary retail consumption license C-52 for the fiscal year 1944-45, issued by the City Council of the City of Hackensack to Tap House Bar and Grill, Inc., for premises 64 Main Street, Hackensack, be and the same is hereby revoked, effective immediately.

ALFRED E. DRISCOLL,
Commissioner.

5. DISCIPLINARY PROCEEDINGS - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO PETITION FOR REINSTATEMENT UPON THE EXPIRATION OF 10 DAYS AND PAYMENT OF COMPROMISE FEE - COMPROMISE FEE HAVING BEEN PAID, LICENSE ORDERED REINSTATED UPON THE CONCLUSION OF THE 10 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)

JOHN A. ALLGAIK,
78-80 Main Street,
Sayreville, New Jersey,)

On Petition

CONCLUSIONS
AND
ORDER

Holder of Plenary Wholesale License W-44 issued by the State)
Commissioner of Alcoholic Beverage Control.)

John A. Allgair, Petitioner, Pro se.

BY THE COMMISSIONER:

On February 5, 1945, I entered an Order in this matter suspending the defendant's license for the balance of its term, effective 8 A.M. February 9, 1945, but with leave reserved to the defendant to petition for reinstatement of his license after ten days of the suspension had been served and on payment of a compromise fee of \$1,000. See Bulletin 652, Item 8.

The defendant has filed such petition and paid the said fee.

In the exercise of my discretion, and in line with my decision heretofore rendered in this case, I shall grant the petition.

Accordingly, it is, on this 14th day of February, 1945,

ORDERED that the suspension heretofore imposed on the defendant's license, and which commenced at 8 A.M. February 9, 1945, shall terminate and the defendant's license shall be deemed reinstated at 8 A.M. February 19, 1945.

ALFRED E. DRISCOLL,
Commissioner.

6. LICENSEES - EMPLOYEES - HOLDER OF SOLICITOR'S PERMIT DISQUALIFIED FROM ACCEPTING APPOINTMENT AS CONSTABLE.

February 15, 1945

Mr. Lucas Grande,
Emerson, New Jersey

Dear Sir:

I have your letter of February 9, 1945, advising of your contemplated application for appointment as a Constable for the Borough of Emerson.

My records indicate that you are presently the holder of a solicitor's permit authorizing your employment as a salesman for a wholesale liquor concern.

The duties of a Constable are much akin to those of a policeman. The same principles that prohibit the latter being interested, directly or indirectly, in the liquor industry (see Re Kennedy, Bulletin 622, Item 3) apply with equal force to a Constable. Cf Re Schepis, Bulletin 115, Item 3. Sound public policy demands that

those entrusted with the enforcement of the law shall have no personal or financial interest in the liquor trade. There must be no potential conflict between private interest and public duty.

If you desire to retain your solicitor's permit, you must forego any position incompatible therewith. Succinctly stated, this means that you may not be both a liquor salesman and a Constable.

Very truly yours,

ALFRED E. DRISCOLL
Commissioner.

7. APPELLATE DECISIONS - ASHEN v. CARTERET - ORDER AMENDING CONCLUSIONS AND ORDER (BULLETIN 652, ITEM 6).

HARRY C. ASHEN, trading as Ashen's Sail Inn,)	On Appeal
)	
Appellant,)	On Order to Show Cause
)	
v.)	O R D E R
)	
BOROUGH COUNCIL OF THE BOROUGH OF CARTERET,)	
)	
Respondent.)	

Benedict W. Harrington, Esq., Attorney for Appellant.
Michael Resko, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

It having been represented to me that the appellant did not serve any part of the suspension between June 9, 1944 and June 12, 1944, an order was entered herein requiring appellant to show cause on February 15, 1945, why the Conclusions and Order heretofore entered on February 2, 1945, should not be amended; and

The appellant having failed to appear upon the return day fixed in the order to show cause, and no reason appearing to the contrary:

It is, on this 15th day of February, 1945,

ORDERED that the Conclusions and Order heretofore entered herein on February 2, 1945, be and the same are hereby amended in the following respects:

- (1) By striking out the words "less the three days already served" on Page 3 thereof;
- (2) By striking out the words "Ordered that the suspension as modified be reduced to forty-two days because of the three days already served, and it is further" on Page 3 thereof;
- (3) By amending the final paragraph on Page 3 thereof to read as follows:

"ORDERED" that the order dated June 12, 1944, is vacated effective at 2 A.M. February 8, 1945, and that the license now held by appellant be and the same is hereby suspended for forty-five days commencing at 2 A.M. February 8, 1945, and terminating at 2 A.M. March 25, 1945."

ALFRED E. DRISCOLL,
Commissioner.

8. DISCIPLINARY PROCEEDINGS - FRONT - AIDING AND ABETTING NON-LICENSEES TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE (FARMING OUT LICENSE) - LICENSE SUSPENDED FOR THE BALANCE OF ITS TERM WITH LEAVE TO PETITION TO LIFT UPON CORRECTION OF ILLEGAL SITUATION AND EXPIRATION OF 30 DAYS' SUSPENSION.

In the Matter of Disciplinary Proceedings against)

ELLEN DOYLE)
137 Hobart Avenue,)
Bayonne, N. J.,)

CONCLUSIONS)
AND)
ORDER)

Holder of Plenary Retail Consumption License C-25, issued by the Board of Commissioners of the City of Bayonne.)
-----)

Raymond J. Cuddy, Esq. and Hyman Tulbowitz, Esq., Attorneys for Defendant-licensee.
Harry Castelbaum, Esq., Appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to charges alleging that she permitted John Napier and James Wells to exercise the rights and privileges of the successive licenses issued to her ever since December 18, 1933.

The defendant is seventy-one years old and, because of her advanced age, was unable personally to conduct the tavern business operated under her name. For this reason, she arranged with John Napier until May, 1942, and James Wells since then, to "manage" the premises in question. The arrangements between the parties, however, were contrary to law in that the so-called "managers" actually operated the tavern as licensees and paid the defendant a consideration for the privilege of so doing. In other words, the license and business thereunder were "farmed out" to both Napier and Wells.

An aggravated circumstance consists in the fact that Wells has a most unenviable criminal record. While, so far as appears, his record may not include any disqualifying convictions under the Alcoholic Beverage Law (see R. S. 33:1-25) it, nevertheless, is sufficiently imposing to raise a serious question concerning his fitness to be associated with the liquor industry. It does not appear, however, that the defendant was actually aware that Wells had committed any criminal infractions.

A proffered correction of the unlawful situation has been nullified by the untimely death of the person with whom the defendant had consummated arrangements for the formation of a partnership. Until such time as proof of a further correction is made, the license must be suspended for the balance of its term, viz., until June 30, 1945. Leave is given to the defendant to apply to lift the suspension upon submission of such proof. The licensed premises must remain under suspension for a full thirty-day period, however, before such application will be granted.

Accordingly, it is, on this 19th day of February, 1945,

ORDERED that plenary retail consumption license C-25, issued by the Board of Commissioners of the City of Bayonne, to Ellen Doyle, for premises 137 Hobart Avenue, Bayonne, be and the same is hereby suspended for the balance of its term, effective at 2:00 A.M. February 23, 1945; and it is further

ORDERED that, upon proper proof being made of a bona fide correction, application may be made to lift such suspension. In no event, however, will such suspension be lifted prior to the expiration of thirty days from the effective date of the suspension herein.

ALFRED E. DRISCOLL
Commissioner

9. APPELLATE DECISIONS - FEDERICO v. RIDGEFIELD PARK - ORDER OF DISCONTINUANCE.

PAUL FEDERICO,)	
)	
Appellant,)	On Appeal
)	
v.)	ORDER OF DISCONTINUANCE
)	
BOARD OF COMMISSIONERS OF)	
THE VILLAGE OF RIDGEFIELD)	
PARK,)	
)	
Respondent.)	

Wallace S. De Puy, Esq., Attorney for Appellant.
Morrison, Lloyd & Morrison, Esqs., Attorneys for Respondent.

BY THE COMMISSIONER:

Appellant appealed from denial of his application for a plenary retail consumption license for 186 Main Street, Village of Ridgefield Park.

The attorney for appellant has requested that the appeal be discontinued and has submitted a formal stipulation of discontinuance consented to by the attorneys for respondent.

Since no reason appears to the contrary,

It is, on this 19th day of February, 1945,

ORDERED that the within appeal be and the same is hereby discontinued.

Alfred E. Driscoll
Commissioner