

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

BULLETIN 375

JANUARY 12, 1940.

1. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES - REVOCATION INDICATED AND EFFECTED SUBJECT TO LEAVE TO APPLY FOR REDUCTION OF PENALTY - HEREIN OF STRICT CONSTRUCTION OF THE EFFECT OF REVOCATION PROCEEDINGS BECAUSE OF THEIR PENAL NATURE.

In the Matter of Disciplinary Proceedings against )

CHARLES I. TARLOW, )  
1 Springfield Rd. (Rte 29), )  
Mountainside, P.O. Westfield, N.J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distribution License D-1 issued by the Borough Council of the Borough of Mountainside. )  
----- )

Richard E. Silberman, Attorney for the Department of Alcoholic Beverage Control.

Charles I. Tarlow, Pro Se.

BY THE COMMISSIONER:

The licensee has pleaded guilty to the following charges:

- "1. On or about December 16, 1939, without having first obtained a permit so to do, you sold one case consisting of 12 1/5-gallon bottles of Canadian Club Canadian Whiskey below the minimum consumer price published in Bulletin 350 of this Department, contrary to Rule 6 of State Regulations 30.
- "2. On or about December 22, 1939, without having first obtained a permit so to do, you sold one quart bottle of Wilson 'That's All' Whiskey, one pint bottle of Wilson 'That's All' Whiskey, one pint bottle of Calvert's 'Special' Blended Whiskey, and two half-gallon bottles of Schenley's Red Label Blended Whiskey below the minimum consumer price published in Bulletin 350 of this Department, contrary to Rule 6 of State Regulations No. 30.
- "3. On or about December 22, 1939, you sold two assorted bottles of alcoholic beverages for consumption off the licensed premises at a single aggregate price and not at a specified price per bottle, in violation of Rule 19 of State Regulations No. 20."

There are no previous violations recorded against Tarlow at his Mountainside store. But he is the same person who holds a Plenary Retail Distribution License at premises 23 So. Union Avenue, in the Township of Cranford. His license in Cranford has twice been suspended for sale below the Fair Trade minimum. For his first offense his license was suspended for ten days, Bulletin 308, Item 12; for his second, thirty days, Bulletin 326, Item 15. The present group of violations to which he has pleaded guilty constitutes a third offense in generous measure.

In addition, Tarlow was found guilty by the Township Committee of Cranford for having sold alcoholic beverages to a minor. He was let off with a reprimand.

His license at Mountainside will be revoked.

So will his license at Cranford without compunction if any further violations occur there.

I am aware that R. S. 33:1-31 sternly provides:

"A revocation shall render the licensee ineligible to hold or receive any other license, of any kind or class under this chapter, for a period of two years from the effective date thereof and a second revocation shall render the licensee ineligible to hold or receive any such license at any time thereafter."

There is a reasonable question as to whether the words "ineligible to hold" automatically render his Cranford license null and void. For his third offense, Tarlow richly deserves revocation of his license at Mountainside but it would be a double punishment if his license at Cranford were also wiped out at the same time. This harsh result should be avoided, in fairness, even to a seasoned sinner.

The declared statutory effect of a revocation is penal in nature and therefore should be strictly construed. While not the normal construction, it is reasonably possible to interpret the words "shall render the licensee ineligible to hold" to refer to the future and not to the present. In other words, to construe that the statute did not refer to existing licenses but only to those subsequently to be issued, or, more accurately, those which cannot be issued in the future, thus interpreting "hold" as synonymous with "receive." This is the best that strict construction can do for Tarlow. The result is that, when his Cranford license expires, he cannot renew it for he will be ineligible to hold a liquor license of any kind elsewhere in this State for a period of two years from the date hereof.

Under this strict construction of the Statute, which, of course, is the most liberal so far as the licensee is concerned, the double penalty will, therefore, be postponed for some six months until his license at Cranford expires on June 30th next, but then it will become effective. But this doubling of the penalty, as aforesaid, is not fair unless he deserves it on the facts.

Consequently, notwithstanding the revocation hereby effected, I shall entertain an application by Tarlow on and after June first next to reduce this revocation to a suspension for the balance of the term of the Mountainside license so that he will not be ineligible to receive a renewal of his Cranford license. Whether such application will be granted or denied will depend upon what the licensee does at Cranford in the meantime. Any future saving of time and expense to this Department by a guilty plea will result in no saving to Tarlow.

Accordingly, it is, on this 8th day of January, 1940,

ORDERED, that Plenary Retail Distribution License D-1, heretofore issued by the Borough Council of the Borough of Mountain-side, be and the same is hereby revoked, effective immediately, subject, however, to leave to apply as aforesaid.

D. FREDERICK BURNETT,  
Commissioner.

2. SIXTH CLASS COUNTIES - MUNICIPAL REGULATIONS MAY BE ADOPTED ONLY BY ORDINANCE.

January 9, 1940

William C. Epler, City Clerk,  
North Wildwood, N. J.

My dear Mr. Epler:

I have before me yours of January 2d and proposed alcoholic beverage ordinance for the City of North Wildwood, which passed first reading on January 2d and will be further considered on January 16th.

It appears to be in proper form with one exception.

Section 3 purports to authorize the Council to make and establish by resolution such rules and regulations as the Council may deem necessary and proper.

It is not permissible to do this by resolution. On July 18, 1939, Chapter 234, P. L. 1939 became law. See Bulletin 337, Item 7. It provides that all regulations of the conduct of retail liquor businesses shall be enacted by ordinance.

There is no power in the Council to reserve in the ordinance the authority to enact regulations by resolution. See Re Bersch, Bulletin 370, Item 4. It follows that any regulation of the retail liquor business that the Council may adopt by resolution would be of no force or effect.

I cordially suggest that the Council excise Section 3 outright because, as pointed out by my notice of December 29, 1939, Bulletin 371, Item 11, the present county regulations are effective until the municipal governing bodies enact their own regulations, or else in place of Section 3 set out in the ordinance the particular regulations deemed appropriate.

The first alternative is preferable because it thereby gives you time to study the situation and adapt your rules to the local needs after thorough consideration and, in the meantime, everything is kept under control because the present county rules, so far as applicable, hold good perforce the special ruling.

I shall be glad to go over such regulations as you may prepare, prior to adoption, to offer such constructive comments and suggestions as may appear necessary.

Kindly send me a certified copy of the ordinance in the form in which it is finally adopted, for the completion of my records.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

3. REPORT OF DISCIPLINARY PROCEEDINGS AGAINST MUNICIPAL LICENSEES CONDUCTED DIRECTLY BY THE DEPARTMENT.

To: D. Frederick Burnett, Commissioner  
From: Emerson A. Tschupp, Attorney

January 4, 1940

Period Covered  
July 1, 1939 to December 31, 1939

SUMMARY

<u>Cases Instituted</u>		89
<u>Disposition:</u>		
License suspended		48
License and Alcohol Permit suspended		1
Charges dismissed		1
Pending		38
Awaiting entry of order of sus- pension after guilty plea entered before hearing	1	
Heard, decision reserved	27	
Awaiting hearing	<u>10</u>	
	38	
Discontinued upon surrender of alcohol permit.		<u>1</u>
		89

The foregoing 89 cases involved 117 separate violations, as set forth below, comparing with a total of 95 cases involving 146 separate violations for the first half of the fiscal year 1938-39. Of the total number, 28 were Fair Trade cases in municipalities scattered throughout the State; 48 involved other charges against Newark licensees; and the balance involved licensees of various other municipalities throughout the State, the proceedings being conducted at the Department because the complaint had been made by a coordinate law enforcement agency (e.g., the Federal Alcohol Tax Unit), or the license had been issued directly by the Commissioner because a member of the municipal issuing authority was interested therein. Penalties preceded by an asterisk were imposed in cases where one or more additional charges were involved, and no separate penalty was imposed on the separate charges.

1. Sale of Alcoholic Beverages at Cut Rates in Violation of Fair Trade Regulations.

<u>Total number of charges brought</u>		28
<u>Disposition:</u>		
License suspended		19
Periods covered:		
35 days	1	
10 "	1	
5 "	<u>17</u>	
	19	
Pending		9
Heard, decision reserved	4	
Awaiting hearing	<u>5</u>	
	9	
		<u>28</u>

2. Employment of Female Bartenders and Waitresses (Not Including Hostesses -- See No. 9)

Total number of charges brought 17

Disposition:

License suspended		12	
Periods covered:			
*15 days	1		
7 "	1		
5 "	1		
*5 "	1		
3 "	8		
	<u>12</u>		
Pending		5	
Awaiting entry of order of sus-			
pension after guilty plea			
entered before hearing	1		
Heard, decision reserved	4		
	<u>5</u>		
		<u>17</u>	

3. Gambling, Slot Machines and Lotteries on the Licensed Premises.

Total number of charges brought 11

Disposition:

License suspended		7	
Periods covered:			
*15 days	1		
5 "	2		
*5 "	1		
3 "	3		
	<u>7</u>		
Pending, decision reserved		4	
		<u>11</u>	

4. Sale or Service of Alcoholic Beverages to Minors.

Total number of charges brought 9

Disposition:

License suspended		4	
Periods covered:			
*15 days	1		
10 "	1		
5 "	2		
	<u>4</u>		
Pending, decision reserved		5	
		<u>9</u>	

5. Fraud, Misrepresentation, False Statement, etc., in Application for License, Including Operation as a Front for Another.

Total number of charges brought 9

Disposition:

Pending		9	
Heard, decision reserved	6		
Awaiting hearing	3		
	<u>9</u>		

6. Sale of Alcoholic Beverages During Hours Prohibited by Municipal Ordinance, Resolution, Regulation or Referendum, Including Obstruction of Public View.
- |  |  |          |          |
|--|--|----------|----------|
| <u>Total number of charges brought</u> |  |          | 8        |
| <u>Disposition:</u>                    |  |          |          |
| License suspended                      |  |          | 7        |
| Periods covered:                       |  |          |          |
| 18 days                                |  | 1        |          |
| 5 "                                    |  | 5        |          |
| 3 "                                    |  | <u>1</u> |          |
|  |  | 7        |          |
| Pending, decision reserved             |  |          | <u>1</u> |
|  |  |          | 8        |
7. Permitting Prostitutes, Lewdness and Immoral Activities Upon the Licensed Premises.
- |  |  |          |          |
|--|--|----------|----------|
| <u>Total number of charges brought</u> |  |          | 6        |
| <u>Disposition:</u>                    |  |          |          |
| License suspended                      |  |          | 1        |
| Period covered:                        |  |          |          |
| 30 days                                |  | 1        |          |
| Pending                                |  |          | 5        |
| Heard, decision reserved               |  | 4        |          |
| Awaiting hearing                       |  | <u>1</u> |          |
|  |  | 5        |          |
|  |  |          | <u>6</u> |
8. Employment of Persons Ineligible to Hold a License by Reason of Age, Residence, Citizenship or Prior Conviction of Crime Involving Moral Turpitude.
- |  |  |  |          |
|--|--|--|----------|
| <u>Total number of charges brought</u> |  |  | 4        |
| <u>Disposition:</u>                    |  |  |          |
| Charges dismissed                      |  |  | 1        |
| Pending, decision reserved             |  |  | <u>3</u> |
|  |  |  | 4        |
9. Employment of Hostesses in Violation of Municipal Regulation.
- |  |  |  |   |
|--|--|--|---|
| <u>Total number of charges brought</u> |  |  | 4 |
| <u>Disposition:</u>                    |  |  |   |
| Pending, decision reserved             |  |  | 4 |
10. Sale of Alcohol Without Permit or in Violation of Limitations of Permit.
- |  |  |   |          |
|--|--|---|----------|
| <u>Total number of charges brought</u> |  |   | 4        |
| <u>Disposition:</u>                    |  |   |          |
| License suspended                      |  |   | 1        |
| Period covered:                        |  |   |          |
| 5 days                                 |  | 1 |          |
| Alcohol Permit suspended               |  |   | 1        |
| Period covered:                        |  |   |          |
| 5 days                                 |  | 1 |          |
| Pending, awaiting hearing              |  |   | 1        |
| Discontinued upon surrender of permit  |  |   | <u>1</u> |
|  |  |   | 4        |

11. Possession of Illicit Alcoholic Beverages.
- |  |   |          |
|--|---|----------|
| <u>Total number of charges brought</u> |   | 2        |
| <u>Disposition:</u>                    |   |          |
| License suspended                      |   | 1        |
| Period covered:                        |   |          |
| 30 days                                | 1 |          |
| Pending, decision reserved             |   | <u>1</u> |
|  |   | 2        |
12. Sale of Alcoholic Beverages to Non-Members by Club Licensee.
- |  |   |          |
|--|---|----------|
| <u>Total number of charges brought</u> |   | 2        |
| <u>Disposition:</u>                    |   |          |
| License suspended                      |   | 1        |
| Period covered:                        |   |          |
| 3 days                                 | 1 |          |
| Pending, decision reserved             |   | <u>1</u> |
|  |   | 2        |
13. Sale of Alcoholic Beverages on Election Day, Including Licensed Premises Open in Violation of Local Regulation.
- |  |   |          |
|--|---|----------|
| <u>Total number of charges brought</u> |   | 2        |
| <u>Disposition:</u>                    |   |          |
| License suspended                      |   | 1        |
| Period covered:                        |   |          |
| 5 days                                 | 1 |          |
| Pending, decision reserved             |   | <u>1</u> |
|  |   | 2        |
14. Sign Violations.
- |  |   |          |
|--|---|----------|
| <u>Total number of charges brought</u> |   | 2        |
| <u>Disposition:</u>                    |   |          |
| License suspended                      |   | 1        |
| Period covered:                        |   |          |
| 15 days                                | 1 |          |
| Pending, decision reserved             |   | <u>1</u> |
|  |   | 2        |
15. Sale of Alcoholic Beverages at a Combination Price.
- |  |  |   |
|--|--|---|
| <u>Total number of charges brought</u> |  | 2 |
| <u>Disposition:</u>                    |  |   |
| Pending, awaiting hearing              |  | 2 |
16. Permitting Known Criminals or Persons of Ill Repute Upon Licensed Premises.
- |  |  |   |
|--|--|---|
| <u>Total number of charges brought</u> |  | 1 |
| <u>Disposition:</u>                    |  |   |
| Charges dismissed                      |  | 1 |
17. Permitting Unnecessary Noise on Licensed Premises.
- |  |  |   |
|--|--|---|
| <u>Total number of charges brought</u> |  | 1 |
| <u>Disposition:</u>                    |  |   |
| Pending, decision reserved             |  | 1 |

- 18. Sale or Service of Alcoholic Beverages to Intoxicated Persons.  
Total number of charges brought 1  
Disposition:  
 Pending, decision reserved 1
- 19. Permitting Brawls on Licensed Premises.  
Total number of charges brought 1  
Disposition:  
 Pending, decision reserved 1
- 20. Hindering an Investigation or Inspection.  
Total number of charges brought 1  
Disposition:  
 Pending, decision reserved 1
- 21. Sale of Contraceptives on Licensed Premises.  
Total number of charges brought 1  
Disposition:  
 Pending, awaiting hearing 1
- 22. Offering a Discount with the Sale of Alcoholic Beverages for Off-Premises Consumption.  
Total number of charges brought 1  
Disposition:  
 Pending, awaiting hearing 1

Respectfully submitted,

Emerson A. Tschupp  
 Attorney

4. REPORT OF DISCIPLINARY PROCEEDINGS AGAINST LICENSEES TRANSMITTED BY THE DEPARTMENT TO MUNICIPAL ISSUING AUTHORITIES.

To: D. Frederick Burnett, Commissioner January 4, 1940  
From: Emerson A. Tschupp, Attorney

Period Covered  
July 1, 1939 to December 31, 1939

SUMMARY

Cases Transmitted 146

Disposition:

License suspended	85
Sentence suspended	1
Licensee reprimanded	2
Charges dismissed	7
Pending	47
Heard, decision reserved	13
Awaiting hearing	34
	<u>47</u>
Withdrawn and instituted at Department	1
Withdrawn	3
	<u>146</u>

The foregoing 146 cases involved 167 separate violations as set forth below, comparing with a total of 162 cases involving 189 violations for the first half of the fiscal year 1938-39. Penalties preceded by an asterisk were imposed in cases where one or more additional charges were involved, and no separate penalty was imposed on the separate charges.

1. Sale of Alcoholic Beverages During Hours Prohibited by Municipal Ordinance, Resolution, Regulation or Referendum, Including Obstruction of Public View.

Cases Transmitted 46

Disposition:

License suspended	22
Periods covered:	
*10 days	1
*7 "	3
6 "	1
5 "	11
3 "	2
2 "	2
*2 "	1
1 "	1
	<u>22</u>
Dismissed	1
Pending	23
Heard, decision reserved	10
Awaiting hearing	13
	<u>23</u>
	<u>46</u>

2. Gambling, Slot Machines and Lotteries on Licensed Premises.

Cases Transmitted 32

Disposition:

License suspended		21
Periods covered:		
30 days	1	
*30 "	2	
7 "	2	
*7 "	1	
5 "	3	
*5 "	1	
3 "	3	
2 "	7	
*2 "	1	
	<u>21</u>	
Sentence suspended		1
Dismissed		3
Pending		5
Heard, decision reserved	1	
Awaiting hearing	<u>4</u>	
	5	
Withdrawn and instituted at Department		1
Withdrawn		<u>1</u>
		32

3. Possession of Illicit Alcoholic Beverages.

Cases Transmitted 16

Disposition:

License suspended		10
Periods covered:		
30 days	2	
20 "	1	
15 "	2	
10 "	1	
6 "	1	
5 "	3	
	<u>10</u>	
Licensee reprimanded		1
Dismissed		3
Pending, awaiting hearing		<u>2</u>
		16

4. Sale or Service of Alcoholic Beverages to Minors.

Cases Transmitted 13

Disposition:

License suspended		7
Periods covered:		
90 days	1	
*30 "	1	
10 "	1	
*10 "	1	
9 "	1	
5 "	2	
	<u>7</u>	
Dismissed		1
Pending, awaiting hearing		4
Withdrawn		<u>1</u>
		13

5. Sale of Alcoholic Beverages on Election Day.

Cases Transmitted 11

Disposition:

License suspended		10	
Periods covered:			
30 days		1	
10 "		2	
*10 "		1	
5 "		2	
2 "		4	
		<u>10</u>	
Pending, awaiting hearing			<u>1</u>
			11

6. Sale of Alcoholic Beverages Beyond Scope of License (Excluding Sale to Non-Members by Club Licensees -- See No. 7).

Cases Transmitted 10

Disposition:

License suspended			6
Periods covered:			
30 days		1	
10 "		1	
*10 "		1	
5 "		1	
2 "		1	
1 "		1	
		<u>6</u>	
Pending			4
Heard, decision reserved		1	
Awaiting hearing		3	
		<u>4</u>	
			10

7. Sale of Alcoholic Beverages to Non-Members by Club Licensees.

Cases Transmitted 7

Disposition:

License suspended			6
Periods covered:			
*7 days		1	
5 "		2	
3 "		3	
		<u>6</u>	
Pending, decision reserved			<u>1</u>
			7

8. Fraud, Misrepresentation, False Statement, etc., in Application for License, Including Operation as a Front for Another.

Cases Transmitted 6

Disposition:

License suspended			2
Periods covered:			
50 days		1	
10 "		1	
		<u>2</u>	
Pending, awaiting hearing			2
Withdrawn			<u>2</u>
			6

9. Employment of Persons Ineligible to Hold a License by Reason of Age, Residence, Citizenship, or Prior Conviction of a Crime Involving Moral Turpitude.

Cases Transmitted 5

Disposition:

License suspended		4
Periods covered:		
*7 days	1	
5 "	1	
*5 "	1	
*2 "	1	
	<u>4</u>	

Withdrawn		<u>1</u>
		5

10. Hindering an Investigation or Inspection.

Cases Transmitted 4

Disposition:

License suspended		1
Period covered:		
*30 days	1	
Dismissed		1
Pending, awaiting hearing		<u>2</u>
		4

11. Permitting Lewdness and Immoral Activities Upon the Licensed Premises.

Cases Transmitted 3

Disposition:

License suspended		2
Period covered:		
10 days	2	
Pending, awaiting hearing		<u>1</u>
		3

12. Mislabeled Beer Tabs.

Cases Transmitted 3

Disposition:

License suspended		2
Periods covered:		
2 days	1	
*2 "	<u>1</u>	
	2	
Sentence suspended		<u>1</u>
		3

13. Employment of Females (Except Hostesses -- See No. 15) in Violation of Municipal Regulations, Including Permitting Women in Barrooms.

Cases Transmitted 3

Disposition:

License suspended		1
Period covered:		
2 days	1	
Pending, awaiting hearing		<u>2</u>
		3

14. Serving Alcoholic Beverages Other Than Ordered.

Cases Transmitted 2

Disposition:

License suspended 2

Periods covered:

3 days 1

\*2 " 1

2

15. Employment of Hostesses in Violation of Municipal Regulation.

Cases Transmitted 1

Disposition:

License suspended 1

Period covered:

\*2 days 1

16. Sign Violations.

Cases Transmitted 1

Disposition:

License suspended 1

Period covered:

\*2 days 1

17. Unlawful Transportation of Alcoholic Beverages.

Cases Transmitted 1

Disposition:

Licensee reprimanded 1

18. Sale of Contraceptives on Licensed Premises.

Cases Transmitted 1

Disposition:

License suspended 1

Period covered:

5 days 1

19. Possession of Indecent Advertising Matter.

Cases Transmitted 1

Disposition:

Pending, awaiting hearing 1

20. Permitting Brawls on Licensed Premises.

Cases Transmitted 1

Disposition:

Pending, awaiting hearing 1

21. Bingo Games Permitted in Barroom.

Cases Transmitted 1

Disposition:

License suspended 1

Period covered:

\*2 days 1

Respectfully submitted,

Emerson A. Tschupp  
Attorney

5. REPORT OF DISCIPLINARY PROCEEDINGS AGAINST LICENSEES  
INSTITUTED BY MUNICIPALITIES ON THEIR OWN INITIATIVE  
SO FAR AS PRESENTLY REPORTED.

To: D. Frederick Burnett, Commissioner  
From: Emerson A. Tschupp, Attorney

January 4, 1940

Period Covered  
July 1, 1939 to December 31, 1939

Cases Instituted 40

Disposition:

License revoked	3
License suspended	27
Charges dismissed	4
Licensee reprimanded	6
	40

The foregoing 40 cases involved 44 violations as set forth below:

<u>Municipality</u>	<u>No. of Cases</u>	<u>Charge</u>	<u>Disposition</u>
Atlantic City	1	Permitting excessive noise.	Dismissed
Camden	1	Conducting licensed business as a nuisance.	Licensee reprimanded
	2	Permitting excessive noise.	Licensee reprimanded
	1	Permitting brawl on licensed premises.	License suspended 14 days
Cape May Stone Harbor	2	Sale of alcoholic beverages during prohibited hours.	License suspended 1 day
Wildwood	1	Sale of alcoholic beverages during prohibited hours.	License suspended 1 day
Clementon	2	Sale of alcoholic beverages to minors.	License suspended 123 days
Ewing	1	Sale of alcoholic beverages on Election Day.	Licensee reprimanded
Fort Lee	1	Licensed premises open during prohibited hours.	License revoked
Garwood	2	Sale of alcoholic beverages to minors.	Dismissed
	1	Sale of alcoholic beverages during prohibited hours.	License suspended 1 day
Green Brook	2	Licensed premises open during prohibited hours.	Licensee reprimanded

<u>Municipality</u>	<u>No. of Cases</u>	<u>Charge</u>	<u>Disposition</u>
Hoboken	1	Sale of alcoholic beverages to a minor and employment of unqualified person.	License suspended 10 days
Jersey City	11	Sale of alcoholic beverages during prohibited hours.	License suspended 3 days
	1	Sale of alcoholic beverages during prohibited hours.	License suspended 5 days
	1	Failure to file notice of change in facts in license application; person interested in license also interested in wholesale license; employment of unregistered bartender.	License revoked
Lawrence (Mercer Co.)	3	Sale of alcoholic beverages during prohibited hours.	License suspended 5 days
	1	Sale of alcoholic beverages and failure to afford public view during prohibited hours.	License suspended 10 days
Linden	1	Permitting licensed business to be conducted as a nuisance.	Dismissed
Mountain Lakes	1	Sale of alcoholic beverages during prohibited hours.	License suspended 2 days
Ocean County Toms River	1	Permitting gambling on licensed premises.	License suspended 10 days
Passaic	1	Permitting gambling on licensed premises.	License suspended 20 days
South Plainfield	1	Sale of alcoholic beverages during prohibited hours.	License revoked

Respectfully submitted,

Emerson A. Tschupp  
Attorney

6. DISQUALIFICATION - APPLICATION TO LIFT - DENIED.

In the Matter of an Application )  
to Remove Disqualification be- )  
cause of a Conviction, pursuant )  
to R. S. 33:1-31.2 (as amended by )  
Chapter 350, P. L. 1938) )

CONCLUSIONS  
AND ORDER

Case No. 72 )  
-----

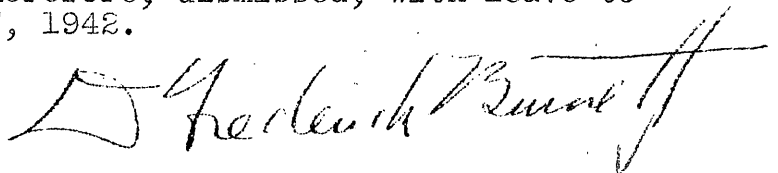
BY THE COMMISSIONER:

On April 21, 1933 petitioner was arrested on a charge of breaking and entering; on May 17, 1933 he was convicted on said charge and sentenced to serve an indeterminate sentence in a reformatory; on April 11, 1934 he was paroled.

Although petitioner was under the age of eighteen at the time he committed the crime, it appears that, during the preceding two years, he had been twice charged with juvenile delinquency, involving similar charges of breaking and entering, sentenced on the first occasion to a City Home and on the second occasion to a State Home for Boys. The case, therefore, is not within the ruling laid down in Re Hearing 146, Bulletin 167, Item 4, wherein I excused a boy, just past his seventeenth birthday, who had been convicted of taking an automobile for a "joy ride" and held that his crime, in view of his youth, did not involve moral turpitude. That decision was intended to apply only to cases where the conviction, which occurred before the person was eighteen years of age, was the only blot upon his record. Under such circumstances I concluded that a single thoughtless offense committed in early youth should not be a fatal and permanent barrier to present employment where it appeared that the individual had turned over a new leaf and gone straight ever since. In the present case the record shows that the offense committed on April 21, 1933 was the third of a similar character, and hence I find that the crime involved moral turpitude.

It appears, moreover, that, on January 27, 1937, petitioner and several other young men assigned to a C.C.C. Camp were arrested on a charge of petty larceny, involving the theft of Government property. Petitioner was thereafter found guilty on said charge before a local magistrate, and sentenced to a county jail for thirty days. It thus appears that petitioner has not conducted himself in a law-abiding manner for at least five years last past.

The petition is, therefore, dismissed, with leave to renew on or after January 27, 1942.



Commissioner.

Dated: January 10, 1940.

New Jersey State Library