

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

BULLETIN 499

MARCH 20, 1942.

1. DISCIPLINARY PROCEEDINGS - FRONT - FALSE STATEMENT IN LICENSE APPLICATION - AIDING AND ABETTING NON-LICENSEES TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE (UNDISCLOSED PERSONS QUALIFIED) - CIRCUMVENTION OF CONSIDERED ACTION OF ISSUING AUTHORITY - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO PETITION TO LIFT UPON EXPIRATION OF 30 DAYS UPON SATISFACTORY PROOF OF BONA FIDES OF LICENSE TRANSFER.

In the Matter of Disciplinary)
Proceedings against)
DIEGO BARRESI,)
T/a MIZPAH HOTEL,)
S. W. Cor. Estelle Ave., St. Hwy.)
Rte. No. 48,)
Hamilton Township (Atlantic County),)
P.O. Mizpah, New Jersey,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-27, issued by the Township)
Committee of the Township of Hamilton)
(Atlantic County), and transferred)
during the pendency of these pro-)
ceedings to)
ALMEDA HARRIS)
for the same premises.)
-----)

Diego Barresi, Defendant-Licensee, Pro Se.
Abraham Merin, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Licensee is charged with:

- (1) Falsely stating in his license application that no person other than himself had any interest in his license or business, whereas Almeda Harris and Domenic Repici had such interest, in violation of R. S. 33:1-25; and
- (2) Permitting Almeda Harris and Domenic Repici, non-licensees, to exercise the privileges of his license contrary to R. S. 33:1-26, in violation of R. S. 33:1-52.

Licensee pleaded guilty to the charges and frankly admitted that since July 21, 1941, when the license was issued, he has been acting as a "front" for Almeda Harris and Domenic Repici. The testimony discloses that, some time prior to July 1941, Repici applied for a license for the premises in question. This application was refused because his wife then held a liquor license for other premises in the municipality and the issuing authority was opposed to granting more than one license to the same family. Thereafter, Repici caused Almeda Harris to file an application for the same premises. Her application was likewise refused apparently because her mother had theretofore held a liquor license which, for financial

reasons, she was compelled to surrender, and the local authority feared that Almeda Harris would prove no more capable of operating a tavern than had her mother. Repici and Harris thereafter prevailed upon Diego Barresi to take out a license in his name and hold it for them.

Both Almeda Harris and Domenic Repici appear to be fully qualified to become liquor licensees in their own right. There is nothing in the record to show that their applications were denied because of any personal unfitness on their part to hold a liquor license. Indeed, as to Almeda Harris, the license in question has, since the hearing in this matter, been transferred to her despite the denial of her previous application.

The case, nevertheless, presents a situation involving a serious fraud upon the issuing authority. Both undisclosed principals, after having been refused a license, employed a deliberate subterfuge for the purpose of circumventing the considered action of the issuing authority. Under the circumstances, if proof of correction of the unlawful situation had been submitted, I would suspend the license for a period of thirty days.

The license in question has been transferred to Almeda Harris, subject, however, to any penalty inflicted in these proceedings. No proof of the bona fides of such transfer has as yet been adduced. Since the business cannot be permitted to continue unless and until I am satisfied that Almeda Harris is the sole and rightful owner thereof, the license must be suspended for the balance of its term. The present licensee will be given an opportunity to prove that the transfer has been made in good faith and if such showing is made, the suspension will be vacated. In no event, however, will the suspension be vacated prior to the expiration of thirty days from the effective date of the suspension imposed herein. The law must be observed.

Accordingly, it is, on this 6th day of March, 1942,

ORDERED, that Plenary Retail Consumption License C-27, heretofore issued to Diego Barresi, T/a Mizpah Hotel, by the Township Committee of the Township of Hamilton (Atlantic County), for premises S/W Cor. Estelle Ave., St. Hwy. Rte. No. 48, Hamilton Township (Atlantic County), and transferred during the pendency of these proceedings to Almeda Harris, for the same premises, be and the same is hereby suspended for the balance of its term, effective March 10, 1942, at 4:00 A.M.; and it is further

ORDERED, that when satisfactory proof of the bona fides of the transfer to Almeda Harris is presented to me, the aforesaid suspension may be vacated, provided, however, that said suspension will not be vacated prior to the expiration of thirty days from the effective date of the suspension imposed herein.

ALFRED E. DRISCOLL,
Commissioner.

2. ACTIVITY REPORT FOR FEBRUARY, 1942

To: Alfred E. Driscoll, Commissioner

ARRESTS: Licensees and employees - - - - 5 Bootleggers - - - - 21
 Total number of persons arrested - - - - 26

SEIZURES: Stills - 1 to 50 gallons daily capacity - - - - 3
 50 gallons and more daily capacity - - - - 0
 Total number of stills seized - - - - 3
 Mash - gallons - - - - 0
 Motor vehicles - Trucks - - - - 0
 Passenger cars - - - - 0
 Total number of motor vehicles seized - - - - 0
 Beverage alcohol - gallons - - - - 89
 Brewed malt alcoholic beverages (beer, ale, etc.) - gallons - - - 30.48
 Wine - gallons - - - - 330.33
 Distilled alcoholic beverages (whiskey, brandy, etc.) - gallons - 0

RETAIL LICENSEES:

Number of premises in which were found:
 Illicit (bootleg) liquor - 8 "Fronts" (concealed ownership) - - - 2
 Gambling devices - - - - 2 Improper beer tap markers - - - - 0
 Prohibited signs - - - - 2 Stock disposal permits necessary - - 5
 Unqualified employees - - 94 Other types of violations - - - - 3
 Total number of premises where violations were found - - - - 114
 Total number of premises inspected - - - - 1,659
 Total number of unqualified employees found - - - - 122
 Total number of bottles gauged - - - - 14,874

STATE LICENSEES:

Premises inspected - - - - 30
 License applications investigated - - - - 13

COMPLAINTS:

Investigated, reviewed and closed - - - - 139
 Investigation assigned, not yet completed - - - - 612

LABORATORY:

Analyses made - - - - 149
 "Shake-up" cases (alcohol, water and artificial coloring) - - - - 12
 Liquor found to be not genuine as labeled - - - - 14

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made - - - - 20
 Persons fingerprinted for non-criminal purposes - - - - 85
 Identification contacts with other enforcement agencies - - - - 59
 Motor vehicle identifications via N. J. State Police Teletype - - 7

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - 36
 Cases instituted at Department - - - - 18

HEARINGS HELD AT DEPARTMENT:

Appeals - - - - 3 Tax revocations - - - - 11
 Disciplinary proceedings - - - 20 Seizures - - - - 8
 Eligibility - - - - 6
 Total number of hearings held - - - - 48

PERMITS ISSUED:

Unqualified employees - - - - 508
 Solicitors - - - - 71
 Social affairs - - - - 202
 Home manufacture of wine - - - - 51
 Disposal of alcoholic beverages - - - - 70
 Miscellaneous permits - - - - 152
 Total number of permits issued - - - - 1,054

Respectfully submitted,
 E. W. GARRETT,
 Chief Deputy Commissioner.

3. DISCIPLINARY PROCEEDINGS - SLOT MACHINE - 10 DAYS' SUSPENSION - POSSESSION OF LOTTERY TICKETS IN VIOLATION OF RULE 7, STATE REGULATIONS NO. 20 - 5 DAYS' SUSPENSION - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS - PREVIOUS RECORD - 15 DAYS' SUSPENSION - FAILURE TO CLOSE LICENSED PREMISES IN ACCORDANCE WITH LOCAL ORDINANCE - 5 DAYS' SUSPENSION - TOTAL: 35 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against

LOUIS BALOG,
331 Chamber Street,
Phillipsburg, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-43 issued by the Board of Commissioners of the Town of Phillipsburg.

Frank J. Kingfield, Esq., Attorney for Defendant-Licensee.
Abraham Merin, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee has pleaded guilty to charges alleging that: (1 and 2) On June 29, 1941 he possessed a device in the nature of a slot machine, in violation of Rule 8 of State Regulations No. 20 and a device designed for the purpose of gambling in violation of Rule 7 of State Regulations No. 20; (3) on June 28, 1941 he permitted devices designed for pool-selling on his licensed premises in that he possessed three lottery tickets and a report of Italian Tax Disbursement in violation of Rule 7 of State Regulations No. 20; (4) on Sunday, June 29, 1941, he sold alcoholic beverages in violation of a referendum held in the Town of Phillipsburg on November 6, 1934; and (5) on Sunday, June 29, 1941 he failed to close his licensed premises after 1:00 A.M. in violation of a local ordinance.

The file shows that, on Sunday, June 29, 1941, at about 12:40 P.M., two investigators of this Department entered the licensed premises and saw defendant serving glasses of beer to four patrons. They also found a Mills "1-2-3" machine, three lottery slips and a report of Italian Tax Disbursement, dated June 28, 1941, on the licensed premises.

As to penalty:

Charges 1 and 2 involve a single violation. I shall impose the usual penalty of suspension for ten days on these charges.

An additional penalty of suspension for five days will be imposed on charge 3.

Charge 4 involves a sale in violation of a referendum and the usual penalty for a first violation of this nature is suspension for ten days. However, in March 1939, defendant's license was suspended for two days for a similar violation, and hence I shall increase the usual penalty and impose a suspension of fifteen days on charge 4.

A further penalty of suspension for five days will be imposed on charge 5.

Thus, the penalties imposed herein will total thirty-five days less five days for the guilty plea, making a total suspension of thirty days.

Accordingly, it is, on this 7th day of March, 1942,

ORDERED, that Plenary Retail Consumption License C-43, heretofore issued to Louis Balog for premises at 331 Chamber Street, Phillipsburg, be and the same is hereby suspended for a period of thirty (30) days, commencing March 12, 1942, at 1:00 A.M. and terminating April 11, 1942, at 1:00 A. M.

ALFRED E. DRISCOLL,
Commissioner.

4. DISCIPLINARY PROCEEDINGS - LICENSEE CHARGED WITH POSSESSION OF ILLICIT ALCOHOLIC BEVERAGES AND REFILLING TWO BOTTLES THEREOF - DESTRUCTION OF BEVERAGE DEPRIVED DEFENDANT OF REASONABLE OPPORTUNITY TO HAVE HIS CHEMIST ANALYZE THE SAME UNDER SUPERVISION OF DEPARTMENT - PROCEEDINGS DISMISSED.

DECISION IN THIS CASE NOT A PRECEDENT IN CASES WHERE REASONABLE OPPORTUNITY IS AFFORDED AFTER SERVICE OF CHARGES, OR IN ANY OTHER TYPE OF CASE.

In the Matter of Disciplinary)
Proceedings against)

NAT S. KRANTZ,)
421-423 Broad Street and)
14-16 Plane Street,)
Newark, N. J.,)

ORDER

Holder of Plenary Retail Consump-)
tion License C-507, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark.)

Sidney Simandl, Esq., Attorney for Defendant-Licensee.
Abraham Merin, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

In this case charges have been preferred against the licensee alleging (1) that, on or about March 10, 1941, he possessed illicit alcoholic beverages in that two bottles found on his premises contained alcoholic beverages which varied from genuine samples used for comparative purposes in proof, color and solid content, in violation of R. S. 33:1-50, and (2) that, without holding a proper license therefor, he refilled the aforesaid bottles.

These charges followed the seizure on the above date of the bottles in question by an agent of the Federal Alcohol Tax Unit and the submission of an analysis by a chemist of that Unit to the Department of Alcoholic Beverage Control, indicating that the liquor contained therein was not genuine as labeled. There is no other evidence in support of the charges.

Immediately prior to the hearing scheduled for the 25th of February, 1942, it was reported to me by counsel representing the Department that several days after the charges were served, and prior to the receipt of a copy of same by the Alcohol Tax Unit, the latter had destroyed the seized bottles and the contents thereof, apparently in the belief that they were no longer needed.

In cases of the character now before me, and in this type of case alone, the crux of the violation is the fact that the bottles in question have apparently been refilled and contain liquor other than that described on the label. Where the Department's only proof on this issue is the beverage itself and a chemical analysis thereof, ordinary principles of fair play dictate that the liquor be preserved to afford the defendant a reasonable and timely opportunity, after charges have been served upon him, to have his own chemist, under proper supervision of this Department, analyze the liquor. Otherwise, he is in effect being deprived of a fair opportunity to defend, since the case would virtually stand as having already been tried out against him in the laboratory of the chemist for the prosecution without effective means reserved to the defendant to check against that chemist's analysis.

This Department, while firmly committed to rigid prosecution, is equally devoted to the principle that the prosecution proceed with traditional regard for the defendant's rights. Fair play is essential.

Hence, whatever may be my suspicion as to the defendant's guilt, I shall, on my own motion in this case, halt these proceedings.

It should be clearly understood that this decision on my part is not to be taken as authority in any manner whatsoever for a dismissal in those cases where the Department is prepared to produce other evidence outside the chemical analysis of the liquor to prove the possession of illicit liquor or the fact of refilling. Nor is this decision to be regarded as authority for dismissal in those cases where the defendant has had a reasonable and timely opportunity to request an analysis of the seized liquor. It is equally important to note that this decision does not apply to other types of violation as, for example, sales to minors or after hours. While these cases may involve a somewhat analogous question as to whether the beverage sold or served was alcoholic, the mere fact that the beverage is not available does not destroy the case for invariably in those cases there is competent, extrinsic evidence on the question, namely, that the customer ordered an alcoholic beverage and was served pursuant thereto.

In view of the foregoing, it is, on this 7th day of March, 1942,

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

ALFRED E. DRISCOLL,
Commissioner.

5. DISCIPLINARY PROCEEDINGS - SLOT MACHINE - 10 DAYS' SUSPENSION,
LESS 5 FOR GUILTY PLEA.

In, the Matter of Disciplinary)
Proceedings against)

AMERICAN MECHANICS CLUB, INC.,)
421 - 15th Street,)
Union City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-2,)
issued by the Board of Commis-)
sioners of the City of Union City.)
- - - - -)

Edward C. Gunther, Esq., Attorney for Defendant-Licensee.
Abraham Merin, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Licensee pleaded guilty to charges alleging that on December 12, 1941, and prior thereto, it possessed a "Mills" pull handle jackpot slot machine, a device and apparatus designed for the purpose of gambling, in violation of Rules 7 and 8 of State Regulations No. 20.

It appears from the Department file that, during the course of a routine inspection on December 12, 1941, investigators found a five-cent jackpot slot machine concealed in a cabinet in the hallway of the licensed premises. This machine is commonly known as a "one-armed bandit." Cf. Re Ukrainian National Home, Bulletin 433, Item 10.

The fact that licensee held a Federal Tax Stamp for the gaming device does not excuse the offense. Its mere possession on licensed premises, without more, constitutes a violation. Re B.P.O. Elks, Englewood, Bulletin 492, Item 6.

Licensee has no previous record. In view of the guilty plea, five days of the usual ten-day penalty for a first offense of this kind will be remitted, leaving a net of five days. Re B.P.O. Elks, Englewood, supra.

Accordingly, it is, on this 9th day of March, 1942,

ORDERED, that Club License CB-2, heretofore issued to American Mechanics Club, Inc. by the Board of Commissioners of the City of Union City for premises at 421 - 15th Street, Union City, be and the same is hereby suspended for a period of five (5) days, commencing March 16, 1942, at 3:00 A.M. and concluding March 21, 1942, at 3:00 A. M.

ALFRED E. DRISCOLL,
Commissioner.

6. DISCIPLINARY PROCEEDINGS - FALSE STATEMENTS IN LICENSE APPLICATIONS - INFORMATION DISCLOSED IN ANSWER TO OTHER QUESTIONS - NO EVIDENCE THAT ISSUING AUTHORITY WAS MISLED IN GRANTING RENEWAL, NONETHELESS LICENSEES ARE STRICTLY ACCOUNTABLE FOR FALSE STATEMENTS - 3 DAYS' SUSPENSION - SALE ON LICENSED PREMISES DURING PROHIBITED HOURS - PREVIOUS DISSIMILAR VIOLATION - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA - TOTAL: 8 DAYS' SUSPENSION.

In the Matter of Disciplinary
Proceedings against

JOHN REVALLO,
T/a JOHN REVALLO CAFE,
1186 Mechanic Street,
Camden, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-195, issued by the
Municipal Board of Alcoholic
Beverage Control of the City of
Camden.

C. Richard Allen, Esq., Attorney for Defendant-Licensee.
G. George Addonizio, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The following charges were served upon the licensee:

"1. In your applications for license dated June 29, 1939, June 12, 1940 and June 19, 1941, filed with the Municipal Board of Alcoholic Beverage Control of the City of Camden, upon which Plenary Retail Consumption Licenses C-202, C-117 and C-195 for the years 1939-40, 1940-41 and 1941-42 were granted, you falsely stated 'No' in answer to Question 37 therein which asks: 'Have you *** ever had any interest *** in any *** alcoholic beverage license in New Jersey which was *** suspended***?', whereas in truth and fact your license was suspended by the Municipal Board of Alcoholic Beverage Control of the City of Camden for five days, effective June 19, 1939, for possession of illicit alcoholic beverages in violation of R. S. 33:1-50 and by the State Commissioner of Alcoholic Beverage Control for ten days, effective November 20, 1939, for sale of alcoholic beverages below the Fair Trade price in violation of Rule 6 of State Regulations No. 30; said false statements being in violation of R. S. 33:1-25.

"2. On Sunday, May 11, 1941, at or about 11:25 A. M., you sold, served and delivered, and suffered and permitted the sale, service and delivery of alcoholic beverages on your licensed premises, directly and indirectly in violation of Section 5 of an Ordinance entitled, 'An Ordinance to Fix License Fees, to Regulate The Sale and Distribution of Alcoholic Beverages and To Provide Penalties For Violations Thereof,' adopted by the Board of Commissioners of the City of Camden on December 27, 1934, which Section prohibits the sale of alcoholic beverages after 2:00 A. M. on Sunday."

Licensee pleaded not guilty as to the first charge and guilty as to the second charge.

As to charge (1): The records of this Department show that the license held by defendant for the fiscal year 1938-1939 was suspended by the Municipal Board of Alcoholic Beverage Control of the City of Camden for five days, effective June 19, 1939, for possession of illicit alcoholic beverages. The charges served upon defendant allege that, in his application dated June 29, 1939, he falsely answered Question 37 therein. This is an evident error, because as appears from the certified copy of said application received from the City Clerk of Camden which agrees with the form then in use (Bulletin 237, Item 2), Question 37 reads as follows:

"37. Do you or any person mentioned in this application owe the State of New Jersey any tax, penalty or interest which has accrued pursuant to the Alcoholic Beverage Tax Law, or any State law dealing with alcoholic beverages or the payment of taxes thereon?"

Defendant answered "No" to said question and there is no evidence that the answer was incorrect. Apparently, the charges were intended to charge defendant with falsely answering Question 36 in said application which reads as follows:

"36. Have you or has any person mentioned in this application ever had any interest, directly or indirectly, in any application for an alcoholic beverage license in New Jersey which was denied, or which, if granted, was surrendered, suspended or revoked?"

Defendant answered "No" to said question. This answer was incorrect because of the suspension imposed on June 19, 1939. Defendant does not contend that he was misled by the error in the charge but contends that he disclosed the required information in answering Question 30 in said application as follows:

"30. Have you or has any person mentioned in this application ever been convicted of or committed any violation of the Alcoholic Beverage Control Act (P. L. 1933, c. 436 as amended and supplemented) or R.S. Title 33, c. 1? Yes. If so, state details as to each violation, giving date and nature thereof and if conviction was entered, the Court in which sentence was imposed. Bottle marked wrong. Closed 4 days June 1939. Mun. Board Alcoholic Bev. Control."

Despite the fact that the required information was substantially set forth in answering Question 30, it appears, nevertheless, that Question 36 contained a false answer and defendant is guilty as to his application dated June 29, 1939. The disclosure in Question 30 will be considered in fixing a penalty.

It further appears from the records of this Department that the license for the fiscal year 1939-1940 held by defendant was suspended for a period of ten days, effective November 20, 1939, because of a Fair Trade violation. Bulletin 362, Item 1. The form of application for licenses for the fiscal year 1940-41 was changed on April 8, 1940 (Bulletin 395) so that Question 37 therein is the same as that substantially set forth in charge (1). It is admitted that the application for renewal for the fiscal year 1940-1941, which

application is dated June 12, 1940, did not disclose either the suspension imposed on June 19, 1939 or the suspension effective November 20, 1939. Licensee testified that said application was filled out by an employee in the office of the City Clerk of Camden and that he signed and swore to the application without reading it. This, of course, is no excuse and I conclude that the application dated June 12, 1940 contained false statements as alleged in charge (1).

The form of application for renewal of license for the fiscal year 1941-1942 remained unchanged as to Question 37 from that used for the prior fiscal year. In his application for renewal for 1941-1942 dated June 19, 1941, defendant answered "No" to Question 37. However, it appears that Question 31 in said application was answered as follows:

"31. Have you or any person mentioned in this application ever been convicted of or committed any violation of the Alcoholic Beverage Control Act (P. L. 1933, c. 436 as amended and supplemented) or R. S. Title 33, c. 1? Yes. If so, state details as to each violation, giving date and nature thereof and if conviction was entered, the court in which sentence was imposed. 1939 June 19 - under proof 3 Days. 1939 Mar. 11 - Fair Trade 10 Days."

Despite the fact that the required information was substantially set forth in answering Question 31, it appears, nevertheless, that Question 37 contained a false answer and defendant is guilty as to his application dated June 19, 1941. The disclosure in answering Question 31 will be considered in fixing a penalty.

There is no evidence in this case to show that the issuing authorities were misled in granting any renewal. If there were any such evidence, I would impose a substantial penalty. However, licensees must learn to answer questions correctly and must realize that they will be held to strict accountability for any false statements in applications. Taking into consideration the fact that the correct information was set forth in answer to other questions in two of the three applications, I shall suspend defendant's license for three days on the finding of guilt as to charge (1).

As to charge (2): In view of the guilty plea, I have examined the reports of the investigators, which show that on Sunday, May 11, 1941, at about 11:25 A.M., they found three men and one woman seated at a table in the service room of the licensed premises and saw, on the table, one glass full and one glass one-half full of beer. In a statement taken from the licensee's wife at that time, she admitted that she had served four beers to friends but had made no charge for the beer. Delivery or gift of alcoholic beverages by a licensee constitutes a sale and, moreover, the ordinance in question prohibits the service and delivery of alcoholic beverages on licensed premises during the prohibited hours. There is no exception in favor of service to friends of the licensee. The minimum penalty for selling during prohibited hours is five days. However, defendant has previously been found guilty of two dissimilar violations. In view of his past record, I shall suspend defendant's license for ten days on charge (2). Five days of said suspension will be remitted because of his guilty plea as to this charge, thus reducing the suspension to five days on charge (2), and making a total suspension of eight days on charges (1) and (2).

Accordingly, it is, on this 9th day of March, 1942,

ORDERED, that Plenary Retail Consumption License C-195, heretofore issued to John Revallo, t/a John Revallo Cafe, by the Municipal Board of Alcoholic Beverage Control of the City of Camden for premises at 1186 Mechanic Street, Camden, be and the same is hereby suspended for a period of eight (8) days, commencing March 16, 1942, at 2:00 A.M. and terminating March 24, 1942, at 2:00 A. M.

ALFRED E. DRISCOLL,
Commissioner.

7. DISCIPLINARY PROCEEDINGS - EMPLOYMENT OF DISQUALIFIED PERSON
(NON-CITIZENSHIP) - 5 DAYS' SUSPENSION, LESS 2 FOR GUILTY PLEA.

DISCIPLINARY PROCEEDINGS - SALE AND SERVICE BY ALIEN PERMITTEE
CONTRARY TO CONDITIONS OF EMPLOYMENT PERMIT - 30 DAYS' SUSPENSION,
LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary
Proceedings against

ISABELLA M. MANCUSO,
T/a FAIRMOUNT TAVERN,
2300 Fairmount Ave.,
Atlantic City, N. J.,

Holder of Plenary Retail Consump-
tion License C-61, issued by the
Board of Commissioners of the
City of Atlantic City,

-and-

ANGELO MANCUSO,
2300 Fairmount Ave.,
Atlantic City, N. J.,

Holder of Employment Permit
No. 327, issued by the State
Commissioner of Alcoholic
Beverage Control.

CONCLUSIONS
AND ORDER

Vincent S. Haneman, Esq., Attorney for both defendants.
G. George Addonizio, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleaded guilty to a charge of permitting Angelo Mancuso, an alien employee, who is the holder of an employment permit for a person disqualified by non-citizenship, to sell alcoholic beverages, in violation of Rule 3 of State Regulations No. 11. Defendant-permittee pleaded guilty to a charge of selling alcoholic beverages contrary to the condition upon which his employment permit was issued.

The file discloses that, on December 12, 1941, an investigator of this Department purchased a glass of whiskey from Angelo Mancuso, who was then behind the bar. The investigator likewise saw the employee serve a glass of whiskey to another customer. The employment permit issued to Angelo Mancuso is conditioned that the permittee shall not "serve or solicit the sale --- of any alcoholic beverage."

Isabella M. Mancuso, the licensee, stated to the investigator that whenever it was necessary for her to do any house work, her husband, Angelo, would take care of the bar. Even if the violation was an isolated one, as to which there may be some doubt, that is no excuse. The permittee may not exceed the terms of his permit under any circumstances.

I shall impose the usual minimum penalties for these violations, namely, a suspension of five days against the licensee and thirty days against the permittee. In view of the guilty plea, two days and five days will be remitted. Re Broodwinner, Bulletin 477, Item 3.

In Case No. 74, Bulletin 398, Item 10, the statutory disqualification against Angelo Mancuso, because of his conviction of a crime in 1925, was lifted. In this proceeding he was ordered to show cause why the order therein entered should not be vacated and set aside. The order referred to was not conditioned on future good conduct. If the permittee is hereafter convicted of a crime involving moral turpitude, he becomes ineligible thereby. If he further violates the terms of his permit, I can, in a proper case, revoke the permit. There appears to be no necessity for considering the question of my power to set aside and vacate the order removing disqualification. There are other and sufficient remedies which may be applied in a proper case. Under the circumstances, the order to show cause is dismissed.

Accordingly, it is, on this 13th day of March, 1942,

ORDERED, that Plenary Retail Consumption License C-61, issued by the Board of Commissioners of the City of Atlantic City to Isabella M. Mancuso, t/a Fairmount Tavern, for premises 2300 Fairmount Avenue, Atlantic City, be and the same is hereby suspended for a period of three (3) days, commencing March 17, 1942, at 8:00 A. M. and ending at 8:00 A.M. March 20, 1942; and it is further

ORDERED, that Employment Permit No. 327, issued by the State Commissioner of Alcoholic Beverage Control to Angelo Mancuso, be and the same is hereby suspended for a period of twenty-five (25) days, commencing March 17, 1942, at 8:00 A. M. and ending at 8:00 A. M. April 11, 1942.

ALFRED E. DRISCOLL,
Commissioner.

8. DISCIPLINARY PROCEEDINGS - EMPLOYMENT OF DISQUALIFIED PERSON
(NON-CITIZENSHIP) - 5 DAYS' SUSPENSION, LESS 2 FOR GUILTY PLEA.

DISCIPLINARY PROCEEDINGS - SALE AND SERVICE BY ALIEN PERMITTEE
CONTRARY TO CONDITIONS OF EMPLOYMENT PERMIT - 30 DAYS' SUSPENSION,
LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary
Proceedings against

ARNOLD REICH,
552 South Orange Avenue,
Newark, N. J.,

Holder of Plenary Retail Consump-
tion License C-896, issued by the
Municipal Board of Alcoholic
Beverage Control of the City of
Newark,

-and-

ROSE REICH,
552 South Orange Avenue,
Newark, N. J.,

Holder of Employment Permit
No. 7270, issued by the State
Commissioner of Alcoholic
Beverage Control.

CONCLUSIONS
AND ORDER

Sidney Simandl, Esq., Attorney for Defendant-Licensee and
Defendant-Permittee.

G. George Addonizio, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant-licensee is charged with permitting Rose Reich, an alien employee, who is the holder of an employment permit for a person disqualified by reason of non-citizenship, to sell alcoholic beverages, in violation of Rule 3 of State Regulations No. 11. The defendant-permittee is charged with selling and serving alcoholic beverages contrary to the condition upon which her employment permit was issued. Guilty pleas have been entered by both the licensee and the permittee. Since both proceedings have arisen out of the same occurrence, both matters will be treated and disposed of herein.

The Department file discloses that on October 24, 1941, during a routine inspection, investigators found Rose Reich, wife of the licensee, employed on the licensed premises without a permit. Licensee acknowledged the unlawful employment in writing and was directed to have his wife obtain the necessary permit, which was done. Such permit is conditioned that the permittee shall not "serve, sell or solicit the sale.....of any alcoholic beverage."

On November 25, 1941 investigators visited the licensed premises about 5:40 P. M. The licensee was behind the bar eating his dinner. The investigators gave Rose Reich an order for two drinks of liquor, which order she communicated to the licensee who served the drinks. While consuming these drinks, another patron entered the premises and was served a glass of beer by Rose Reich. The investigators then each ordered another drink, which was also served by the permittee.

Licensee contends that the occurrence was an isolated one and that the permittee had never theretofore served or sold any alcoholic beverages. Even if true, this does not excuse the subsequent violation. The fact that licensee may have been advised by his doctor to eat hot dinners did not present any emergency compelling either the licensee to violate Rule 3 of State Regulations No. 11 or the permittee to violate the terms of her permit.

Under the circumstances, I shall impose the usual minimum penalties for these violations, which are a suspension of five days against the licensee and thirty days against the permittee. In view of the guilty pleas, two days and five days, respectively, will be remitted from those penalties. Re Broodwinner, Bulletin 477, Item 3.

Accordingly, it is, on this 11th day of March, 1942,

ORDERED, that Plenary Retail Consumption License C-896, heretofore issued to Arnold Reich for premises 552 South Orange Avenue, Newark, by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of three (3) days, commencing March 16, 1942, at 3:00 A.M. and concluding March 19, 1942, at 3:00 A.M.; and it is further

ORDERED, that Employment Permit No. 7270, heretofore issued to Rose Reich by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for a period of twenty-five (25) days, commencing March 16, 1942, at 3:00 A.M. and concluding April 10, 1942, at 3:00 A.M.

ALFRED E. DRISCOLL,
Commissioner.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - DELIBERATE AND INTENTIONAL VIOLATION - 15 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against

WASHINGTON WINE & LIQUOR CO.,
102 Washington Street,
Hoboken, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-16, issued by the Board of Commissioners of the City of Hoboken.

Alex Berger, President of Defendant-Licensee.
G. George Addonizio, Esq., Attorney for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded guilty to the charge of selling liquor below the established Fair Trade price in violation of Rule 6 of State Regulations No. 30.

On January 6, 1942, an investigator of this Department purchased at defendant's premises a half-gallon bottle of Wilson "That's All" Whiskey for \$5.50. The minimum retail price of said item, as established in Bulletin 483, effective November 17, 1941, was \$5.75.

At the time of the sale, Max Spinrad, the clerk who made the sale, told the investigator that the price of the item was \$5.90 but stated "you can have it for \$5.50." The clerk later gave a statement to the investigator wherein he admitted that he had received \$5.50; that he knew the correct Fair Trade price and that he had a copy of the Fair Trade price list then in effect.

In accepting a guilty plea for a first violation of this nature, the minimum penalty of ten days is imposed only in those cases where there is nothing to show a deliberate violation. But where, as here, it appears that the violation is deliberate, the minimum penalty will be fifteen days, less five for the plea.
Re Samuel Vogel, Inc., Bulletin 493, Item 10.

Accordingly, it is, on this 13th day of March, 1942,

ORDERED, that Plenary Retail Distribution License D-16, issued by the Board of Commissioners of the City of Hoboken to Washington Wine & Liquor Co. for 102 Washington Street, Hoboken, be and the same is hereby suspended for a period of ten (10) days, commencing March 18, 1942, at 2:00 A.M. and ending at 2:00 A.M. March 28, 1942.

ALFRED E. DRISCOLL,
Commissioner.

10. DEFENSE STAMPS - VICTORY SPECIAL - A DEFENSE STAMP AND A GLASS OF WATER - APPROVED AND RECOMMENDED.

March 13, 1942

Louis F. Fournier, Financial Secretary,
Defender Co. No. 1,
East Paterson, N. J.

Dear Mr. Fournier:

I have before me your letter of March 11th requesting my approval of the "Victory Special" which you state is to be composed of a Defense Stamp and a glass of water.

Your statement that there will be no profit for the company confirms my favorable impression of your patriotic desire to promote the sale of Defense Stamps. More power to you!

Here's hoping that more and more people will go for the "Victory Special." If they do, there will be fewer headaches not only for the purchaser but for the ultimate recipient, namely, Uncle Sam.

Very truly yours,
ALFRED E. DRISCOLL,
Commissioner.

11. APPELLATE DECISIONS - KLAFTER v. NEWARK.

ISADORE KLAFTER,)

Appellant,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY)
OF NEWARK,)

Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

Anthony P. Bianco, Esq., Attorney for Appellant.
Charles S. Gansler, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

Appellant appealed from a ten-day suspension imposed on his license, No. C-353, issued for premises at 179 Wilson Avenue, Newark.

Respondent imposed the suspension after it had found appellant guilty on a charge of permitting a person of ill-repute upon his licensed premises in violation of Rule 4 of State Regulations No. 20. On the filing of this appeal, an order was entered herein staying respondent's order of suspension until further order of the Commissioner.

At the hearing herein, appellant, by his attorney, requested leave to withdraw and abandon the appeal. Respondent, by its attorney, consented to said withdrawal and requested that the suspension to be imposed herein commence at 7:00 A.M. on March 16, 1942. Both requests will be granted.

Accordingly, it is, on this 12th day of March, 1942,

ORDERED, that the ten-day suspension imposed by respondent on appellant's plenary retail consumption license C-353, which suspension was held in abeyance pending disposition of the instant appeal, is hereby restored, to commence on March 16, 1942, at 7:00 A.M. and to terminate at 7:00 A.M. on March 26, 1942.

Alfred C. Gansler
Commissioner.

CHECKED BY No. 2