

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

BULLETIN 570

JUNE 1, 1943.

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

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JUNE 1, 1943.

1. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS -
AGGRAVATING CIRCUMSTANCES - FALSE ANSWER IN LICENSE APPLICATION
CONCEALING CRIMINAL RECORD - LICENSE REVOKED.

In the Matter of Disciplinary
Proceedings against

ANTON ZAKRWSKI
T/a ANTON'S INN
S/E Cor. Almonesson Road and
Railroad Avenue
Blenheim, Gloucester Township
P.O. Blackwood, R.F.D., N.J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-7 issued by the
Township Committee of the Township
of Gloucester.

John H. Reiners, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

There was served upon the licensee a copy of the following
charges:

"1. On or about September 28, 1942, you sold alcoholic
beverages to Robert Baker and Vincent Melchiorre, minors, in
violation of R. S. 33:1-77.

"2. On or about September 28, 1942, you sold, served and
delivered and allowed, permitted and suffered the service and
delivery of alcoholic beverages at your licensed premises to
Robert Baker and Vincent Melchiorre, persons under the age of
twenty-one (21) years, in violation of Rule 1 of State Regu-
lations No. 20.

"3. On or about the date aforesaid, you sold and de-
livered, and allowed, permitted and suffered the delivery of
alcoholic beverages to Robert Baker, a person actually and
apparently intoxicated, in violation of Rule 1 of State Regu-
lations No. 20.

"4. In your applications upon which you obtained plenary
retail consumption licenses in Gloucester Township for the
fiscal years 1937-38, 1938-39, 1939-40 and 1941-42, you falsely
stated 'No' to the question whether you had ever been convic-
ted of any crime, whereas in truth and fact you had been
convicted in 1924 of the crime of assault and battery, and
had been convicted in 1930 and again in 1932 of the crimes of
illegally possessing and selling alcoholic beverages, and in
your applications upon which you obtained plenary retail con-
sumption licenses in Gloucester Township for the fiscal years
1936-37, 1940-41 and 1942-43, you evaded and suppressed
material facts in that you failed to make any answer to the
question whether you had been convicted of any crime; such
false statements, evasion and suppression being in violation
of R. S. 33:1-25.

"5. In your application upon which you obtained your plenary retail consumption license for the year 1942-43, you failed to answer Questions 26 to 46 and thereby evaded and suppressed material facts, such evasion and suppression being in violation of R. S. 33:1-25."

Defendant pleaded not guilty as to charges (1) and (2) in so far as said charges concern the sale of alcoholic beverages to Robert Baker, and non vult as to said charges in so far as they concern the sale of alcoholic beverages to Vincent Melchiorre. Defendant pleaded not guilty as to charge (3) and pleaded non vult with an explanation as to charges (4) and (5).

Robert Baker was born on December 15, 1927, and hence was fourteen years and nine months of age when the alleged violation occurred. Vincent Melchiorre was born on March 26, 1927, and hence was fifteen years and six months of age when the violation occurred.

At the hearing herein Robert Baker testified that, on the evening of September 28, 1942, at about 6:00 P.M., he entered defendant's premises and purchased from the licensee a pint bottle of wine for thirty-five cents. He left the premises, met Melchiorre near the latter's home, and the two boys consumed the contents of the bottle. They were then joined by a third youth, sixteen years of age, and apparently the three boys contributed money to purchase a second bottle. Melchiorre entered the licensed premises about 7:30 P. M. and purchased a second bottle of wine from the licensee. He re-joined his companions and the three boys drank the pint of wine. Shortly thereafter Robert Baker again entered the licensed premises and purchased a third bottle of wine from the licensee. There is testimony that, at this time, Robert Baker was drunk and "could just about stand up." Baker and Melchiorre consumed part of the contents of the third bottle, and Baker testified "that is all I remember." There is no doubt that the Baker boy became helplessly intoxicated.

The licensee admitted that the Baker boy had been in his premises once on the evening in question and that he sold him a bottle of wine after the boy told him that he was twenty-one years of age. Although the licensee denied at the hearing that he had sold any wine to Melchiorre on the evening in question, his plea admits that he did. There may be some sympathy where a licensee sells to a minor who is nearly twenty-one years of age, but I cannot believe any licensee could reasonably conclude that these fourteen and fifteen year old boys were over the age of twenty-one years. This is a very flagrant violation and I cannot find in the record before me the slightest mitigating circumstance.

In 1923 defendant was convicted of assault and battery and received a suspended sentence. In 1930 he was convicted of a violation of the Hobart Act and fined \$200.00. In 1932 he was again convicted for violation of the Hobart Act and sentenced to sixty days in the Camden County Prison. None of these convictions was disclosed in the various applications mentioned in the charges. The only excuse given by the licensee is that the applications were filled out by another individual. It appears, however, that defendant signed and swore to the truthfulness of the applications. It also appears that the local issuing authority was negligent in not insisting upon answers to Questions 26 to 46 in the filed application. None of the crimes of which defendant was convicted involved moral turpitude, but the false answers in certain applications and the suppression of facts in other applications is additional evidence that the defendant is not a fit person to hold a license.

Under all the circumstances of this case, I shall revoke the license.

Accordingly, it is, on this 24th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Gloucester to Anton Zakrwski, t/a Anton's Inn, for premises in Blenheim, Gloucester Township, be and the same is hereby revoked, effective immediately.

ALFRED E. DRISCOLL
Commissioner.

2. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES ON ELECTION DAY, IN VIOLATION OF RULE 2 OF STATE REGULATIONS NO. 20 - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary
Proceedings against

GUSTAVE NOYER
17th Street and Park Ave.
Hoboken, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-117, issued by the
Board of Commissioners of the City
of Hoboken.

Gustave Noyer, Pro Se.

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

BY THE COMMISSIONER:

Licensee has pleaded guilty to a charge of selling alcoholic beverages on Election Day, Tuesday, May 11, 1943, while the polls were open for voting, in violation of Rule 2 of State Regulations No. 20.

The defendant has no previous record. Therefore, I will impose the usual penalty for this violation and suspend the license for a period of ten days. Re Dill, Bulletin 477, Item 2. Five days will be remitted because of the guilty plea, leaving a net penalty of five days.

Accordingly, it is, on this 24th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-117, issued to Gustave Noyer by the Board of Commissioners of the City of Hoboken for premises located at 17th Street and Park Avenue, Hoboken, be and the same is hereby suspended for a period of five (5) days, effective at 2:00 A.M. May 27, 1943, and terminating at 2:00 A.M. June 1, 1943.

ALFRED E. DRISCOLL
Commissioner.

3. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - DISCREPANCY IN SOLIDS, ACIDS AND COLOR - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary)
 Proceedings against)

HENRY REINEKE
 457 - 18th Avenue
 Newark, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-376, issued by the)
 Municipal Board of Alcoholic)
 Beverage Control of the City of)
 Newark.)
 -----)

Anthony P. Bianco, Esq., Attorney for Defendant-Licensee.
 Milton H. Cooper, Esq., Attorney for Department of Alcoholic
 Beverage Control.

BY THE COMMISSIONER:

The defendant pleads guilty to the following charge:

"On May 13, 1943 you possessed illicit alcoholic beverages at your licensed premises, viz., a pint bottle labeled 'Imperial Hiram Walker's Blended Whiskey' and three 4/5th quart bottles labeled 'Carstairs White Seal Blended Whiskey', all of which bottles contained alcoholic beverages which were not genuine as labeled; such possession being in violation of R. S. 33:1-50."

On May 13, 1943, during the course of a routine inspection of the licensed premises, an investigator of the Department of Alcoholic Beverage Control detected four bottles of alcoholic beverages which apparently were not genuine as labeled. Subsequent analysis made by the Department chemist disclosed that the contents of the seized bottles varied in solids, acids and color from the contents of genuine samples of the same brand.

In mitigation, defendant has advised me that, on the day preceding the inspection, a part-time bartender was in charge of the licensed premises, and that the bartender had permitted customers to go behind the bar. Defendant believes that the customers may have tampered with the seized bottles.

While the licensee may have had no personal knowledge of the violation, nevertheless he must be held strictly responsible for any illicit alcoholic beverages found in his stock of liquor. Re Kurian, Bulletin 517, Item 2.

There are no aggravating circumstances in the instant case. The licensee has no previous record. In view of these facts and the guilty plea herein, I shall impose the minimum penalty and suspend the operation of his license for a period of ten days. See Re Fuhrer, Bulletin 551, Item 5.

Accordingly, it is, on this 24th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-376, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Henry Reineke, for premises 457 - 18th Avenue, Newark, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 A.M. May 26, 1943, and terminating at 2:00 A.M. June 5, 1943.

ALFRED E. DRISCOLL
 Commissioner.

4. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN LICENSE APPLICATION CONCEALING CRIMINAL RECORD (LICENSEE WAS CONVICTED OF A CRIME INVOLVING MORAL TURPITUDE AND HENCE WAS MANDATORILY DISQUALIFIED TO RECEIVE A LIQUOR LICENSE IN THIS STATE) - LICENSE REVOKED.

In the Matter of Disciplinary
Proceedings against

MRS. ANNA KIELB
T/a KIELB'S CAFE
15 Wallington Ave.
Wallington, N. J.,

Holder of Plenary Retail Consump-
tion License C-40, issued by the
Borough Council of the Borough
of Wallington.
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CONCLUSIONS
AND ORDER

Manfield G. Amlicke, Esq., Attorney for Defendant-Licensee.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that she falsely denied in her license application that she had ever been convicted of any crime, whereas, in truth, she was convicted in 1925 for violation of the Hobart Act and in 1940 for permitting her premises to be used for purpose of prostitution.

The events leading to the latter conviction occurred on May 17, 1940. They are fully detailed in the disciplinary proceedings in which her license was suspended for thirty days, and no useful purpose will be served by repeating them here. See Bulletin 426, Item 10.

The crime of which the defendant was convicted in the Court of Quarter Sessions in 1940, per se, involves the element of moral turpitude. Cf. Re Case No. 289, Bulletin 346, Item 11; Re Case No. 305, Bulletin 365, Item 11; Re Case No. 99, Bulletin 417, Item 7; Re Case No. 148, Bulletin 466, Item 4; Re Case No. 244, Bulletin 543, Item 2. This conviction may not be collaterally attacked in these proceedings. It follows, therefore, that the defendant was mandatorily disqualified under the Alcoholic Beverage Law to receive a liquor license in this state. R. S. 33:1-25. Such disqualification exists for a period of five years from the date of conviction when, in the Commissioner's discretion, it may be lifted. R. S. 33:1-31.2.

The only question remaining to be determined is that of penalty. The defendant's explanation, even if true, that her license application was prepared by the local clerk and that she executed it without reading it, presents no valid defense to the charge. It is quite apparent, however, that the concealment of her two convictions was motivated by her desire to suppress the true facts.

There are no equities favoring this defendant similar to those present in the case of Re Botta, Bulletin 566, Item 10, where, in deciding a similar charge, I did not revoke the license but imposed a suspension for the balance of its term, in order to enable the licensee to sell his business and salvage a portion of his investment, and further directed that any renewal to a transferee be subject to the suspension until a full ninety day penalty was served. In that case, the disqualifying crime had occurred some twenty-four years prior to the decision, at a time when the licensee was less than twenty years

old, and there was no record of any prior proceedings against the licensee. In this case, the licensee was forty-six years of age when convicted in 1940 and her license has been heretofore suspended as aforesaid.

Under the circumstances, the only penalty in keeping with the seriousness of the violation is a revocation of the license.

In the interest of complete clarity, it should be noted that, although these proceedings and those in which the defendant's license was previously suspended are an outgrowth of the same events, there is, nevertheless, no similarity in the nature of the two violations. In the prior case she was punished because, as charged, she permitted immoral activities upon her licensed premises in violation of the State Regulations. In the instant case, she is charged with falsifying her license application by failing to disclose a criminal conviction involving the element of moral turpitude.

In view of the foregoing disposition, the charge brought against this licensee to cancel her license because it was providently issued is dismissed.

Accordingly, it is, on this 24th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-40, heretofore issued to Mrs. Anna Kielb, t/a Kielb's Cafe, by the Borough Council of the Borough of Wallington, for premises 15 Wallington Avenue, Wallington, be and the same is hereby revoked, effective immediately.

ALFRED E. DRISCOLL
Commissioner.

5. LICENSES - RENEWALS - HEREIN OF ISSUANCE OF A LICENSE RENEWAL WHEN PREMISES ARE CLOSED BECAUSE OF WAR CONDITIONS AND ARE NOT EXPECTED TO BE OPERATED.

LICENSES - FEES - A LICENSE MAY NOT BE CONTINUED BEYOND EXPIRATION OF THE TERM EXCEPT BY LICENSE RENEWAL AND PAYMENT OF THE FULL AMOUNT OF THE FIXED FEE - NO FREE LICENSES AND NO LICENSES ISSUED FOR A NOMINAL FEE.

May 25, 1943

Italo M. Tarantola, Esq.
Flemington, N. J.

Dear Mr. Tarantola:

I have your letter of May 20th informing us that your client, who holds a plenary retail consumption license on State Highway Route 29-30, has been compelled to cease operation of his business because of the strict gas rationing and inability to procure sufficient help. You ask two principal questions:

1. "Will a license be issued to a place of business which is not in operation"; and

2. Has this Department "made some regulation whereby a tavern owner will not be required to take out a license each year as long as the war continues and yet his investment will be protected so that on the termination of the war he may re-open his place and procure a license, particularly in Townships where the number of licenses are limited?"

In commenting upon these questions, you state that your client fears that if he does not obtain a renewal this year, another person may secure a license and thereby preclude him from subsequently obtaining one (since the particular Township has limited the number of licenses); and, further, that while your client would be willing to pay an amount each year to keep his place for the license open until the end of the war, it seems unfair for him to pay \$350.00 each year for a license which he will not use.

1. So far as the State Alcoholic Beverage Law and Regulations are concerned, discontinuance of business during the license term does not affect the existence or validity of the license during the term; nor would non-user of itself prevent renewal for the license year 1943-44 (assuming, in the case of a renewal, that premises exist and are approved). This is not to say that an applicant whose premises are closed and are not to be operated for the purposes of the licensed business has a "right" to obtain a renewal. A local issuing authority might decide to refuse to issue the renewal on the ground that licenses are issued for outlets to be used to serve the public convenience and necessity -- that it is against public policy to issue a license for closed premises not to be used for purposes of the license applied for. In other words, the question in the first instance must be decided by the local issuing authority.

The situation has not arisen. If a renewal should be denied by a local issuing authority for the reason of such non-user, the appropriate occasion for my action in the matter would be upon an appeal from the denial.

2. Regarding license fees, R. S. 33:1-12 establishes the minimum and maximum fees to be fixed by the municipal authority for the various types of retail licenses, and each license is subject to the fee fixed for the particular type. Further, R. S. 33:1-25 requires that a deposit of the full amount of the fee must accompany the license application. It is clear, therefore, that a "free" license may not be issued, nor may a license be issued for a nominal fee; and this is true regardless of any special and peculiar equities that may appear to exist. (See Re Aronsohn, Bulletin 550, Item 6.)

As already remarked, you consider it unfair that a licensee, whose business is closed because of a gasoline and employee shortage, should be required to spend \$350.00 each year to procure a license which he will not use. I appreciate the fact that many licensees may find themselves in an unfortunate position, but they are in the universal company of millions who feel the harsh impact of present war circumstances. It is important to remember, as to your client's position, that payment of the required renewal fee to the municipality can be considered money well spent since it may protect his investment by preserving his valuable status within the limitation quota -- a preferential status that may be of increased worth after the war's termination. The identical problem is facing literally thousands of American business men today.

Very truly yours,
ALFRED E. DRISCOLL
Commissioner.

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - FAILURE TO CLOSE PREMISES, IN VIOLATION OF LOCAL ORDINANCE - PERMITTING FEMALE EMPLOYEE TO ACCEPT BEVERAGES AT THE EXPENSE OF PATRONS, IN VIOLATION OF RULE 22 OF STATE REGULATIONS NO. 20 - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM, IN VIOLATION OF RULE 6 OF STATE REGULATIONS NO. 30 - 45 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary
Proceedings against

EFTHIMINA GALABIDES
T/a MORGAN HOTEL
Pine Avenue and Liberty Street
Morgan, Sayreville Borough
South Amboy, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-34, issued by the
Borough Council of the Borough
of Sayreville.

Efthimina Galabides, Pro Se.

Milton H. Cooper, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads guilty to the following charges:

"1. On Saturday morning, March 13, 1943, from 3:00 A.M. until about 3:45 A.M., you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages and allowed the consumption thereof on your licensed premises, in violation of Section 17 of an Ordinance, adopted by the Mayor and Borough Council of the Borough of Sayreville, N. J., on July 5, 1934, as amended by an Ordinance adopted by said Mayor and Borough Council on December 6, 1939, which Section prohibits any such activity between 3:00 A.M. and 7:00 A.M. on weekdays.

"2. On Saturday morning, March 13, 1943, you failed to keep your licensed premises closed between 3:00 A.M. and 7:00 A.M., in violation of Section 17 of an Ordinance, adopted by the Mayor and Borough Council of the Borough of Sayreville, N. J., on July 5, 1934, as amended by an Ordinance adopted by said Mayor and Borough Council on December 6, 1939.

"3. On Saturday morning, March 13, 1943, and on divers days prior thereto, you allowed, permitted and suffered Ann Harisimko (also known as 'Ann Harris'), a female employed upon the licensed premises, to accept beverages at the expense of a patron, in violation of Rule 22 of State Regulations No. 20.

"4. On Saturday morning, March 13, 1943, without having first obtained a special permit so to do, you sold a one pint bottle Wilson 'That's All' Blended Whiskey below the minimum consumer price published in Bulletin 536, in violation of Rule 6 of State Regulations No. 30."

The record discloses that two investigators of this Department visited the licensed premises at about three o'clock in the morning of Saturday, March 13, 1943. At 3:10 and at 3:20 A.M., they purchased alcoholic beverages from Ann Harisimko, who was acting as bartender. At the time of both of these sales the bartender served herself a drink of Calvert Reserve Whiskey which was paid for by the investigators, and it appears from the records that it was a common practice of the female bartender to accept drinks of alcoholic beverages at the expense of patrons.

At 3:25 A. M. the investigators asked Ann Harisimko for a pint of whiskey, whereupon the licensee, who had been in the barroom during the previous transactions, went to the stock room and returned with a pint bottle of Wilson "That's All" Blended Whiskey, which she sold to the investigators for \$1.73. The Fair Trade price of the whiskey was \$1.77 a pint. At this time there were three patrons drinking at the bar.

As to penalty: It appears that this is licensee's first adjudicated offense of any nature. I shall take this fact into consideration in fixing a penalty.

As to Charges (1) and (2): I shall suspend the operation of defendant's license for a period of fifteen days. See Re Disbrow, Bulletin 540, Item 3; Re Morgan, Bulletin 542, Item 10.

As to Charge (3): I shall suspend the operation of defendant's license for a period of twenty days. See Re Morgenroth, Bulletin 557, Item 12.

As to Charge (4): I shall suspend the operation of defendant's license for a period of ten days. See Re Molosso, Bulletin 563, Item 8.

I shall remit five days for the guilty plea, making a total suspension of forty days.

Accordingly, it is, on this 26th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-34, heretofore issued by the Borough Council of the Borough of Sayreville to Efthimina Galabides, t/a Morgan Hotel, for premises Pine Avenue and Liberty Street, Morgan, Sayreville Borough, South Amboy, be and the same is hereby suspended for the balance of its term, effective June 1, 1943, at 3:00 A.M.; and it is further

ORDERED, that if any license be issued to this licensee or other person for the premises in question for the 1943-44 fiscal year, such license shall be under suspension until July 11, 1943, at 3:00 A. M.

ALFRED E. DRISCOLL
Commissioner.

7. DISCIPLINARY PROCEEDINGS - CHARGE OF PERMITTING LEWD AND IMMORAL ACTIVITIES ON LICENSED PREMISES DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF - PERMITTING HOSTESSES TO ACCEPT BEVERAGES AT THE EXPENSE OF CUSTOMERS, IN VIOLATION OF RULE 22 OF STATE REGULATIONS NO. 20 - 20 DAYS' SUSPENSION.

In the Matter of Disciplinary
Proceedings against

ANNA SOFKO & HELEN K. MARKOW
T/a LITTLE CAFE
60 Second Street
Hoboken, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consump-)
tion License C-162, issued by the)
Board of Commissioners of the)
City of Hoboken.)
-----)

Maurice H. Ludwin, Esq., Attorney for Defendant-Licensee,
Anna Sofko.

Benedict A. Beronio, Esq., Attorney for Defendant-Licensee,
Helen K. Markow.

Harry Castelbaum, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendants entered a plea of not guilty to the following charges:

"1. On or about October 31 and November 7, 1942, you allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of and as a gift from customers and patrons, in violation of Rule 22 of State Regulations No. 20.

"2. On or about the date first aforesaid, you allowed, permitted and suffered lewdness and immoral activities in and upon your licensed premises, in violation of Rule 5 of State Regulations No. 20."

The testimony in this case discloses that several departmental investigators visited the tavern owned and operated by defendants on the evenings of October 31st and November 7th, 1942.

Investigators Emmetts and Carson, respectively, testified that on both occasions they observed two girls, Lucille Margaret K--- and Mary Astred B---, drinking with and at the expense of various men customers. These girls also ordered drinks for themselves which were paid for by the investigators aforementioned. One of the girls, Lucille Margaret K---, produced by defendant-licensees at the hearing, denied that she was employed by the licensees.

However, paper cash register receipts (Exhibit S-1), seized by the investigators on November 7, 1942, comprise the mute evidence which determines the employment status of the girls. Upon each receipt were a series of initials, written with a pencil, which were placed thereon by the bartender, Herman Koster. His statement given to the investigators reveals that he was instructed by one of the licensees to initial each register receipt in order that the girl instrumental in soliciting the sale would be given credit therefor. The statement further discloses that the girls received no salary but were employed on a commission basis. Anna Sofko, one of the partners,

according to the testimony of both investigators, when asked why she did not discharge the girls, said to Lucille, "You are fired", adding, belatedly, "What am I saying?"

I am convinced that both Lucille Margaret K--- and Mary Astred B--- were employed as hostesses by defendant-licensees. I find the defendant-licensees guilty of charge (1).

Investigators Emmetts and Carson testified that, on the first visit to the premises of defendant-licensees, one of the partners, Helen K. Markow, became unduly friendly with them. There is no evidence whatsoever that Helen K. Markow engaged in off-color conversation on either occasion with the investigators or any one else. She denies emphatically that her conduct at any time had been improper. A witness, one Larry Gugliano, stated he was present on the evenings in question and at no time did he observe anything wrong.

I am inclined to the belief that Helen K. Markow's actions at various times may have been somewhat unconventional. Nevertheless, the testimony adduced by the Department did not substantiate the charge of permitting and suffering lewd and immoral activities upon the licensed premises. I might suggest in the form of a warning that Helen K. Markow exercise greater discretion in the future. I trust that a word to the wise is sufficient. I will, therefore, dismiss charge (2).

I will suspend the license for a period of twenty days on the charge of employing hostesses. Re Bud Holding Company, Bulletin 469, Item 8.

Accordingly, it is, on this 26th day of May, 1943,

ORDERED, that Plenary Retail Consumption License C-162, heretofore issued to Anna Sofko and Helen K. Markow, t/a Little Cafe, for premises 60 Second Street, Hoboken, by the Board of Commissioners of the City of Hoboken, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 A.M. June 1, 1943, and terminating June 21, 1943, at 2:00 A. M.

ALFRED E. DRISCOLL
Commissioner.

8. DISQUALIFICATION - APPLICATION TO LIFT - FACTS EXAMINED - GOOD CONDUCT FOR FIVE YEARS LAST PAST AND NOT CONTRARY TO PUBLIC INTEREST - APPLICATION GRANTED.

In the Matter of an Application)
to remove Disqualification be-)
cause of a Conviction, Pursuant)
to R. S. 33:1-31.2.)

CONCLUSIONS
AND ORDER

Case No. 275.

BY THE COMMISSIONER:

On April 14, 1937 petitioner pleaded non vult to the charge of possession of lottery slips and was fined \$250.00, which he immediately paid. His fingerprint returns disclose no other convictions or arrests.

There may be some question as to whether the crime considered herein involved moral turpitude. See Re Case 355, Bulletin 435,

Item 5. However, I deem it unnecessary to decide that question herein because petitioner now seeks to have lifted any statutory disqualification resulting from said conviction. See Re Case 253, Bulletin 554, Item 6.

The offense occurred over six years ago. During the past five years petitioner has apparently conducted himself in a law-abiding manner, as evidenced by the testimony of a co-worker, neighbor and business man who appeared as character witnesses in his behalf. Bearing these facts in mind, I do not believe that the interest of the public would be adversely affected due to his association with the alcoholic beverage industry.

Accordingly, it is, on this 24th day of May, 1943,

ORDERED, that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby lifted, in accordance with the provisions of R. S. 33:1-31.2.

ALFRED E. DRISCOLL
Commissioner.

9. MORAL TURPITUDE - CRIME OF KEEPING A DISORDERLY HOUSE (HOUSE OF PROSTITUTION) PER SE INVOLVES MORAL TURPITUDE.

DISQUALIFICATION - APPLICATION TO LIFT - FACTS EXAMINED - PETITION TO LIFT DISMISSED.

In the Matter of an Application)
to Remove Disqualification be-)
cause of a Conviction, pursuant)
to R. S. 33:1-31.2.)

Case No. 267.)

CONCLUSIONS
AND ORDER

BY THE COMMISSIONER:

In April 1935 petitioner was arrested on a charge of selling and possessing alcoholic beverages in violation of Section 48 of the Control Act, and also on a charge of maintaining a disorderly house. It appears that, in the police court, he pleaded guilty to the first charge and was held for action of the Grand Jury on the second charge. The Judge of the police court imposed a fine of \$200.00 and sentenced petitioner to sixty days in a county jail because of the plea of guilty as to the first charge. Subsequently, petitioner was found guilty in a Court of Quarter Sessions on the second charge and was placed on probation for two years. The crime of keeping a disorderly house (house of prostitution) per se involves moral turpitude. Case No. 264, Bulletin 565, Item 6.

In March 1936 petitioner was again arrested and indicted for selling and possessing alcoholic beverages in violation of Section 48 of the Control Act. Subsequently this indictment was nolle prossed. On August 20, 1938 petitioner was again arrested on the same charge and also on the charge of maintaining a disorderly house. In the police court he was held for the Grand Jury on a charge of violating the Control Act, and the disorderly house charge was dismissed. The Grand Jury did not indict.

Some years ago petitioner was a musician, but since 1935 he has engaged in the business of booking theatrical attractions. In addition to his other employment he has occasionally, since 1936, worked in various capacities as a City employee. He is still engaged

in the business of booking theatrical attractions and conducts a rooming house. His conviction and arrests were apparently closely connected with his activities as agent and rooming house proprietor.

I am not wholly satisfied that it would be to the best interest of the petitioner or the general public to permit him, at this time, to engage in the liquor business.

Under the circumstances, I shall not at this time exercise my discretionary power to lift his disqualification. I shall, therefore, deny the present petition, with leave to file a new petition after August 20, 1943. Before any relief will be granted in a subsequent proceeding, I must be satisfied that petitioner intends to discontinue the operation of a rooming house.

Accordingly, it is, on this 26th day of May, 1943,

ORDERED, that the petition herein be and the same is hereby dismissed, with leave to renew as aforesaid.

ALFRED E. DRISCOLL
Commissioner.

10. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PREVIOUS SIMILAR VIOLATION - 20 DAYS' SUSPENSION.

In the Matter of Disciplinary)
Proceedings against)

TWIN RIVER INN CORPORATION)
Two Bridges Road)
Lincoln Park)
P.O. Little Falls, R.F.D.,)
New Jersey,)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Con-)
sumption License C-2, issued by)
the Borough Council of the)
Borough of Lincoln Park.)

Twin River Inn Corporation, by Louis Urfer, President.
Edward F. Ambrose, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to the following charge:

"On or about January 21, 1943, you possessed an illicit alcoholic beverage at your licensed premises, viz., a quart bottle labeled 'Carstairs White Seal Blended Whiskey', which bottle contained alcoholic beverage that was not genuine as labeled; such possession being in violation of R. S. 33:1-50."

Our file discloses that on January 21, 1943, representatives of the Alcohol Tax Unit tested nineteen opened bottles at the premises of defendant-licensee. A quart size bottle bearing the label "Carstairs White Seal Blended Whiskey 86.8 Proof" was seized by the Federal agents. Analysis made by a government chemist of the content of the liquor taken from the bottle showed it to be 21.7 degrees

under proof.

In the usual refill case, where no aggravating circumstances appeared, a ten day suspension of the license has been imposed. In this case, however, defendant-licensee has a previous record, having been found guilty on a similar charge. See Re Twin Rivers Inn Corp., Bulletin 494, Item 9. In view of this, I shall suspend the license of defendant for a period of twenty days.

Accordingly, it is, on this 27th day of May, 1943,

ORDERED that Plenary Retail Consumption License C-2, heretofore issued to Twin River Inn Corporation by the Borough Council of the Borough of Lincoln Park, for premises Two Bridges Road, Lincoln Park, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 A.M., June 1, 1943 and concluding at 2:00 A.M., June 21, 1943.

ALFRED E. DRISCOLL
Commissioner.

11. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY CLUB LICENSEE DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - SALE BY CLUB LICENSEE TO NON-MEMBERS, IN VIOLATION OF RULE 5 OF STATE REGULATIONS NO. 7 - 25 DAYS' SUSPENSION.

In the Matter of Disciplinary
Proceedings against

GERMANIA MANNERCHOR
1031 North 27th Street
Camden, N. J.

Holder of Club License CB-15,
issued by the Municipal Board of
Alcoholic Beverage Control of the
City of Camden.

CONCLUSIONS

AND

ORDER

Germania Mannerchor, Pro Se., by Emil Kirchgassner, President.
Milton H. Cooper, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded guilty to charges alleging that (1) on Sunday, May 2, 1943, it sold alcoholic beverages after 2:00 A. M. in violation of a local ordinance and (2) on the same day, it sold alcoholic beverages to persons other than bona fide members and their bona fide guests in violation of Rule 5 of State Regulations No. 7.

In the absence of any unusual circumstances surrounding the violations and as this is apparently the licensee's first adjudicated offense, I shall impose the usual penalty on both charges. I shall suspend the license for a period of fifteen days on the first charge and for an additional period of fifteen days on the second charge. Five days will be remitted because of the guilty plea, making a net suspension of twenty-five days. See Re Brunner 3rd Ward Democrat Club, Bulletin 544, Item 9.

Accordingly, it is, on this 28th day of May, 1943,

ORDERED that Club License CB-15, heretofore issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Germania Mannerchor, for premises 1031 North 27th Street, Camden, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 A. M. June 1, 1943 and terminating at 2:00 A. M. June 26, 1943.

ALFRED E. DRISCOLL,
Commissioner.

12. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS,
IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS
NO. 20 - 10 DAYS' SUSPENSION.

In the Matter of Disciplinary)
Proceedings against)

ANTHONY CUSAK,
t/a CLIFTONIA,
685 Lexington Avenue,
Clifton, New Jersey,)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Con-)
sumption License C-7 issued by)
the Municipal Council of the)
City of Clifton.)
-----)

Israel Friend, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Attorney for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded not guilty to the following charges:

- "1. On or about January 30, 1943, you sold alcoholic beverages at your licensed premises to Rose --- and Barbara ---, minors, in violation of R. S. 33:1-77.
- "2. On or about the date aforesaid, you sold, served and delivered, and allowed, permitted and suffered the service and delivery of alcoholic beverages at your licensed premises to Rose --- and Barbara ---, persons under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon the licensed premises, in violation of Rule 1 of State Regulations No. 20."

Rose was 16 years and 10 months of age, while Barbara was 18 years and 9 months of age when the alleged violations occurred. It is admitted that, on the evening of January 30, 1943, these young ladies were seated at the bar of defendant's premises with a man who was then 41 years of age.

Rose testified that, in the presence of the licensee who was tending bar, she ordered, through her male companion, an "Imperial and coke"; that the licensee served her with a small glass of "coke" and whiskey which she mixed and drank. Barbara corroborated Rose's testimony. The licensee admitted to an investigator of the Department of Alcoholic Beverage Control that he had served these drinks but alleged that the male companion had

told him that Rose was twenty-one and that Barbara was twenty-five years of age. I believe the disinterested testimony of the two young ladies, rather than the testimony of the licensee and two of his employees that no whiskey was served to Rose.

There is a serious doubt as to whether Barbara was served a "Gin Fizz" or a non-alcoholic drink described as a "Cherry Fizz" and also a doubt as to whether Barbara consumed her drink, whatever it was.

Under the circumstances I find defendant guilty as to the charges in so far as they concern the sale and service to and consumption of alcoholic beverages by Rose ---, and not guilty as to Barbara ---.

As to penalty: Rose --- appears to be much older than she is. The male companion admits that he told the licensee that she was twenty-one. While this is not an excuse, it may be considered in imposing penalty. Licensee has been in the liquor business for thirty-nine years and has no prior record. I shall suspend his license for the minimum period of ten days.

Accordingly, it is, on this 28th day of May, 1943,

ORDERED that plenary retail consumption license C-7, issued by the Municipal Council of the City of Clifton to Anthony Cusak, t/a Cliftonia, for premises 685 Lexington Avenue, Clifton, be and the same is hereby suspended for a period of ten (10) days commencing at 3 A.M. June 1, 1943, and terminating at 3 A.M. June 11, 1943.

Alfred E. Driscoll
Commissioner.