

STATE OF NEW JERSEY,

Department of Law and Public Safety
 DIVISION OF ALCOHOLIC BEVERAGE CONTROL
 1060 Broad Street Newark 2, N. J.

BULLETIN 876

MAY 24, 1950.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

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1. STATE LIMITATION LAW (CHAPTER 94 OF THE LAWS OF 1947) - HEREIN
EXTREMELY IMPORTANT NOTICE:

NEW RETAIL CONSUMPTION OR RETAIL DISTRIBUTION LICENSES, AS
DISTINGUISHED FROM RENEWALS, PROHIBITED IN MOST MUNICIPALITIES -
LICENSE FOR 1950-1951 A NEW LICENSE AND NOT A RENEWAL UNLESS ISSUED
TO THE SAME PERSON WHO HELD THE 1949-1950 LICENSE AND FOR THE SAME
PREMISES.

LICENSED PREMISES - APPLICATION FOR PREMISES NOT YET CONSTRUCTED
AND WHICH WILL NOT BE COMPLETED BY JUNE 30TH.

TO ALL MUNICIPAL ISSUING AUTHORITIES:

Our Alcoholic Beverage Law provides that a license is not a renewal but a new license if granted to a person other than the holder of the preceding year's license or if granted for premises other than those licensed at the end of the preceding license year. (Revised Statutes, 33:1-96.) In most New Jersey municipalities issuance of a new retail consumption or retail distribution license is prohibited by the State Limitation Law or by local ordinance, or by both. A license issued in violation of the State Limitation Law or local ordinance is subject to cancellation. It is of the utmost importance, therefore, that the municipal issuing authorities take special care to see whether the applicant for the 1950-1951 license is the same person who held the 1949-1950 license. Where A holds a license on June 30, 1950, a 1950-1951 license issued to A and B, partners, would not be a renewal but a new license. (Of course, if the 1949-1950 license were duly transferred from A to A and B prior to June 30, 1950, a 1950-1951 license in the names of A and B, effective July 1, 1950, would be a renewal.) Where a corporation holds a license on June 30, 1950, the 1950-1951 license issued to a different corporation or to an individual or to partners would be a new license and not a renewal. Similarly, where an individual or a partnership holds a 1949-1950 license, the 1950-1951 license if issued to a corporation would be a new license. The State Limitation Law has been in effect since May, 1947 and, by this time, municipal issuing authorities should be well aware of the matter hereinabove stressed. If a municipal clerk has any questions regarding a particular application for a 1950-1951 license he should promptly get in touch with this Division.

UNCOMPLETED NEW PREMISES

The Alcoholic Beverage Law makes it the duty of municipal issuing authorities to investigate not only a license applicant's personal qualifications but also to investigate the premises sought to be licensed. (Revised Statutes, 33:1-24.) The State Commissioner's ruling has been that where application is made for a building not yet constructed, or for a building in process of construction, the most the municipal issuing authority may do is to grant the application subject to the express condition (imposed in the authorizing resolution, pursuant to Revised Statutes, 33:1-32) that the premises as described in the plans and specifications prepared and submitted by the applicant and found acceptable by the issuing authority shall first be completed. (Re Harris, Bulletin 183, Item 11; Re Salter, Bulletin 184, Item 8; Re Murphy, Bulletin 389, Item 11.)

Unless a license has been actually issued and is in effect on June 30th, it may not legally be renewed for the new license year beginning July 1st. As already pointed out, a renewal must be not only to the holder of the expired or expiring license but also for the same licensed premises; otherwise it is a new license (Revised

Statutes, 33:1-96) and issuance of a new license is prohibited in most municipalities by the State Limitation Law or by local ordinance, or by both.

There are circumstances in which a person (whose application for license, or for place-to-place transfer, shall have been granted subject to completion of premises) will be unable, despite good faith and full effort, to complete the premises by June 30th of the then license year. In that situation the municipal issuing authority may determine, in its discretion, to grant a renewal for the ensuing license year. It may not do so, however, unless it adopts a resolution amending the original resolution (or motion) and setting forth that such original resolution (or motion) dated _____, is amended to provide that the license is authorized to be issued (or the place-to-place transfer endorsed, as the case may be), effective immediately, for the sole purpose of permitting a renewal.

If the indicated amendatory resolution is passed, a certified copy should, of course, be forwarded at once to this Division by the municipal clerk.

Where such an amendatory resolution is passed and the license issued thereunder (or place-to-place transfer endorsed, as the case may be) and a renewal application for the ensuing year is duly filed, then, if the issuing authority determines to grant the application for renewal, its resolution granting such application must impose (or reimpose) a special condition reading in the following manner:

"....provided, however, that the license shall not be actually issued unless and until the premises as described in the plans and specifications prepared, submitted to, and found acceptable by this issuing authority, shall first be completed."

Thus the renewal certificate will not be issued and delivered to the applicant unless and until the premises are duly completed by June 30th of the licensing year for which the renewal was granted.

A copy of the resolution imposing (or reimposing) the indicated special condition must be forwarded to this Division for the State Director's approval required by Revised Statutes, 33:1-32.

Furthermore, the applicant's published Notices of Application for the renewal must contain a statement that: "Plans and specifications for premises to be constructed may be examined at the office of the Municipal Clerk."

Where application has been granted for place-to-place transfer to premises which will not be duly completed by June 30th of the then license year, and where the applicant will continue to have possession of the old premises on and after July 1st, the applicant will probably wish to continue operation of the business without interruption. Under those circumstances it would appear the proper course to apply for a renewal for the old premises. If such renewal is granted, then, if and when (after July 1st) the new premises are completed, a new application may be filed for a place-to-place transfer to those premises.

I have here pointed out the possibility of granting relief in bona fide and hardship cases. Whether or not the indicated relief is to be granted in a specific case rests in the first instance, and subject to appeal to the State Director, in the sound discretion of the issuing authority.

ERWIN B. HOCK
Director.

Dated: May 15, 1950.

2. NOTICE TO ALL MUNICIPAL ISSUING AUTHORITIES REGARDING 1950-1951 RENEWALS - PREMISES TO COMPLY WITH HEALTH AND SAFETY LAWS AND REGULATIONS - APPLICANT'S CORRECT NAME TO BE SET FORTH IN APPLICATION AND IN CERTIFICATION OF ISSUANCE AND ON FACE OF LICENSE CERTIFICATE.

IMPORTANT REMINDER REGARDING RETAIL CONSUMPTION LICENSES CARRYING "BROAD PACKAGE PRIVILEGE".

TO ALL LICENSE ISSUING AUTHORITIES:

All retail liquor licenses except Seasonal Retail Consumption Licenses, expire at midnight June 30th. The issuance of licenses for the next fiscal year must be completed within a few weeks.

Herewith is a copy of my Notice of May 1, 1950, with respect to the renewal of retail licenses expiring on June 30, 1950. A copy of the aforesaid notice has been forwarded directly to every retail licensee in New Jersey. Please read the notice carefully.

As a condition precedent to the issuance of a retail liquor license, the premises sought to be licensed must comply with State health and safety laws and regulations and applicable municipal ordinances. THIS IS IMPERATIVE! Licensees have been put on notice that dirty and unattractive premises must be improved at once.

No changes are contemplated in the application forms for retail licenses for the next fiscal year beginning July 1, 1950.

The form of application for municipal retail licenses and for Club licenses may be found in Bulletin 833, Items 2 and 3 respectively. The license certificate forms as prescribed in Items 4, 5, 6, 7 and 8 in Bulletin 833 will continue in effect except, of course, for the necessary changes in expiration date.

Kindly furnish each of your licensees with renewal application forms at the earliest moment. Avoid a last minute rush. Delay on your part may result in some licensee's closing up shop on June 30th because you have not done your part.

Applicant must personally answer every question appearing in the application correctly, completely and honestly. Under no circumstances should the municipal clerk assume responsibility for answering questions contained in the application.

Your very special attention is directed to the following: In past years, and especially last year, a large number of certifications of license issuances set forth incorrectly the name of the licensee. The result of such carelessness has been confusion and has necessitated burdensome corrective action by this Division. It is most important that the applicant's correct name be set forth in the application, in the certification of issuance of the license, and on the face of the license certificate. Certainly there is no good excuse for the mistakes that have occurred in this regard. If Main Street Liquor Store, Inc. is applying for a renewal it should be simple enough to set forth correctly the corporation's name with respect to the renewal. Yet, in that situation, some clerks have mistakenly set forth as the renewal licensee not the corporation but the names of X, Y and Z who are officers of the corporation. Similarly, where John Doe, t/a New Town Tavern, is applying for a renewal, some clerks have set forth as the renewal licensee not John Doe but

New Town Tavern. (A trade name is not a licensee.) Similarly, many clerks have carelessly spelled the renewal licensee's name differently from that certified for the prior year. I urge that special pains be taken to avoid these needless and troublesome errors.

IMPORTANT REMINDER REGARDING RETAIL CONSUMPTION
LICENSES CARRYING "BROAD PACKAGE PRIVILEGE".

Some 600 retail consumption licenses were duly granted the "broad package privilege" (privilege of package store separate from barroom) in 1948, pursuant to Chapter 98 of the Laws of 1948 and State Regulations No. 32. As to retail consumption licenses, if any, which were then granted the "broad package privilege", the Municipal Clerks or A.B.C. Board Secretaries (pursuant to State Regulations No. 32) certified the same to this Division where a permanent record thereof is maintained.

Under the 1948 Act, the "broad package privilege", once duly granted with respect to a particular retail consumption license, continues and carries over as to any renewal or person-to-person or place-to-place transfer of that license. But it is extremely important that this matter be kept fully and clearly of record and, therefore, we bring to the special attention of municipal issuing authorities, and of Municipal Clerks and A.B.C. Board Secretaries, the following:

In any certification of issuance of a renewal of a retail consumption license which was duly granted the "broad package privilege" (under Chapter 98 of the Laws of 1948 and State Regulations No. 32) it should be clearly set forth that the particular license carries the Broad Package Privilege.

In any certification of person-to-person or place-to-place transfer of a "broad package privilege" license, it should be clearly set forth that the license being transferred carries the Broad Package Privilege.

At each renewal of a "broad package privilege" license the issuing authority (as required by Rule 4 of State Regulations No. 32) shall cause the following notation to be made on the face of the license certificate:

"This license permits sale of alcoholic beverages in original containers for consumption off the licensed premises from portions of the licensed premises other than the public barroom, pursuant to P.L. 1948, ch. 98 and State Regulations No. 32."

ERWIN B. HOCK
Director.

Dated: May 1, 1950.

3. DISCIPLINARY PROCEEDINGS - KNOWINGLY EMPLOYING AN UNQUALIFIED PERSON - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

MORAL TURPITUDE - ABORTION.

In the Matter of Disciplinary
Proceedings against

WALTER MARONSKI, THEODORE ZOCHOWSKI
T/a FERRY STREET LIQUOR STORE
25 Ferry Street
South River, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Distribution
License D-3, issued by the Borough
Council of the Borough of South River.

Ishmael Sklarew, Esq., Attorney for Defendant-licensees.
William F. Wood, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that on March 20, 1950, and prior thereto, they knowingly employed at their licensed premises a person who had been convicted of a crime involving moral turpitude, such employment being in violation of Rule 1 of State Regulations No. 13.

The file herein discloses that on June 11, 1948, in a Court of Quarter Sessions, the employee was sentenced to pay a fine of \$1,000.00 and to be confined to the New Jersey Reformatory for Women at Clinton, New Jersey, for a term of not less than two years and not more than three years, after she had pleaded guilty to three indictments for abortion. The operation of the sentence was suspended and she was placed on probation for a term of three years. The crime involved moral turpitude. See Bulletin 319, Item 13.

There is no doubt in my mind that both defendants knew of this conviction.

In alleged mitigation defendants allege that the woman in question was not an employee; that she was not compensated for her service, and that she was not guilty of the crimes to which she pleaded non vult. However, in a statement given to ABC agents, one of the licensees admitted that, since the license was obtained in 1947, this woman "helps part-time, and fills in when needed". In another statement given to ABC agents, the woman admitted that she has been helping in the liquor store selling alcoholic beverages "since they first obtained a license in 1947". The fact that she was not compensated is immaterial. Re Haino, Bulletin 295, Item 7; Re Geller, Bulletin 312, Item 1. Investigation also establishes that the woman participated in abortions performed by a doctor by whom she was then employed. In any event, the question of her guilt or innocence cannot be redetermined in this proceeding. I find defendants guilty of the charge preferred herein.

Defendants have no prior record. I shall suspend their license for a period of ten days, less five days for the plea, leaving a net suspension of five days. Re Buzak, Bulletin 840, Item 8.

Accordingly, it is, on this 3rd day of May, 1950,

ORDERED that Plenary Retail Distribution License D-3, issued by the Borough Council of the Borough of South River to Walter Maronski, Theodore Zochowski, t/a Ferry Street Liquor Store, for premises 25 Ferry Street, South River, be and the same is hereby suspended for five days, commencing at 9:00 a.m. May 15, 1950, and terminating at 9:00 a.m. May 20, 1950.

ERWIN B. HOCK
Director.

4. MORAL TURPITUDE - BREAKING AND ENTERING.

DISQUALIFICATION - APPLICATION TO LIFT - ENGAGING IN ALCOHOLIC
BEVERAGE BUSINESS WHILE DISQUALIFIED - GOOD FAITH OF APPLICANT
SHOWN - APPLICATION TO LIFT DISQUALIFICATION GRANTED.

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

CONCLUSIONS
AND ORDER

Case No. 840.
- - - - -)

BY THE DIRECTOR:

On January 26, 1934, petitioner was fined \$100.00 by a Judge of a Court of Quarter Sessions, as a result of his conviction of breaking and entering a garage with intent to steal.

The crime of breaking and entering with intent to steal involves moral turpitude. Re Case No. 13, Bulletin 228, Item 3.

Three witnesses (a housewife, a superintendent and a railroad employee) testified that they have known petitioner ten or more years, and that he has a reputation for being a law-abiding person in the community in which he resides.

The Police Department of the municipality in which petitioner lives has advised this Division that there are no complaints or investigations pending involving petitioner.

Petitioner testified that he has been employed by a trucking firm but on occasion helps out as a bartender on a licensed premises. Petitioner claims that the local issuing authority was aware of his record but, nevertheless, permitted him to work on the licensed premises. Petitioner has received a permit each year from the issuing authority, with his photograph thereon, which permit is posted on the licensed premises wherein he is employed. I believe that petitioner has acted in good faith. Inasmuch as sixteen years have elapsed since petitioner was involved in trouble with the law, I shall lift his present disqualification.

Accordingly, it is, on this 16th day of May, 1950,

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

ERWIN B. HOCK
Director.

5. MORAL TURPITUDE - GRAND LARCENY.

DISQUALIFICATION - APPLICATION TO LIFT - FALSE STATEMENT IN
QUESTIONNAIRE - APPLICATION DENIED, WITH LEAVE TO REAPPLY ON OR
AFTER OCTOBER 26, 1950.

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

CONCLUSIONS
AND ORDER

Case No. 841.
-----)

BY THE DIRECTOR:

On January 28, 1941, when petitioner was nineteen years of age, he pleaded non vult in a criminal court to a charge of grand larceny and received a suspended sentence. The crime of which petitioner was convicted concerned the theft of two radios, and involved the element of moral turpitude. Petitioner has never been convicted of any other crime, although it appears that in March 1946 he received a suspended sentence in a Police Court for creating a disturbance, and again in September 1947 he was fined \$20.00 in a Police Court on a second charge of creating a disturbance.

Since 1941 petitioner has worked from time to time for his father, who conducts his own business as a painter, and from 1943 to 1946 he served with the United States Navy until he was honorably discharged. Since 1946 he has had seasonal employment with a brewery, and at the present time is drawing unemployment compensation. He now desires to be employed by another brewery.

At the hearing petitioner produced three witnesses, each of whom has known him for at least five years and who testified that he has been law-abiding during that time.

After examining the facts concerning his convictions for creating disturbances, which were not convictions of crimes, I would be inclined ordinarily to grant relief in this proceeding. However, it appears that, while petitioner was employed by the first brewery mentioned herein, he filed a questionnaire in which he denied that he had ever been convicted of a crime. His testimony that he was not asked at the time he filled out the questionnaire whether or not he had been convicted of a crime, carries little weight in view of the fact that the questionnaire is signed and sworn to by petitioner. There is no excuse for lying.

I cannot grant the prayer of petitioner at this time, but he may renew his petition for relief after October 26, 1950.

Accordingly, it is, on this 16th day of May, 1950,

ORDERED that the petition herein be and the same is hereby dismissed.

ERWIN B. HOCK
Director.

6. DISCIPLINARY PROCEEDINGS - ALLEGED SALE TO MINORS - DIVISION
 FAILED TO SUSTAIN BURDEN OF PROOF - CHARGES DISMISSED AS TO
 LICENSEES AND PERMITTEE.

In the Matter of Disciplinary
 Proceedings against

ADOLPH KESSLER & MILTON SILVER
 T/a MORTIE'S WINES & LIQUORS
 224 Broadway
 Long Branch, N. J.,

Holders of Plenary Retail Consump-
 tion License C-3, issued by the
 Board of Commissioners of the City
 of Long Branch.

In the Matter of Disciplinary
 Proceedings against

JULIUS KESSLER
 57 Washington Street
 Long Branch, N.J.,

Holder of Employment Permit No. 241,
 issued by the Director of the Division
 of Alcoholic Beverage Control.

CONCLUSIONS
 AND
 ORDER

J. Stanley Herbert, Esq., Attorney for Defendants.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

The charges herein allege in substance that on September 7, 1949, defendant Julius Kessler sold alcoholic beverages to Private Herbert ---, a minor. The sale is alleged to have occurred on the licensed premises of defendants Adolph Kessler & Milton Silver. Hence, Adolph Kessler and Milton Silver, defendant-licensees, are charged with selling alcoholic beverages to a minor, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20, and Julius Kessler, defendant-permittee, who is a minor, is charged with selling alcoholic beverages, in violation of R. S. 33:1-77, and also in contravention of the condition of his employment permit which prohibits him from selling alcoholic beverages.

The testimony introduced by the Division consists solely of the testimony of Private Herbert ----, who is eighteen years of age, and two other soldiers who are, respectively, twenty and seventeen years of age. The three soldiers testified that on September 7, 1949, between 8:00 and 9:00 p.m., they entered the package goods department of the licensed premises conducted by defendants Adolph Kessler & Milton Silver, and that Private Herbert --- purchased a pint of Golden Wedding Whiskey. The soldiers testified that no one else was in the package goods department except themselves and the person who made the sale. It appears that when the soldiers were taken to the licensed premises by ABC agents on September 13, 1949, they identified the premises but were unable to identify the person who allegedly made the sale although they said that Julius Kessler "answers the general description". At the hearing held herein, Private Herbert --- testified that the man who made the sale was "sort of a youngish man", but that he could not positively say it was Julius Kessler, who was present at said hearing. The second soldier testified that he could not identify Julius Kessler as the person who made the sale, although he said that Julius Kessler "would fit the general description from what I remember". The third soldier testified that he was staying in the background, because he was only seventeen years of age, and did not see the person who made the sale.

On behalf of defendants, Adolph Kessler, who is approximately fifty years of age, testified that he was in charge of the package goods department on September 7, 1949 from 5:00 p.m. until 10:00 p.m., and that he did not see the soldiers in the licensed premises during that time.

Milton Silver testified that on September 7, 1949 he was tending bar in the barroom of the licensed premises, and that he did not enter the package goods department on that evening.

Julius Kessler, who is twenty years of age and a student at Rutgers University, testified that he is employed on a part-time basis on the licensed premises which are operated by his father, Adolph Kessler, and brother-in-law, Milton Silver. He testified that his duties consist of cleaning the premises and packing up merchandise. He is uncertain whether he was on the licensed premises on the evening of September 7, 1949, but definitely denies that he sold any alcoholic beverages to any of the minors on that date or at any other time. He further testified that he never saw any of the minors until they entered the licensed premises on September 13 with the ABC agents.

This is a difficult case because the three minors definitely identified the licensed premises. It is well settled that the failure to identify positively the person who made the sale is not in itself a sufficient reason for dismissing the charges. Cf. Re LaCorte, Bulletin 469, Item 1; Re Cohen, Bulletin 495, Item 6. However, in this case I am confronted with a situation in which the sale, according to the uncontroverted testimony before me, could have been made only by one of three persons, namely, Adolph Kessler, Milton Silver or Julius Kessler. There are no other employees except Mrs. Florence Kessler and a bartender, neither of whom was working on September 7, 1949. At the hearing the soldiers admitted that they never saw Adolph Kessler before the date of the hearing. There is no evidence to the effect that Milton Silver made the sale (Private Herbert ---- testifying that he had never seen Milton Silver before September 13, 1949), and I am satisfied from his testimony that licensee Silver did not enter the package goods department on the evening of September 7, 1949. Thus the only other person to be considered is Julius Kessler. The Hearer reports that Julius Kessler made a very favorable impression on the witness stand. Julius Kessler testified that he has never sold alcoholic beverages to any person. It is important to note that the two soldiers at no time identified Julius Kessler as the person who made the sale. The most that they did say was that he "answers the general description" and "would fit the general description from what I remember". In view of the soldiers' uncertain testimony, and the positive and convincing testimony given by Julius Kessler, I am unable to conclude that Julius Kessler violated the law and exceeded the privileges granted by his employment permit. Having reached this conclusion, and after a very careful consideration of the charges and all the evidence, I must find that the Division has failed to sustain the burden of proof in establishing the guilt of the licensees or the permittee. Hence I shall dismiss the charges herein. Cf. Sportman's Cafe, Inc., Bulletin 869, Item 1.

Accordingly, it is, on this 3rd day of May, 1950,

ORDERED that the charges in both cases be and the same are hereby dismissed.

ERWIN B. HOCK
Director.

7. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

THOMAS F. CRAWLEY
T/a BELVEDERE BEACH HOTEL
S/W Cor. Laurel Ave. & Charles Ave.
Keansburg, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-35, issued by the
Mayor and Municipal Council of the
Borough of Keansburg.

Giuliano & Giuliano, Esqs., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that, on the night of March 25, 1950 and early morning of March 26, 1950, he sold alcoholic beverages to and permitted the consumption thereof on his licensed premises by a minor, in violation of Rule 1 of State Regulations No. 20.

On Saturday night, March 25, 1950, one Private John C. ----, an 18-year-old minor, purchased and was served and permitted to consume several glasses of beer and a glass of Rock and Rum. Returning early the next morning, the said minor was again sold, served and permitted to consume several glasses of beer. No inquiry was made by the licensee or by anyone else in the licensed premises respecting the age of the minor.

Defendant has no prior adjudicated record. I shall suspend the license for the minimum period for sales to minors, 10 days. Remitting five days for the plea will leave a net suspension of five days.

Accordingly, it is, on this 16th day of May, 1950,

ORDERED that Plenary Retail Consumption License C-35, issued by the Mayor and Municipal Council of the Borough of Keansburg to Thomas F. Crawley, t/a Belvedere Beach Hotel, for premises s/w Cor. Laurel Ave. & Charles Ave., Keansburg, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. May 22, 1950, and terminating at 2:00 a.m. May 27, 1950.

ERWIN B. HOCK
Director.

8. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - SALE TO NON-MEMBERS -
PRIOR RECORD OF SIMILAR VIOLATIONS - LICENSE SUSPENDED FOR BALANCE
OF TERM.

In the Matter of Disciplinary)
Proceedings against)

VITTORIO VENETO LODGE, INC.)
905 South 4th Street)
Camden, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License No. CB-18,)
issued by the Municipal Board of)
Alcoholic Beverage Control of the)
City of Camden.)
- - - - -)

Bruce A. Wallace, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold alcoholic beverages to persons who were not bona fide members or bona fide guests of a member of said club, in violation of Rule 8 of State Regulations No. 7.

The file herein discloses that on the evening of Saturday, March 25, 1950, two ABC agents visited the second floor of defendant's licensed premises where a dinner, attended by a large number of people, was being held. Later in the evening both agents visited the barroom, which is located on the first floor of the licensed premises. They went to the bar and purchased drinks of whiskey from Anthony Clanerella, a trustee of the club, who was then acting as bartender. Neither agent was a member, or guest of a member, of defendant club.

Defendant has a prior record. On November 19, 1942, the Commissioner suspended its license for a net period of fifty-five days after it had pleaded guilty to charges alleging that it had sold alcoholic beverages to non-members. That violation was aggravated by the fact that defendant was operating as a "speakeasy" and that, several months previously, it had been found guilty of an identical violation by the local issuing authority and its license suspended for five days.

In attempted mitigation of the present violation defendant alleges that it was difficult to avoid a sale to non-members because of the large crowd which attended the affair held on the second floor, and also calls attention to the fact that the record of the club had been clear for more than seven years. The fact that a large number of non-members were in the building is scarcely any excuse for the violation, but in fixing the period of suspension I shall consider the period of time which has elapsed since the last violation. Ordinarily, a third violation for sales to non-members might well merit revocation of the license, but, under all the circumstances of this case, I shall suspend defendant's license for the balance of its term.

Accordingly, it is, on this 17th day of May, 1950,

ORDERED that Club License CB-18, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Vittorio Veneto Lodge, Inc., for premises 905 South 4th Street, Camden, be and the same is hereby suspended for the balance of its term, commencing at 2:00 a.m. May 22, 1950, and terminating at the expiration of the license, namely, at midnight, June 30, 1950.

ERWIN B. HOCK
Director.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR
TRADE MINIMUM - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

GIANT LIQUORS, INC.)
8107-19 Bergenline Avenue)
North Bergen, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distri-)
bution License D-14, issued by the)
Board of Commissioners of the)
Township of North Bergen.)

Platoff & Platoff, Esqs., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold
alcoholic beverages at retail for a price below the minimum consumer
price, in violation of Rule 5 of State Regulations No. 30.

On April 25, 1950, the licensee, through its president, sold
six 4/5 quart bottles of Harwood's Blended Canadian Whisky to an
agent of the State Division of Alcoholic Beverage Control for the
sum of \$30.00. The minimum consumer price for the beverage mentioned
above, as listed in the then current "List of Minimum Resale Prices",
effective April 1, 1950, was \$5.67 per 4/5 quart, making the minimum
resale price for six bottles \$34.02.

Defendant has no previous adjudicated record. I shall suspend
the license for ten days. Remitting five days for the plea will
leave a net suspension of five days. Re Alevras, Bulletin 858,
Item 7.

Accordingly, it is, on this 17th day of May, 1950,

ORDERED that Plenary Retail Distribution License D-14, issued
by the Board of Commissioners of the Township of North Bergen to
Giant Liquors, Inc., for premises 8107-19 Bergenline Avenue, North
Bergen, be and the same is hereby suspended for a period of five (5)
days, commencing at 9:00 a.m. May 22, 1950, and terminating at 9:00
a.m. May 27, 1950.

ERWIN B. HOCK
Director.

10. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - NO REMISSION FOR PLEA OF NON VULT ENTERED ON DATE OF HEARING - PRIOR RECORD - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary)
Proceedings against)

ANTHONY GARONE)
54 Ellison Street)
Paterson 1, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-172, issued by the)
Board of Alcoholic Beverage Control)
of the City of Paterson.)

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Colombo Cammarano, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to minors at his licensed premises, and permitted said minors to consume alcoholic beverages at his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that, according to statements given to ABC agents by the minors, Pauline Weaver, a waitress in defendant's premises on the evening of Sunday, March 26, 1950, served ten glasses of beer and nine drinks of whiskey to Roy ---, seventeen years of age, and two or three glasses of beer to Vincent ---, fifteen years of age. Both minors allege that no one on the licensed premises questioned them as to their respective ages.

Defendant has a prior record. On March 11, 1948, his license was suspended for a net period of twenty days after he had pleaded non vult to charges alleging that he, by his employees, had sold alcoholic beverages to three minors, two of whom were seventeen years of age and one of whom was sixteen years of age. See Re Garone, Bulletin 798, Item 1.

The confessional plea was not entered in these proceedings until the day of hearing and after the Division had been put to the expense and trouble of subpoenaing its witnesses. Under these circumstances the remission usually granted in cases where the confessional plea is received sufficiently in advance of the hearing, to save such expense and trouble, is not allowed. Re Jagielski, Bulletin 593, Item 6; Re Yoches, Bulletin 855, Item 3. In this case defendant withheld the entry of a confessional plea to await the outcome of a criminal trial which was held on the day prior to the day fixed for hearing herein, and waited until the following morning, when this case was ready for trial, before he entered a non vult plea in this proceeding. There will be no remission for the plea entered herein.

In view of the age of the minors involved in the present case, the amount of alcoholic beverages sold to one of them, and the prior similar record, I shall suspend defendant's license in this proceeding for a period of sixty days. Any similar violation in the future may well result in revocation of the license.

Accordingly, it is, on this 19th day of May, 1950,

ORDERED that Plenary Retail Consumption License C-172, issued by the Board of Alcoholic Beverage Control of the City of Paterson, to Anthony Garone, for premises 54 Ellison Street, Paterson, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. May 25, 1950; and it is further

ORDERED that if any license be issued to this licensee, or any other person, for the premises in question for the 1950-51 licensing year, such license shall be under suspension until 3:00 a.m. July 24, 1950.

ERWIN B. HOCK
Director.

11. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATE FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING OF BUSINESS.

In the Matter of Disciplinary)
Proceedings against)
PINE HILL LODGE, INC.)
T/a PINE HILL LODGE)
Brookside Road)
Randolph Township)
P.O. Mt. Freedom, N. J.,)
Holder of Plenary Retail Consump-)
tion License C-16, issued by the)
Township Committee of Randolph)
Township.)
-----)

O R D E R

BY THE DIRECTOR:

It appearing that by Order dated September 8, 1949, the license held by the above named defendant was suspended for a period of ten days, commencing at 2:00 a.m. September 19, 1949 (Bulletin 853, Item 6); and

It further appearing that by Order dated September 19, 1949, the operation of said order of suspension was stayed pending the entry of a further order herein (Bulletin 854, Item 9); and

It further appearing that defendant had served one day of the suspension prior to the time of service of the order dated September 19, 1949, thus leaving a balance of nine days of said suspension to be served; and

It further appearing that defendant's premises have now been reopened for business,

It is, on this 16th day of May, 1950,

ORDERED that the balance of the ten-day suspension heretofore imposed shall become effective commencing at 2:00 a.m. May 18, 1950, and terminating at 2:00 a.m. May 27, 1950.

ERWIN B. HOCK
Director.

12. DISCIPLINARY PROCEEDINGS - BOOKMAKING AND GAMBLING - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary
Proceedings against

GLADYS HUHNS
T/a RED TOP BAR & LUNCH
Cor. of Ocean Ave. & Laird Street
Long Branch, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-48, issued by the
Board of Commissioners of the City
of Long Branch.

A. Henry Giordano, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleads non vult to charges alleging that (1) she permitted and suffered bookmaking and gambling on and about her licensed premises, in violation of Rule 7 of State Regulations No. 20; and (2) during the time when investigators were conducting an investigation, she hindered and failed to facilitate such investigation, in violation of R. S. 33:1-35.

It appears from the file in the instant case that on April 25, 1950, two ABC agents observed the husband of the defendant-licensee, who was acting as manager of the licensed premises at the time, accepting bets on horses from various customers. A short time thereafter, according to the investigators in question, a man entered the licensed premises and accepted bets from the manager aforementioned, and also directly from several patrons. Upon the assurance of the manager that the two ABC agents were "fishermen", the bookmaker accepted two bets on horses from them. After the ABC agents made known their identity to the manager of the licensed premises, they searched the premises for gambling paraphernalia. Racing slips, racing forms, a racing pad, and newspapers with racing news were found on the licensed premises.

During the course of the investigation, and although warned to cooperate with the ABC agents, the manager of the licensed premises attempted to destroy the racing material that might have some evidential value. Furthermore, the manager and the bookmaker, during the investigation, jostled one of the ABC agents.

Defendant has a prior record. Effective October 2, 1944, defendant's license was suspended by the local issuing authority for ten days for sales of alcoholic beverages during prohibited hours. Again, effective November 14, 1949, defendant's license was suspended for five days, as a result of sale of alcoholic beverages to a minor. See Bulletin 859, Item 9.

Under all the circumstances, including the plea entered herein, I shall suspend defendant's license for the balance of its term.

Accordingly, it is, on this 18th day of May, 1950,

ORDERED that Plenary Retail Consumption License C-48, issued by the Board of Commissioners of the City of Long Branch to Gladys Huhn, t/a Red Top Bar & Lunch, for premises cor. of Ocean Avenue and Laird Street, Long Branch, be and the same is hereby suspended for the balance of its term, commencing at 3:00 a.m. May 22, 1950, and terminating at the expiration of the license, namely, at midnight, June 30, 1950.

ERWIN B. HOCK
Director

13. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF LOCAL ORDINANCE - PERMITTING LICENSED PREMISES TO REMAIN OPEN, IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

JAMES QUINLAN
176 Paterson Street
Paterson 1, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-135, issued by the
Board of Alcoholic Beverage Control
of the City of Paterson.

James Quinlan, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) he sold alcoholic beverages on his licensed premises after 3:00 a.m. and before 7:00 a.m. on Saturday, April 29, 1950; and (2) failed to have his licensed premises closed during said hours, both in violation of a local ordinance.

On April 29, 1950, at about 3:45 a.m., agents of the State Division of Alcoholic Beverage Control, observing apparent unwarranted activity in defendant's licensed premises, obtained entrance after making their identity known. When the agents entered, four customers were consuming alcoholic beverages in the licensed premises.

Defendant has no prior adjudicated record. I shall suspend his license for fifteen days. Cf. Dabrowski, Bulletin 687, Item 8. Remitting five days for the plea will leave a net suspension of ten days.

Accordingly, it is, on this 19th day of May, 1950.

ORDERED that Plenary Retail Consumption License C-135, issued by the Board of Alcoholic Beverage Control of the City of Paterson to James Quinlan, for premises 176 Paterson Street, Paterson, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. May 31, 1950, and terminating at 3:00 a.m. June 10, 1950.

ERWIN B. HOCK
Director.

14. STATE LICENSES - NEW APPLICATIONS FILED.

Mike Hocko, t/a Union Parcel Service
655 Carlyle Place, Union, N. J.

Application for Transportation License (for fiscal year 1950-51)
filed May 23, 1950.

Cooper Jarrett Inc.
400-2-4-6 Jackson St., Hoboken, N. J.

Application for Transportation License (for fiscal year 1950-51)
filed May 23, 1950.

New York Terminal Warehouse Co., Incorporated
29 North Virginia Ave., Atlantic City, N. J.

Application for Public Warehouse License filed May 23, 1950.

New Jersey State Library

Erwin B. Hock
Director.