

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

BULLETIN 981

AUGUST 12, 1953.

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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.

BULLETIN 981

August 12, 1953.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(RENTING ROOMS FOR IMMORAL PURPOSES) - POSSESSION OF CON-
TRACEPTIVES - LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary)
Proceedings against)

BELAIR INN, INC.,)
Kinderkamack Road,)
Emerson, New Jersey,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consump-)
tion License C-4 for the 1952-53)
and 1953-54 licensing years, issued)
by the Mayor and Council of the)
Borough of Emerson.)
-----)

Joseph H. Gaudielle, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charges:

"1. On January 9, 13 and 14, 1953, and on divers days
prior thereto, you allowed, permitted and suffered lewd-
ness and immoral activity in and upon your licensed prem-
ises, viz., the renting of rooms for the purpose of il-
licit sexual intercourse in violation of Rule 5 of State
Regulations No. 20.

"2. On January 14, 1953, you possessed and allowed, per-
mitted and suffered prophylactics against venereal disease
and contraceptives and contraceptive devices in and upon
your licensed premises; in violation of Rule 9 of State
Regulations No. 20."

An ABC agent testified that on January 9, 1953, he was
in the defendant's licensed premises between 6:45 and 9:00
p.m. The witness described the premises as follows: "The build-
ing is a two-story building--frame building. The front of the
building is partially obscured by large trees and shrubbery.
On either side of the building is a driveway leading from one
side going right behind it to the other side coming out to the
left--left to right or vice versa." More specifically, he
described the rear part of the building thus: "From the parking
lot the building has three doors. As you are facing the rear
of the building there is a door to the left, then about four
or five feet to the right of this door there is another door,
and then a few feet from this middle door there is still a third
door." He further testified that he entered the licensed prem-
ises through the door on the far left when facing the build-
ing, stepped into a small vestibule wherein was another door
bearing a sign "Reservations Only", that through this door he
entered a dining room containing five tables, chairs, two air

coconditioners, and the floor was completely covered by a rug; that, from the dining room, in which there were no persons, he went into a small barroom containing a semi-circular bar and "about eight or ten stools" in front thereof; that he ordered food from the bartender, subsequently identified as Edi Riccardi (hereinafter referred to as Edi), and when the meal was ready the said bartender ushered him to the right into the large dining room, through which he had previously passed on his way to the barroom; and seated him at a table; that at the bar had been two couples, who had ordered food and who, when later told the food was ready, had been escorted by Edi through the lounge to the left. The witness further testified that he observed a woman in the premises, who was subsequently identified as Lillian Van Binsberger, the president and a director of the defendant corporate-licensee and 98% shareholder thereof. The ABC agent further testified that, at the time he paid his bill in the dining room, he conversed with Edi, the bartender, concerning the price for the rental of rooms in the establishment and Edi remarked "Six fifty. Next time you come in here I will take care of you." When he went to his car in the parking area, there were "nine cars in all" there, the witness testified.

The ABC agent further testified that he returned to defendant's licensed premises at about 3:00 p.m. on Tuesday, January 13, 1953, in the company of another agent; that there were four cars in the parking area; that they entered the premises through the door used by him on the prior visit and proceeded in the same manner to the barroom; that there was no one in the dining room or the lounge room; that he and his fellow agent took seats at the bar, at which were seated an elderly man and woman; that Lillian Van Binsberger later took a seat at the bar and conversed with this couple; that he heard no other voices; that he introduced his fellow agent to Edi and asked him if they could obtain two rooms for the following night; that he told Edi "...we are going to take two girls up here." The ABC agent further testified that he asked Edi if it would be safe because "I have to be exceptionally careful as I am married and the girls are single"; that he told Edi "My friend here doesn't care because he's single"; that he asked Edi if the price of six fifty would be the same for a couple of hours as it would be for all night; that Edi said the price would be the same. The witness testified that he then asked "Do you have any rubbers [contraceptive devices]?" to which Edi replied, "No, you bring them yourself"; that he then said to Edi, "...these girls are single and have to be careful and they might not want to be seen by anyone"; that Edi then said, "Well, if you don't want to be seen just use the rear door, ring the bell and I will answer it and I could take the girls up to the room." The ABC agent testified that he had previously told Edi that the rooms were to be used to engage in sexual intercourse; that when speaking about entrance through the rear door, he requested the telephone number of the establishment, and that he and his fellow agent were each handed a card. (The cards, Exhibit S-2 in evidence, have on one side a picture of the front of the defendant's licensed premises and on the other side thereof the words "'Belair' Kinderkamack Road, Emerson, N. J. -- Oradell 8-9726.") The ABC agent further testified that he asked Edi about baggage and registration and was told by him that they did not need baggage and that they did not have to register; that he heard his fellow agent say to Edi "...that the girl he's taking up to the room for a lay has to be careful because she's single, that when they do arrive for Edi to show them up to our rooms"; that he heard Edi say, "O. K. I'll take care of it when they get here"; that he and his fellow agent left the defendant's premises at 5:00 p.m.; that during the two hours he and his fellow agent were in the premises he observed on three occasions "Edi mix drinks, put them in his hand, leave

the bar, go through the barroom into the lounge room to the left of the bar"; that in the parking lot they counted, upon leaving, four cars exclusive of theirs.

The ABC agent testified, further, that on January 14, 1953, he and the agent who had been with him the previous day again visited defendant's licensed premises, arriving there at "about seven p.m." and that each had a five-dollar bill and two one-dollar bills, the serial numbers of which had been noted on a piece of paper earlier that day in the private law office of one of the assistant prosecutors of the county wherein the premises are situated; that they went to the barroom and as they sat at the bar, Edi asked them, "Are the girls you're taking-- the girls you're going to take up here tonight going to be late?"; that the witness answered that they may be here about 8 o'clock and asked whether the rooms were available; that Edi said the rooms were available and confirmed the price of "six fifty." The agent further testified that his fellow agent then told Edi Riccardi that he was going to telephone the girls and that they were going to come through the rear door and for Edi to show them to their rooms; that Edi replied, "Don't worry. I'll take care of it. I'll answer the bell--the door--and show the girls to your rooms, but I may get all screwed up. I don't know who's who--which girl goes to which room--but you guys can take care of that when they go upstairs." The agent further testified that his fellow agent then proceeded to the phone, returning to the bar several minutes later, at which time he told Edi that he "...just called the broads up and they said they'll be here about eight o'clock" and cautioned him: "Don't forget, when they arrive show them upstairs."

Testifying further the witness stated that, although Edi suggested that the bill be paid later, he told him that he preferred paying then, saying "No, I rather pay the bill now because after we get through upstairs; after we get through laying the girls, shower up and everything, we are going to leave through the back with them." The bill (Exhibit S-4 in evidence) was \$18.70. The money given in payment thereof by the two agents consisted of two five-dollar bills and four one-dollar bills, the serial numbers of which had theretofore been noted; and six one-dollar bills, the serial numbers of which had not been previously noted. The agent said that he accepted no change but told Edi to retain the \$1.30 as a tip; that Edi put the bill and money on the back bar; and that later Edi led them through the lounge room into a hallway and then upstairs to their respective rooms (Nos. 5 and 6). The witness said that the room he occupied had "...a wall-to-wall rug, it has a double bed with two mattresses, it's air-conditioned (a small Fedder's air conditioner), it has a table with two chairs, large bureau (drawers and mirror), stand-up light, a clothes tree, another little cabinet, and the bathroom has a stall shower and a toilet." Later he added that there was an "inter-com" phone on the wall near the entrance. The witness testified that neither agent had any baggage and that neither was asked to register; that his fellow agent ordered two drinks for him which were brought to his room on a tray by Edi, who said, "If you need anything just give me a ring"; that at about 8:00 p.m., there was a knock on his door and, upon opening it, he saw another ABC agent, the county Chief of Detectives, an assistant prosecutor and Edi. The witness further testified that upon being interrogated by the other agent as to what he was doing there, he replied, "I'm waiting for my girl friend" and, when asked the purpose for which he rented the room, said, "I rented it for my girl. I was going to throw her a lay here" and that Edi "didn't say a word."

The agent further testified that he and his fellow agent who had occupied the other bedroom were taken to the Prosecutor's office and were ushered into a room with Edi, where they remained from "9:15-9:20" until "12:05 a.m."; that he asked Edi, "Who is going to go our bail?"; Edi said, "Don't worry, the boss will take care of it" and, when he asked Edi who the boss was, Edi replied "Lillian Van Binsberger. She owns the place. She'll take care of everything"; that Edi assured him he would get back the \$13 paid for the rooms; that he was also told by Edi, "Don't forget, if the cops ask you anything you tell them you went upstairs to get a shower and you were coming down to have dinner, that's all"; That Edi repeated several times, "Don't forget, that's what you tell the cops if they ask you that." This agent's further testimony was to the effect that the two ABC agents revealed their identity at 12:05 a.m.; that when Edi was questioned by an ABC agent as to what happened that evening, he admitted that he had rented the rooms to the two ABC agents for the purpose of engaging in immoral activity, charged them \$6.50, and served drinks upstairs.

After the second ABC agent was sworn as a witness, it was stipulated by the parties that his testimony would be substantially the same as that given by the ABC agent who was with him at the defendant's licensed premises on January 13 and 14, 1953 and whose testimony is hereinabove set forth. In addition thereto, the second ABC agent testified that he found a small metal container containing an unused contraceptive in the top right-hand drawer of the dresser, and that a third ABC agent, accompanied by the county Chief of Detectives, a detective, and an assistant prosecutor, came to his room.

The ABC agent (the third) who went to the rooms of the two agents on the evening of January 14, 1953, testified that at 8:00 p.m. he, a member of the Prosecutor's staff, the Chief of Prosecutor's Detectives, and a detective, entered defendant's licensed premises where he identified himself to Edi, requested that he accompany them to the upper floor as he wished to make a check, asked how many rooms were occupied and was told two, specifying Nos. 5 and 6; that they went to the two rooms, at which time Edi admitted renting the rooms; that he questioned the two ABC agents concerning their presence in the bedroom and was told they expected girls to engage in illicit sexual intercourse; that he made a survey of the other rooms and in Room 3 found a contraceptive wrapped in a napkin; that before leaving the upper floor Lillian Van Binsberger joined them and was informed as to what was taking place; that after they went downstairs and entered the barroom he asked her to take the money from the drawer, plus some money (twenty dollars) he saw on top of a guest check on the back bar; that the money was taken to a table and, in the presence of Lillian Van Binsberger and others, he checked the money and found that the serial numbers of fourteen dollars thereof checked with those noted on a piece of paper; that he found a contraceptive in a drawer underneath the bar; that in a drawer in a cabinet in the kitchen he found more contraceptives. The witness testified that after the two agents who had rented the rooms from Edi identified themselves, Edi admitted that he had rented rooms to them for the purpose of engaging in illicit sexual intercourse with women who were to come later on; that Lillian Van Binsberger, upon being questioned, stated that Edi, who had been employed by the former owner, took care of renting rooms; that when she took over the place she told Edi to continue to operate the premises in the same manner as he had done for the former owner; that she admitted that she had engaged in illicit

sexual intercourse with a doctor friend in the establishment prior to the purchase of the licensed premises.

A fourth ABC agent testified that he was present when Lillian Van Binsberger and Edi were questioned; that Lillian Van Binsberger stated that she and a doctor friend had frequented the premises for some time prior to taking over the business and that she and the doctor had rented rooms with the knowledge of Edi and the former owner that they were to engage in sexual intercourse; that she further stated that she retained Edi as manager and instructed him to continue the operation of the premises in the same manner as he had formerly done; that Edi stated he managed the establishment; that Edi admitted, finally, that he knew that the agents had rented the rooms from him for the purpose of engaging in illicit sexual intercourse.

At the hearing herein, no witness appeared or was called to testify in behalf of defendant.

Defendant's attorney entered objection to admission in evidence of conversations, between the Division's agents and defendant's bartender, Edi Riccardi, concerning the rental of rooms in the licensed premises. In a Memorandum of Law, filed in defendant's behalf, it is contended (with various citations to and quotations from New Jersey Court decisions) that the declarations, acts and transactions of the employees are inadmissible as evidence without "proper proof" to establish that the same were made within the scope of their employment or were authorized or ratified by the defendant corporation.

Even if the objection and contention could be taken to have merit in other proceedings by the Division, there is herein uncontroverted testimony to the effect that Edi, who had taken care of the room-renting when employed by the former owner, was told by the president of defendant corporation (when she took over the place) to operate the premises in the same manner as theretofore; and there is uncontroverted testimony concerning the corporation president's admission of her having engaged in illicit sexual intercourse in the establishment during the prior ownership.

But quite apart from such testimony, defendant's contention in the Memorandum of Law is without pertinent merit and all of the cited cases (which involve long-familiar principles of evidence in the general law of Agency) are inapplicable here. There is no disputing or denying the fact that Edi was employed by defendant. There is no disputing or denying that he was an "employee" within the meaning of the statute and regulations. (For cases bold facing the point that no further proof of Edi's employment would be necessary, see Re William Street Bar and Grill, Bulletin 466, Item 8; In re Gutman, 21 N. J. Super. 579 -- App. Div., 1952). This man was bartending and renting rooms for defendant. In both capacities he was performing services in furtherance of defendant's licensed business on the licensed premises and in the regular course of his employment. The testimony objected to is admissible and the proof more than adequate.

Rule 31 of State Regulations No. 20 provides:

"In disciplinary proceedings brought pursuant to the Alcoholic Beverage Law, it shall be sufficient, in order to establish the guilt of the licensee; to show that the violation was committed by an agent, servant or employee of the licensee. The fact that the licensee did not participate in the violation or that his agent, servant or employee acted contrary to instructions given to him by the licensee or that the violation did not occur in the licensee's presence shall constitute no defense to the charges preferred in such disciplinary proceedings."

Judge McGeehan, speaking for the Superior Court of New Jersey, Appellate Division, in Greenbrier, Inc. v. Hock, 14 N.J. Super. 39 (App. Div. 1951) stated: "This rule [Rule 31 of State Regulations No. 20] contains no prohibition and is merely declaratory of certain applicable court decisions. Cf. Grant Lunch Corp. v. Driscoll, 129 N. J. L. 408 (Sup. Ct. 1943), affirmed 130 N. J. L. 554 (E. & A. 1943), cert. denied 320 U. S. 801, 88 L. Ed. 484 (1944); Cedar Restaurant & Cafe Co. v. Hock, 135 N. J. L. 156 (Sup. Ct. 1947); Essex Holding Corp. v. Hock, 136 N. J. L. 28 (Sup. Ct. 1947); Galsworthy, Inc. v. Hock, 3 N. J. Super. 127 (App. Div. 1949)...."

Manifestly, the Rule and its upholding are essential to proper and effective enforcement in protection of the public welfare. Without it the State would be rendered impotent and licensees would enjoy an immunity through the simple expediency of making sure that individual licensees (and members of licensee corporations) absent themselves from the licensed premises. And the exclusion of testimony with respect to declarations, acts and transactions of employees would render the Rule nugatory. That testimony of this nature has heretofore been admitted in evidence in similar disciplinary proceedings; see Re Hartman, Bulletin 904, Item 2; Re Mazza, Bulletin 972, Item 1. See also Re Guittari, Bulletin 974, Item 4 and cases there cited.

As our courts have long held, the liquor traffic is a subject by itself, to the treatment of which all the analogies of the law, appropriate to other topics, cannot be applied. Faul v. Gloucester, 50 N. J. L. 585 (E. & A. 1888); Essex Holding Corp. v. Hock, supra; Hudson Bergen, &c., Assn. v. Hoboken, 135 N. J. L. 502 (E. & A. 1947); Crowley v. Christensen, 137 U. S. 86; 34 L. Ed. 620.

I am satisfied from the testimony of the ABC agents that the conversations and arrangements to engage in illicit sexual intercourse, culminating in the renting of rooms for that purpose, actually occurred on the dates in question. This, standing alone, is sufficient to establish the guilt of defendant-licensee. I have not considered the unsigned statements which were alleged to have been subsequently given to the law-enforcement authorities by the bartender Edi Riccardi, and by the president of defendant corporation, Lillian Van Binsberger.

I find the defendant guilty as charged.

Defendant has no prior adjudicated record. These proceedings originated prior to my "Increased Penalties" warning, issued June 30, 1953 (Bulletin 976, Item 2). Under the circumstances, I shall suspend defendant's license for a period of 180 days. In

re Schneider, 12 N. J. Super. 449 (App. Div. 1951); In re Larsen, 17 N. J. Super. 564 (App. Div. 1952); Re Hartman, Bulletin 904, Item 2; Re Molenaro, Bulletin 910, Item 1; Re McCarty, Bulletin 919, Item 3; Re Bertown Realty Corp., Bulletin 934, Item 6; Re Mazza, supra.

Although this proceeding was instituted during the 1952-53 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1953-54. State Regulations No. 16.

Accordingly, it is, on this 4th day of August 1953,

ORDERED that Plenary Retail Consumption License C-4 for the 1953-54 licensing year, issued by the Mayor and Council of the Borough of Emerson to Belair Inn, Inc., Kinderkamack Road, Emerson, be and the same is hereby suspended for a period of one hundred eighty (180) days, commencing at 2 a.m., August 12, 1953, and terminating at 2 a.m., February 8, 1954.

DOMINIC A. CAVICCHIA,
Director.

2. MORAL TURPITUDE - LARCENY AND RECEIVING.

DISQUALIFICATION - FIVE YEARS' GOOD CONDUCT - APPLICATION TO LIFT 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. 1062.
-----)

BY THE DIRECTOR:

On December 27, 1935, petitioner was placed on probation for a period of two years by a County Judge as a result of his plea of guilty to a charge of larceny and receiving. It appears that petitioner and two companions were arrested by law enforcement officers for stealing copper wire from a railroad right-of-way.

Larceny and receiving are crimes which ordinarily involve moral turpitude. Re Case No. 563, Bulletin 655, Item 10. While petitioner apparently has a clear record except for the conviction set forth herein, it does appear that he admitted, by the plea of guilty entered in the criminal proceedings, participation in the theft of the material in question. Under these circumstances, the crime involved moral turpitude.

At the hearing herein, petitioner testified that he has been employed as a rubber worker by his present company for six years, and prior thereto worked for another rubber company. He further testified that he intends to retain his present position but is seeking relief in the instant proceeding so that he may be permitted to help on liquor licensed premises owned by members of his family.

Three witnesses (a municipal detective, a civil engineer, and a machine operator, who have known petitioner respectively for

sixteen, ten and twelve years) testified that petitioner has a good reputation for being a law-abiding person in the community in which he resides. The police department of the municipality wherein petitioner lives has advised that there is no complaint or investigation pending at the present time involving the petitioner.

Apparently petitioner has lived down the misstep which resulted in his conviction in 1935. I conclude that he has been law-abiding during the past five years at least and that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 28th day of July, 1953,

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.

DOMINIC A. CAVICCHIA,
Director.

3. MORAL TURPITUDE - BOOKMAKING AND MAINTAINING DISORDERLY HOUSE.

DISQUALIFICATION - FIVE YEARS' GOOD CONDUCT - APPLICATION TO LIFT 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. 1073.
-----)

BY THE DIRECTOR:

In February 1948 petitioner pleaded guilty in a county court to the crimes of bookmaking and maintaining a gambling house, as a result of which he was sentenced to a two-to-three-year term in State Prison and fined \$8500. However, the prison term was suspended and he was placed on probation for five years. In August 1943 petitioner was found guilty of maintaining a disorderly house and was sentenced to a term of one-to-two years in prison and was fined \$1000. Very shortly thereafter he was resentenced and, after he served less than three months in prison, the balance of the sentence was suspended and he was placed on probation for three years. Since the crimes of which he was convicted involve moral turpitude, petitioner was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State.

At the hearing herein petitioner testified that, since February 1948, he has not been convicted of any crime and, except for a conviction for violation of a municipal ordinance requiring persons convicted of crime to register with the municipal authorities, he has not had any difficulty with the law since that time. This is confirmed by fingerprint records, and the police department of the municipality in which he resides reports that no complaint or investigation involving petitioner is presently pending.

Petitioner also testified that during the past five years he has been connected with a restaurant which holds a liquor license and has owned and operated a hotel which has no liquor license. He also testified that he has custody of his four children who presently reside with him.

Petitioner produced as witnesses three persons (a municipal employee and the owner of a stationery and office equipment business, both of whom reside in the same municipality as petitioner, and the owner of a retail furniture business who resides in a neighboring municipality) who have known petitioner for periods of from six to forty years. Each testified that petitioner bears a good reputation in the community and has been law-abiding for at least five years last past.

I would have no hesitancy in granting the relief sought were it not for two factors: (1) petitioner's conviction for violation of the local ordinance hereinabove mentioned and (2) his employment in the alcoholic beverage industry in this state while ineligible, contrary to the statute and regulations. However, with respect to petitioner's conviction for violation of the municipal ordinance, that conviction appears to be a single lapse in the last five years. Conviction for violation of a local ordinance is not a conviction of crime. Re Case No. 314, Bulletin 393, Item 9. This single lapse does not overcome petitioner's otherwise clear record during the five years last past and the favorable testimony of his character witnesses. Re Case No. 978, Bulletin 936, Item 10; Re Case No. 46, Bulletin 299, Item 9.

With respect to petitioner's participation in the alcoholic beverage industry in New Jersey while disqualified, he testified that he was the proprietor of a restaurant and the owner of the building where the business was conducted; that, at first, the restaurant held no liquor license; that thereafter he sold the business to a corporation and continued in its employ; that thereafter the corporation obtained a liquor license and that he continued to work at the premises until notified that he was ineligible for such employment. He further testified that he was unaware of his ineligibility and that he first learned of it when notified by this Division, after which he discontinued his connection with the business.

I am convinced from all the circumstances that petitioner was unaware of his disqualification until notified to that effect by this Division. Knowledge of the law is not a necessary ingredient of the good faith essential in these rehabilitation proceedings. Cf. Re Case No. 594, Bulletin 767, Item 6; Re Case No. 929, Bulletin 921, Item 10.

Under all the circumstances and particularly in view of the fact that petitioner promptly discontinued his employment in the alcoholic beverage industry in this state upon being notified of his ineligibility, I find that petitioner has been law-abiding for more than five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 23rd day of July, 1953,

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

DOMINIC A. CAVICCHIA,
Director.

4. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Ella Passwater,
t/a Ella's Cafe,
578 Spruce Street,
Camden, New Jersey,

CONCLUSIONS

and

Holder of Plenary Retail Consumption
License C-182 for the 1952-53 licens-
ing year, and C-155 for the 1953-54
licensing year, issued by the Muni-
cipal Board of Alcoholic Beverage
Control of the City of Camden.

ORDER

Frank M. Lario, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On May 14, 16 and 20, 1953, you allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets in and upon your licensed premises in violation of Rule 7 of State Regulations No. 20."

The file herein discloses that two ABC agents entered defendant's premises at 11:45 a.m. on May 14, 1953. Marvel H. Passwater, Sr. (husband of licensee) was tending bar. During the time the agents remained on the licensed premises they observed the bartender accepting money from each of two other patrons, making notations on a slip of paper and going to a telephone in a rear room.

One of the agents referred to above and another ABC agent entered defendant's premises at 1:15 p.m. on May 16, 1953. Marvel H. Passwater, Sr. was then seated at a table with George R. Schultz. The agents observed Schultz taking money from customers and making notations on a sheet of paper. Later one of the agents placed a \$2 bet with Schultz on a horse running that afternoon in a race at Garden State. All this occurred in the immediate presence of the licensee's husband.

The two ABC agents who had participated in the investigation on May 14 returned to defendant's premises at 1 p.m. May 20, 1953. Marvel H. Passwater, Sr., who was then tending bar, told the agent that the horse on which he had bet on May 16 had been scratched. The bartender told George R. Schultz that the agent "has \$2 coming." The agent then placed with Schultz three \$2 bets on horses running on that afternoon. The other agent left the premises and, as a

result of a telephone call to the Camden Police Department, a Sergeant of the Camden Police came to defendant's premises and arrested Schultz. At the time of his arrest Schultz had \$107 and a notebook containing horse race bets in his possession. Marvel H. Passwater, Sr. admitted that he knew Schultz was a "bookie" but denied that Schultz was making book on the licensed premises. I am satisfied, hence, that defendant's husband knew that Schultz was accepting bets on the licensed premises.

Defendant, who has held a license since 1936, has no prior adjudicated record. I shall suspend defendant's license for the minimum period of twenty days. Re Boguszewski, Bulletin 979, Item 9. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Although this proceeding was instituted during the 1952-53 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1953-54. State Regulations No. 16.

Accordingly, it is, on this 28th day of July, 1953,

ORDERED that plenary retail consumption license C-155, issued for the 1953-54 licensing year by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Ella Passwater, t/a Ella's Cafe, for premises 578 Spruce Street, Camden, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. August 4, 1953, and terminating at 2 a.m. August 19, 1953.

DOMINIC A. CAVICCHIA,
Director.

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

In the Matter of Disciplinary
Proceedings against

Willard Kelly & Mary R. Kelly,
t/a Kingston Wine & Liquor Shop (Store)
Main Street,
Franklin Township (Somerset County)
PO Kingston, New Jersey,

CONCLUSIONS

and

Holders of Plenary Retail Distribution
License D-4 for the 1952-53 and 1953-54
licensing years, issued by the Township
Committee of the Township of Franklin,
Somerset County.

ORDER

Ralph S. Mason, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.
BY THE DIRECTOR:

Defendants have pleaded non vult to the following charge:

"On June 1, 1953, you sold, served and delivered and
allowed, permitted and suffered the sale, service and

delivery of alcoholic beverages, directly or indirectly, at your licensed premises to Louis L. ---, a person under the age of twenty-one (21) years; in violation of Rule 1 of State Regulations No. 20."

The file herein discloses that at 12:55 p.m., on June 1, 1953, Louis L. ---, 20 years of age, purchased for off-premises consumption six 12-ounce bottles of beer in the defendant's licensed premises. As the minor left the premises he was stopped by a state trooper and questioned as to his age. The trooper and the minor then went into the defendants' premises where the minor identified Willard Kelly, one of the defendant-licensees, as the person who had sold the beer to him. Willard Kelly stated that prior to the sale of the beer he questioned the minor as to his age and when the minor told him that he was twenty-one years old, the sale was consummated. The minor subsequently denied that Willard Kelly questioned him as to his age. In any event, it does not appear that the minor falsely represented in writing that he was twenty-one years of age or over and, hence, defendants have not established a valid defense to the charge herein under the provisions of R. S. 33:1-77.

In the absence of a prior record, I shall suspend defendants' license for a period of ten days, which is the minimum period of suspension imposed in a case of this kind. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Brazinski, Bulletin 948, Item 7.

Although this proceeding was instituted during the 1952-53 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1953-54. State Regulations No. 16.

Accordingly, it is, on this 31st day of July, 1953,

ORDERED that Plenary Retail Distribution License D-4 for the 1953-54 licensing year, issued by the Township Committee of the Township of Franklin, Somerset County, to Willard Kelly & Mary R. Kelly, t/a Kingston Wine & Liquor Shop (Store), for premises on Main Street, Franklin Township, Somerset County, PO Kingston, be and the same is hereby suspended for a period of five (5) days, commencing at 9 a.m., August 10, 1953, and terminating at 9 a.m. August 15, 1953.

DOMINIC A. CAVICCHIA,
Director.

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

In the Matter of Disciplinary Proceedings against

Dora M. Kopf,
t/a Kopf's Wines & Liquors,
842 Main Street,
Hackensack, New Jersey,

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Distribution License D-6, issued by the City Council of the City of Hackensack.

Dora M. Kopf, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On July 9, 1953, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to Peter J. ---, a person under the age of twenty-one (21) years; in violation of Rule 1 of State Regulations No. 20."

The file herein discloses that during the course of an investigation, Peter J. ---, 18 years of age, gave to ABC agents a statement wherein he said that he entered defendant's licensed premises on the night of July 9, 1953, and purchased from Henry Kopf, an employee of defendant, seven cans of beer for the sum of \$1.40. Henry Kopf admitted to the agents that he sold the cans of beer in question to Peter J. --- but refused to make a written statement.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of ten days, which is the minimum period of suspension imposed in a case of this kind. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Watters, Bulletin 954, Item 9.

Accordingly, it is, on this 3rd day of August, 1953,

ORDERED that Plenary Retail Distribution License D-6, issued by the City Council of the City of Hackensack to Dora M. Kopf, t/a Kopf's Wines & Liquors, 842 Main Street, Hackensack, be and the same is hereby suspended for a period of five (5) days, commencing at 9 A.M., August 10, 1953, and terminating at 9 A.M., August 15, 1953.

DOMINIC A. CAVICCHIA,
Director.

7. STATE LICENSES - NEW APPLICATION FILED.

Henrich & Stirnweiss Distributors
292 Baldwin Street
New Brunswick, N. J.

Application filed August 7, 1953 for additional warehouse for Limited Wholesale License WL-59 at 18-20 Mellon Street, Trenton, N. J.

DOMINIC A. CAVICCHIA
Director.

8.

ACTIVITY REPORT FOR JULY 1953

ARRESTS:

Total number of persons arrested	29
Licensees and employees	7
Bootleggers	22

SEIZURES:

Motor vehicles - cars	3
Stillis - over 50 gallons	2
- 50 gallons or under	4
Alcohol - gallons	1.00
Mash - gallons	24,500.00
Distilled alcoholic beverages - gallons	62.90
Wine - gallons	.85
Brewed malt alcoholic beverages - gallons	23.61

RETAIL LICENSEES:

Premises inspected	1,127
Premises where alcoholic beverages were gauged	694
Bottles gauged	12,809
Premises where violations were found	101
Violations found	168
Type of violations found:	
Unqualified employees	104
Reg. #38 sign not posted	10
Disposal permit necessary	5
Other mercantile business	2
Prohibited signs	1
Other violations	46

STATE LICENSEES:

Premises inspected	4
License applications investigated	15

COMPLAINTS:

Complaints assigned for investigation	502
Investigations completed	403
Investigations pending	196

LABORATORY:

Analyses made	90
Refills from licensed premises	2
Bottles from unlicensed premises	16

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made	16
Persons fingerprinted for non-criminal purposes	372
Identification contacts made with other enforcement agencies	326
Motor vehicle identifications via N. J. State Police Teletype	8

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	9
Violations involved:	
Sale during prohibited hours	3
Permitting hostesses on premises	3
Sale to minors	2
Permitting bookmaking on premises	1
Cases instituted at Division	13
Violations involved:	
Sale to minors	3
Possessing illicit liquor	3
Sale during prohibited hours	2
Sale below minimum resale price	2
Act or happening	1
Mislabeling beer taps	1
Permitting prostitutes on premises	1
Permitting immoral activity on premises	1
Permitting foul language on premises	1
Sale to intoxicated persons	1
Permitting brawls on premises	1
Permitting slot machines on premises	1
Fraud and front	1
Hindering investigation	1
Cases brought by municipalities on own initiative and reported to Division	8
Violations involved:	
Permitting brawls on premises	4
Sale to minors	2
Conducting business as a nuisance	2
Sale during prohibited hours	2
Permitting lottery on premises	1

HEARINGS HELD AT DIVISION:

Total number of hearings held	37
Appeals	7
Disciplinary proceedings	15
Eligibility	7
Seizures	7
Order to show cause	1

PERMITS ISSUED:

Total number of permits issued	3,868
Employment	385
Solicitors	2,807
Disposal of alcoholic beverages	156
Social affairs	328
Miscellaneous	192

DOMINIC A. CAVICCHIA
DIRECTOR

Dated: August 3, 1953.

9. DISQUALIFICATION - FALSE STATEMENTS AND SUPPRESSION OF
FACTS - APPLICATION TO LIFT DENIED.

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

CONCLUSIONS
and
ORDER

Case No. 1061.)
-----)

BY THE DIRECTOR:

It is not clear whether petitioner was convicted in 1926 for assault and battery and sentenced to a year in the County Penitentiary. However, on July 18, 1928, petitioner, then 20 years of age, was convicted of the crime of robbery and sentenced to the aforesaid institution for a year. On February 25, 1937, he was convicted of assault and battery and placed on probation for a year. Petitioner's record also discloses that between August 15, 1927 and October 8, 1941, he was convicted as follows: a charge of loitering, for which he received a suspended sentence; a \$5.00 fine as a result of being adjudged a disorderly person; ordered to pay a weekly sum as a result of bastardy proceedings wherein he was charged with being the putative father of a male child; practicing barbering without a license, for which he received a suspended sentence; and also a suspended sentence for creating a disturbance. Moreover, on February 20, 1942, petitioner was arrested on a charge of assault and battery, and on January 6, 1951 he was again arrested on a similar charge. The hearing on the first of these charges was adjourned without date and the second charge was dismissed.

It appears from the record received from the Probation Department with reference to the above robbery conviction in 1928 that petitioner and an accomplice attacked a man on a public highway and stole cash and jewelry from him. The crime of robbery, per se, involves the element of moral turpitude and, hence, petitioner's aforesaid conviction thereof necessarily disqualifies him from engaging or being employed in the alcoholic beverage industry in any capacity in this state. R. S. 33:1-25, 26; Re Case No. 883, Bulletin 894, Item 6. It is unnecessary here to determine whether any of petitioner's other convictions has a similar effect.

In seeking a removal of his disqualification, petitioner reveals that during 1941-45 he worked as a driver for two companies engaging in the alcoholic beverage industry in New Jersey--one being a trucking company holding a transportation license to transport alcoholic beverages and the other being a company holding a license to sell alcoholic beverages at wholesale. It appears that, more recently, from September 1952 to January 22, 1953, petitioner worked as a driver for some five months for the above transportation licensee.

While engaged in his 1941-45 employment for the above companies, petitioner in 1944 executed under oath for each company a questionnaire which was then duly filed with this Division. In the present proceedings, petitioner claims that in connection with

such employment he had made disclosure of his criminal convictions. However, resort to the questionnaires shows that, to the contrary, he falsely swore therein that he had never been convicted of any crime.

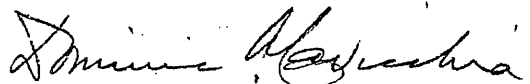
Petitioner further claims, in the present proceedings, that during all of his employment for the above licensees he was unaware that his criminal record disqualified him from such employment. In view of his false answer in his above-mentioned questionnaires and his false claim in the present matter about full disclosure therein, I can hardly accept his plea of ignorance of his disqualification. Moreover, singularly enough, petitioner, in detailing his employment for the last five years in his sworn petition in the present proceedings, fails to specify his recent five-month employment for the transportation licensee. Such recent employment came out in the hearing of this matter.

As was well stated in Re Case No. 184, Bulletin 506, Item 5, "...petitioners who do not make full, frank and truthful disclosure of all material facts are simply not entitled to relief in these cases." Cf. Re Case No. 1050, Bulletin 976, Item 6.

Considering petitioner's rather lengthy record in the past (Re Case No. 1040, Bulletin 971, Item 7), and the other circumstances indicated above, I have no sound alternative but to deny petitioner's request for removal of his disqualification.

Accordingly, it is, on this 28th day of July, 1953,

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


Director.