

STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark, 2, N. J.

BULLETIN 728

SEPTEMBER 4, 1946.

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STATE OF NEW JERSEY
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark, 2, N. J.

BULLETIN 728

SEPTEMBER 4, 1946.

1. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO MINORS -
AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR A PERIOD OF 60
DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

JOHN PERRY
T/a PERRY'S
128 - 3rd Street
Passaic, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-129 issued by the
Board of Commissioners of the
City of Passaic.

Stanley J. Polack, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Department of Alcoholic
Beverage Control.

Defendant pleaded non vult to charges alleging that on various
dates in March 1946 and April 1946 he sold alcoholic beverages to
minors, in violation of R. S. 33:1-77, Rule 1 of State Regulations
No. 20 and an ordinance of the Board of Commissioners of the City of
Passaic dated July 15, 1941.

The file herein discloses that on April 21, 1946 three minors,
namely, Anna ----, age 14, Emma ----, age 14, and Viola ----, age 15,
entered defendant's premises. While they were seated in a booth in
the sitting room, a glass of beer was served to each of them by
defendant, and other glasses of beer were served to them by Mary
Sirohman, a waitress employed by defendant. The waitress also served
one Tom Collins to Anna.

It appears that Anna had previously purchased beer in defend-
ant's premises on four other occasions during the months of March
1946 and April 1946, and that Viola and Emma had each purchased beer
on two previous occasions during these months. All of these sales
were made by the waitress named above.

This is an aggravated case because it appears that all the
minors were very young, and that they had purchased alcoholic bever-
ages on numerous occasions. The reports indicate that at least two
of the girls were tall for their age (5 ft. 4 in. and 5 ft. 7 in.),
but that they definitely appeared to be young. The only mitigating
circumstances in the case are that the licensee has no prior adjudi-
cated record and that he participated in only one of the violations
set forth herein. Under all the circumstances, I shall suspend the
license for a period of sixty days, less five days for the plea,
making a net suspension of fifty-five days.

Accordingly, it is, on this 23rd day of August, 1946,

ORDERED, that Plenary Retail Consumption License C-129, issued
by the Board of Commissioners of the City of Passaic to John Perry,
t/a Perry's, for premises 128 - 3rd Street, Passaic, be and the same
is hereby suspended for fifty-five (55) days, commencing at 3:00 a.m.
August 28, 1946, and terminating at 3:00 a.m. October 22, 1946.

ERWIN B. HOCK
Deputy Commissioner.

2. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT ALCOHOL, STILL PARTS, MOTOR VEHICLE AND OTHER PERSONAL PROPERTY ORDERED FORFEITED - GOOD FAITH AND ABSENCE OF KNOWLEDGE OF OR REASON TO SUSPECT UNLAWFUL USE OF VEHICLE NOT ESTABLISHED BY OWNER OF MOTOR VEHICLE, APPLICATION FOR ITS RETURN DENIED.

In the Matter of the Seizure on June 15, 1946 of a number of still parts and a Ford truck at 1118 Locust Street, and a quantity of alcoholic beverages and miscellaneous personal property at 255 Sycamore Street, both in the City of Camden, County of Camden and State of New Jersey.

Case No. 6996

ON HEARING CONCLUSIONS AND ORDER

Robert Burk Johnson, Esq., Attorney for Mrs. Mary Drummond. Harry Castelbaum, Esq., appearing for the State Department of Alcoholic Beverage Control.

This matter has been heard pursuant to the provisions of Title 33, Chapters 1 and 2 of the Revised Statutes, to determine whether a number of still parts and a Ford truck, seized on June 15, 1946 at 1118 Locust Street, and a quantity of alcoholic beverages and miscellaneous personal property, seized on the same day at 255 Sycamore Street, both in the City of Camden, N. J., constitute unlawful property and should be forfeited.

In the early morning hours of June 15, 1946, Camden police officers, while making a check at the Sycamore Street premises concerning stolen sugar, apprehended Daniel Paul Dorn as he was about to leave his dwelling at that address. They then observed that a still had been recently removed from the third floor of the building, and discovered the Ford truck loaded with still parts, parked on the adjoining vacant lot known as 1118 Locust Street.

The police officers seized a few gallons of alcohol, in jugs which bore no labels or tax stamps, and some miscellaneous articles, all of which were in the dwelling. They also seized the motor vehicle and still parts and arrested Dorn. Dorn has since pleaded guilty in the Camden police court to the charges of possessing an unregistered still and illicit alcohol and was sentenced to pay a fine of \$100.00 or serve thirty days in jail.

The State Department of Alcoholic Beverage Control was notified, and the seized property was turned over to the Department. ABC agents obtained a signed statement from Dorn in which he admitted that he operated an illicit still at his home, and sold the illicit alcoholic beverages in Philadelphia; that he had been frightened on the night in question and hastily made arrangements to remove the still from his home.

The alcoholic beverages found in Dorn's dwelling are illicit because they were the product of the illicit still and furthermore, they are prima facie illicit because the jugs bore no tax stamps. R. S. 33:1-1(i), R. S. 33:1-88. Illicit alcoholic beverages, and the personal property seized therewith in the dwelling, constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R. S. 33:1-2, R. S. 33:1-66.

The unregistered still parts constitute unlawful property. R. S. 33:2-2. Such still parts and the Ford truck, seized on the vacant lot, are subject to forfeiture. R. S. 33:2-5.

When the matter came on for hearing pursuant to R.S. 33:1-66 and R. S. 33:2-4, Mrs. Drummond, the owner of the truck, appeared with counsel and sought return of the motor vehicle. Her claim is that she acted in good faith in that she merely lent the truck to an acquaintance. Under R. S. 33:2-7, Mrs. Drummond must establish to my satisfaction that she did not know, or have any reason to suspect, that her truck was to be used to transport the illicit still parts.

Mrs. Drummond testified that at about 11:00 o'clock on Friday night, June 14, 1946, she lent the truck to her friend Anthony Baker, who told her that he intended to move some furniture for Mr. Dorn. Mrs. Drummond claims that she has not seen Baker since the seizure.

When the police questioned Mrs. Drummond on Saturday, June 15, 1946, she told them that Dorn had hired the truck to move some furniture and that no other person was involved. She says that she did not know Dorn. When asked to explain why she had not mentioned Baker's name when telling her story to the police, she said that it was because Baker told her Dorn wanted to borrow the truck. When asked whether she thought it was unusual for a person to move furniture at 11:00 o'clock at night, she said, "They might. I move most any time my own self."

Daniel P. Dorn, testifying on Mrs. Drummond's behalf, said that on Friday night, when he heard the police were looking for him, he went out on the street seeking someone to help him move his "stuff", found a stranger, asked him if he could get a truck, and the stranger came back in ten or fifteen minutes with the truck in question. According to Dorn, the man disappeared without knowing Dorn's name.

The evidence presented by Mrs. Drummond is of a dubious nature and the inconsistencies therein are substantial and on vital aspects of the case. It is difficult to reconcile her statement to the police that she lent the car to Dorn, and her statement at the hearing that she lent it to Baker. Moving furniture at 11:00 o'clock at night is an unusual occurrence, to say the least. Moreover, if Baker was the man who brought the truck to Dorn, he could not have told Mrs. Drummond that Dorn was moving some furniture, because Dorn says that this man was a stranger, who did not know Dorn by name.

While it may well be that Mrs. Drummond was not personally implicated in the unlawful alcoholic beverage activities, I am not satisfied that she has told the full story. It is probable that Mrs. Drummond either knew or had reason to suspect that her truck was to be used for the removal of the still, or else is concealing what actually occurred for fear that it may place her in a more unfavorable light. In either event, I cannot conscientiously find that she acted in good faith. Her request for the return of the truck is therefore denied.

Accordingly, it is DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property and that the same be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66 and R. S. 33:2-5, and that it be retained for the use of hospitals and State, county and municipal institutions, or destroyed in whole or in part at the direction of the State Commissioner of Alcoholic Beverage Control.

ERWIN B. HOCK
Deputy Commissioner.

Dated: August 23, 1946.

SCHEDULE "A"

SEIZED AT 1118 LOCUST STREET

- 1 - copper cooker
- 1 - copper gooseneck
- 1 - set of copper coils
- 1 - oil stove
- 1 - 1937 Ford Truck, Serial No. 183772434, bearing 1946 New Jersey registration XU-4831
- 1 - wooden cooler

SEIZED AT 255 SYCAMORE STREET

- 2 - 5-gallon cans kerosene
- 4 - tin funnels
- 2 - pieces hose
- 1 - galvanized wash tub
- 2 - 1-gallon glass jugs of alcoholic beverages
- 4 - 1-pound packages yeast

3. SEIZURE - FORFEITURE PROCEEDINGS - SUGAR INTENDED FOR USE IN MANUFACTURE OF ILLICIT ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure on July 3, 1946 of 193 - 100 lb. bags of sugar in the vicinity of 957 Raymond Boulevard, in the City of Newark, County of Essex and State of New Jersey.) Case No. 7005
)
) ON HEARING
) CONCLUSIONS AND ORDER
)
)
)

Harry Castelbaum, Esq., appearing for the Department of Alcoholic Beverage Control.

This matter has been heard pursuant to the provisions of Title 33, Chapter 1, of the Revised Statutes, to determine whether 193 - 100 lb. bags of sugar seized on July 3, 1946, in the vicinity of 957 Raymond Boulevard, Newark, N. J., constitute unlawful property and should be forfeited.

At about 10:00 p.m. on the day in question Newark police officers were called to the scene by a citizen who observed the transfer of bags of sugar from a truck bearing New York license plates to a truck bearing North Carolina license plates, which trucks were parked in the rear of a diner. The police held the driver of each truck and a helper for investigation, and seized the trucks and sugar when these men were unable to give a satisfactory explanation of their actions.

The State Department of Alcoholic Beverage Control was notified and the trucks and sugar were turned over to that Department.

The drivers and the helper manifestly refused to reveal the true facts. Searching inquiry of the owners of both trucks cast no further light on the matter. The story given by the owner of the New York truck is that he agreed to transport a load of sugar for a strange man whom he met on the street. This man took the truck, returned with the load of sugar, and informed the truck owner of the location in Newark where it was to be delivered. A friend of the truck owner, as an accommodation, then drove the truck to the Newark location and there was transferring the sugar to the North Carolina truck.

According to the driver of the North Carolina truck, he met a strange man in Winston-Salem, North Carolina, who arranged for him to drive north to pick up a load of merchandise. His instructions were that when he reached New Brunswick, N. J., he was to telephone to a number given to him by this man and receive further instructions

where to go for the load. He followed these instructions and ended up in the rear of the diner loading the sugar. He is vague as to just where and to whom he was to deliver the sugar.

There was a waybill for the sugar in the truck naming as the consignor a sales company which apparently does not exist, and, as the consignee, a wholesale grocery dealer in North Carolina who denies any knowledge of or any connection with the transaction.

The trucks were returned to their respective owners, prior to hearing, because there was no substantial evidence available that either of them had purchased the sugar or had any interest therein or had otherwise personally participated in a violation of the liquor law or had reason to suspect that their vehicles would be used for any such purpose.

When the matter came on for hearing pursuant to R. S. 33:1-66 to determine whether the sugar should be forfeited, the owner of the sugar did not appear to oppose such forfeiture and apparently abandoned all claim thereto.

Sugar and the manufacture of illicit alcohol are closely affiliated. It is a well accepted fact that bootleggers have traditionally used sugar in the manufacture of illicit alcohol. The facts in the instant case lead me to conclude that the 193 bags of sugar were intended for that purpose. The absence of any evidence that the sugar was lawfully purchased and intended for a legitimate purpose and the transfer of the sugar from truck to truck late at night, considered with the non-appearance of the owner of such sugar, supports the finding that the sugar was intended to be converted into, or used in the manufacture of, illicit alcoholic beverages. The sugar, therefore, constitutes unlawful property within the meaning of R. S. 33:1-1(y) and is subject to forfeiture (R. S. 33:1-66). See Seizure Case No. 6663 and Seizure Case No. 6692.

Accordingly, it is DETERMINED and ORDERED that the 193 bags of sugar seized in the case constitute unlawful property, and that the same be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, and that it be retained for the use of hospitals and State, county and municipal institutions, or destroyed in whole or in part at the direction of the State Commissioner of Alcoholic Beverage Control.

ERWIN B. HOCK
Deputy Commissioner.

Dated: August 23, 1946.

4. SEIZURE - FORFEITURE PROCEEDINGS - SUGAR INTENDED FOR USE IN
MANUFACTURE OF ILLICIT ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure on) Case No. 7017
July 17, 1946 of 241 - 100 lb.
bags of sugar at 179-183 Charlton)
Street, in the City of Newark,) ON HEARING
County of Essex and State of New) CONCLUSIONS AND ORDER
Jersey.)

-----)
Harry Castelbaum, Esq., appearing for the Department of Alcoholic
Beverage Control.

This matter has been heard pursuant to the provisions of Title
33, Chapter 2 of the Revised Statutes, to determine whether 241 -
100 lb. bags of sugar seized on July 17, 1946 at 179-183 Charlton
Street, Newark, N. J. constitute unlawful property and should be
forfeited.

On July 16, 1946, Newark police officers, acting upon informa-
tion which they received from F.B.I. agents, found the sugar in a
public garage operated by William Fisher located at the above address.
Fisher could not give a satisfactory account for the presence of the
sugar in the garage.

ABC agents were then notified and seized the sugar. They
obtained a signed statement from Fisher in which he sets forth that,
on July 15, 1946, William Lee asked Fisher whether he could store a
few bags of sugar in his garage. Fisher consented and gave Lee the
key for a room in the garage. At this time Fisher asked Lee what
kind of sugar it was and Lee told him not to worry. On July 16, 1946,
when Fisher came to the garage, he was shocked at the large amount of
sugar that was there. He tried to contact Lee but did not succeed.
Shortly afterwards, the F.B.I. agents came upon the scene. On July
17th, at about 9:00 a.m., Lee came to the garage and returned the key
to Fisher. Fisher told Lee that F.B.I. agents were investigating
the case and Lee replied that it was all right; that he would go to
police headquarters to straighten out the matter.

The agents also obtained a signed statement from William Lee in
which he gave the following story: On Sunday morning (July 14th)
"Joe" telephoned and asked to store some merchandise, telling Lee
that he would call him on Monday. "Joe" telephoned on Monday, at
about 5:00 or 6:00 p.m. and shortly thereafter appeared at Lee's
home with a trailer truck load of sugar. It was too great a quantity
for storage in Lee's home, consequently he arranged to store it in
Fisher's garage. "Joe" told Lee that the owner of the sugar was
"L & S Food Products", of Morell, or Murell, Street, Brooklyn, N. Y.
Lee supervised the storage of the sugar at the garage but told "Joe"
that he was not responsible for the sugar and "Joe" said that he
would pick it up in a few days. Lee does not know "Joe's" surname,
address, or anything else about him. He has known him merely as "Joe"
for three or four months, having contact with him once with regard
to the purchase of an automobile from "Joe" and at another time dis-
cussed a partnership venture with "Joe" in some concession business.

Both Lee and Fisher disclaimed any interest in the sugar.

ABC agents also obtained a statement from the man who was on
duty at Fisher's garage on the evening of July 15th. This man says
that, at about 8:00 p.m. of that day, he observed a large truck at
the garage, from which truck men were unloading what they told him

was flour and placing it in the garage. After the man left, he observed that it was actually sugar. He did not ask any questions, assuming Fisher had given permission for the storage of the sugar. The next morning he told Fisher that the sugar was in the garage but Fisher made no comment.

On August 5, 1946 an ABC agent accompanied agents of the Federal Alcohol Tax Unit on a check at the establishment of "S & L Food Products Co.", a partnership composed of Samuel (Salvatore) Calacione and Lawrence Chirco, located at 95 Debevoise Street, Brooklyn. Calacione was placed under arrest by A.T.U. agents on a Federal charge of conspiracy to defraud the government in connection with the operation of two illicit stills.

When the matter came on for hearing, pursuant to R.S. 33:2-4, the owner of the sugar did not appear to oppose forfeiture thereof and apparently abandoned all claim to such sugar.

R. S. 33:2-2 provides, among other things, that all articles, etc. used or adaptable for use in connection with an illicit still constitute unlawful property.

It is a well known fact that bootleggers have traditionally used sugar in the manufacture of illicit alcohol. From the circumstances in the instant case, I conclude that the 241 bags of sugar were intended for that purpose. The suspicious circumstances under which the sugar was stored in the garage and the background of the only concern which appears to correspond to the one named by Lee as the owner of the sugar, taken in conjunction with the owner's non-appearance, supports the finding that the sugar was adaptable for and intended for use in connection with the operation of an illicit still. The sugar therefore constitutes unlawful property within the meaning of the above cited provision of the law and is subject to forfeiture. R. S. 33:2-5. Also see Seizure Case No. 6663 and Seizure Case No. 6692.

Accordingly, it is DETERMINED and ORDERED that the 241 - 100 lb. bags of sugar seized in the case constitute unlawful property and that the same be and hereby are forfeited in accordance with the provisions of R. S. 33:2-5, and that they be retained for the use of hospitals and State, county and municipal institutions, or destroyed in whole or in part at the direction of the State Commissioner of Alcoholic Beverage Control.

ERWIN B. HOCK
Deputy Commissioner.

Dated: August 23, 1946.

5. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A PERSON ACTUALLY OR APPARENTLY INTOXICATED - PREVIOUS RECORD - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against)

DORA BRESSLER & PHILIP BRESSLER)
176 Paterson Street)
Paterson, N. J.,)

CONCLUSIONS AND ORDER

) Holders of Plenary Retail Consumption License C-135 for the fiscal year 1945-46, and now holders of Plenary Retail Consumption License C-135 for the fiscal year 1946-47; both issued by the Board of Alcoholic Beverage Control of the City of Paterson.)

J. David Newman, Esq., Attorney for Defendant-licensees.
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

Defendants pleaded not guilty to the following charge:

"On Thursday night, August 16, 1945, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to a person actually or apparently intoxicated, and allowed, permitted and suffered the consumption of alcoholic beverages by such person upon the licensed premises, in violation of Rule 1 of State Regulations No. 20."

Two ABC agents visited defendants' premises on August 16, 1945. At the hearing herein one investigator testified that he first entered the premises at about 10:15 p.m. and observed a female patron who staggered some distance backward from the bar and thereafter staggered to the bar. He said that he then left the premises and contacted the other investigator who had remained outside. The other investigator testified that he entered the licensed premises about 10:25 p.m. and observed the same woman. He said that her hair was hanging down; that her speech was loud, and that on one occasion she put her arms on the bar and rested her head on her arms. He further testified that, while he was present, the woman took a penny from her purse, threw it on the bar and said, "I can pay for a drink"; that she then staggered from the bar to a cigarette machine and staggered back to the bar. After remaining outside for a short time, the first investigator returned to the licensed premises. Both investigators testified that thereafter they observed Philip Bressler, one of the defendants, serve a glass of whiskey to this woman, a glass of whiskey to the woman's sister, and a glass of whiskey to the woman's brother-in-law. As the allegedly intoxicated woman was drinking the glass of whiskey, the investigators identified themselves. One of the investigators also testified that, prior to the time of this service, the woman's sister and brother-in-law had several times attempted to leave the premises with her but that each time she broke away and took her seat at the bar.

On behalf of defendants, Philip Bressler testified that the woman was "lively that night" but that she was not drunk and that she did not stagger at any time. He stated that he had served a drink as

a "night cap" to each of the three people mentioned above because these people had told him they were leaving. The woman's brother-in-law testified that on the evening in question "she was just loud and happy"; that she did not stagger, and that in his opinion she was not drunk. Another patron who was present at the time in question testified that the woman did not stagger and that in his opinion she was not drunk. It further appears that, shortly after the ABC agents identified themselves, a member of the Paterson Police Department arrived at the licensed premises in response to a call sent in by the investigator. The police officer testified that the woman "had been drinking but I would not say she was drunk."

The evidence herein indicates that the woman may not have been drunk in the sense of being helpless or unable to control her actions, but I am satisfied that she was apparently intoxicated at the time defendant served the drink to her. In a proceeding of this character it is not necessary to establish that the person to whom the drinks were served was actually intoxicated. It is sufficient to show that the person was apparently intoxicated. The testimony of investigators as to the physical condition of patrons is entitled to great weight. Re Roselle, Bulletin 279, Item 8. The fact that the woman was not so drunk as to warrant an arrest when the police officer arrived is not inconsistent with the finding that she was apparently intoxicated at the time the drink was served by the licensee. The police officer explained that "she was not drunk enough to arrest" but an examination of all the testimony is sufficient to show that the woman was apparently intoxicated when the drink admittedly was served to her. Hence I find defendants guilty as charged.

As to a prior record: It appears that, on August 14, 1942, a license then held by Dora Bressler, for the same premises, was suspended for a period of ten days after she admitted that she had failed to disclose in her application for a license the interest of her husband, Philip Bressler, in the license and the business conducted thereunder. The license was transferred to the husband and wife prior to the decision rendered in said proceedings, and the license is now held by both husband and wife. See Re Dora Bressler, Bulletin 525, Item 1.

The usual period of suspension for service to intoxicated persons has heretofore been fixed at twenty days. Re Marinaccio, Bulletin 583, Item 5. However, the present violation appears to have been due more to bad judgment than to a flagrant disregard of the rules and regulations by the licensee who served the "night cap". After considering all the facts of this case, I shall suspend defendants' license for a period of fifteen days, instead of twenty-five days which precedents might seem to warrant.

Although this proceeding was instituted during the 1945-46 licensing period, it does not abate but remains fully effective against the renewal license for the licensing year 1946-47. State Regulations No. 16.

Accordingly, it is, on this 26th day of August, 1946,

ORDERED, that Plenary Retail Consumption License C-135, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Dora Bressler & Philip Bressler, for premises 176 Paterson Street, Paterson, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m. September 3, 1946, and terminating at 3:00 a.m. September 18, 1946.

ERWIN B. HOCK
Deputy Commissioner.

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES FOR RESALE - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

HAROLD I. MILLER)
216 East Ruby Avenue)
Palisades Park, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-16, issued by the Mayor and Council of the Borough of Palisades Park.)

Harold I. Miller, Defendant-licensee, Pro se.
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

The defendant-licensee pleads non vult to charges alleging that on divers occasions during April, 1946, he sold alcoholic beverages to two other retail licensees for resale, in violation of R. S. 33:1-2.

The investigation by an ABC agent discloses that in the month of April, 1946, while defendant and his former partner were straightening out their business affairs, the licensed premises were closed to the public. During this period, however, a brewery made deliveries of beer both in kegs and in bottles, which beer was diverted on instructions of the licensee to other retail establishments.

The defendant, by way of explanation, states that he was not aware of the fact that the diversion of the beer to other licensees at his request constituted a resale thereof in violation of the Alcoholic Beverage Law. Ignorance of the law, however, cannot be accepted as an excuse.

Defendant has no prior adjudicated record. I shall, therefore, suspend his license for a period of fifteen days, less five days for the plea, making a net suspension of ten days. Re Rappaport, Bulletin 641, Item 1.

Accordingly, it is, on this 27th day of August, 1946,

ORDERED, that Plenary Retail Consumption License C-16, issued by the Mayor and Council of the Borough of Palisades Park to Harold I. Miller, for premises 216 East Ruby Avenue, Palisades Park, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. September 3, 1946, and terminating at 3:00 a.m. September 13, 1946.

ERWIN B. HOCK
Deputy Commissioner.

7. DISCIPLINARY PROCEEDINGS - PURCHASE OF ALCOHOLIC BEVERAGES FROM ANOTHER RETAILER - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

DAVID RHEIN
200 State Highway 5
Palisades Park, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-14, issued by the Mayor and Council of the Borough of Palisades Park.

David Rhein, Defendant-licensee, Pro se.
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant, who holds a plenary retail consumption license, has entered a plea of non vult to charges alleging that on divers occasions during April, 1946, he purchased alcoholic beverages for resale from Harold I. Miller, the holder of a plenary retail consumption license, in violation of Rule 15 of State Regulations No. 20.* See Re Miller, decided herewith.

An examination of the department file discloses that defendant purchased six kegs and nine cases of beer from the retail licensee for the purpose of resale at his licensed premises.

Defendant has no prior adjudicated record. I shall, therefore, suspend his license for a period of fifteen days, less five days for the plea entered herein, making a net suspension of ten days. Re Bollinger, Bulletin 641, Item 2.

Accordingly, it is, on this 27th day of August, 1946,

ORDERED, that Plenary Retail Consumption License C-14, issued by the Mayor and Council of the Borough of Palisades Park to David Rhein, for premises 200 State Highway 5, Palisades Park, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. September 3, 1946, and terminating at 3:00 a.m. September 13, 1946.

ERWIN B. HOCK
Deputy Commissioner.

*Rule 15 of State Regulations No. 20 provides:

"No retail licensee shall purchase or obtain alcoholic beverages except from the holder of a New Jersey manufacturer's or wholesaler's license or pursuant to a special permit. Purchases of alcoholic beverages by one retailer from another and sales of alcoholic beverages by one retailer to another are prohibited."

8. DISCIPLINARY PROCEEDINGS - PURCHASE OF ALCOHOLIC BEVERAGES FROM ANOTHER RETAILER - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 HELEN FRANCES TIEDECK
 12 Broad Avenue
 Palisades Park, N. J.,
 Holder of Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Palisades Park.

CONCLUSIONS AND ORDER

Helen Frances Tiedeck, Defendant-licensee, Pro se.
 Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant, who holds a plenary retail consumption license, has entered a plea of non vult to charges alleging that on four separate occasions during the month of April, 1946, she purchased alcoholic beverages for resale from Harold I. Miller, the holder of a plenary retail consumption license, in violation of Rule 15 of State Regulations No. 20.* See Re Miller, decided herewith.

The departmental file discloses that the defendant purchased four kegs of beer from the retail licensee for the purpose of resale at her licensed premises.

Defendant has no previous adjudicated record. I shall, therefore, suspend her license for a period of fifteen days, less five days for the plea entered herein, making a net suspension of ten days. Re Bollinger, Bulletin 641, Item 2.

Accordingly, it is, on this 27th day of August, 1946,

ORDERED, that Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Palisades Park to Helen Frances Tiedeck, for premises 12 Broad Avenue, Palisades Park, New York, and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. September 3, 1946, and terminating at 3:00 a.m. September 13, 1946.

ERWIN B. HOCK
 Deputy Commissioner.

*Rule 15 of State Regulations No. 20 provides:

"No retail licensee shall purchase or obtain alcoholic beverages except from the holder of a New Jersey manufacturer's or wholesaler's license or pursuant to a special permit. Purchases of alcoholic beverages by one retailer from another and sales of alcoholic beverages by one retailer to another are prohibited."

9. DISCIPLINARY PROCEEDINGS - PURCHASE OF ALCOHOLIC BEVERAGES FROM AN UNLAWFUL SOURCE - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

THOMAS LAPPIN)
4536 Park Avenue)
Weehawken, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-14, issued by the Township Committee of the Township of Weehawken.)
-----)

Thomas Lappin, Defendant-licensee, Pro se.
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant pleads guilty to the following charge:

"On or about May 24, 1946, you, a New Jersey retail licensee, without special permit, purchased alcoholic beverages for your licensed premises from a person not the holder of a New Jersey manufacturer's or wholesaler's license, which alcoholic beverages consisted of 35 cases of beer which had come from the Salvage Agent of the New York Central Railroad; your purchase of these alcoholic beverages being in violation of Rule 15 of State Regulations No. 20."

An examination of the facts, as reported by an ABC agent, discloses that the licensee, who operates a grocery business in conjunction with a package goods store, purchased at various times foodstuffs from one Howard Green, Salvage Agent for the New York Central Railroad. It appears that on May 24, 1946, the licensee purchased thirty-five cases of beer which were originally consigned for overseas use. Due to damage to the cartons wherein the bottles were contained, it was rejected for shipment to its original destination and sold to the Salvage Agent aforesaid.

The defendant alleges that he was not aware of the fact that he was violating the Rules and Regulations of the Alcoholic Beverage Control Department, as promulgated by the State Commissioner, because he obtained a receipt from the Salvage Agent. Ignorance of the fundamental and well established rule that a retailer, unless he obtains a special permit from this Department, may not purchase alcoholic beverages from anyone who is not the holder of a New Jersey manufacturer's or wholesaler's license, is no excuse.

This being the defendant's first adjudicated offense, I shall suspend his license for a period of fifteen days, less five days for the plea entered herein, making a net suspension of ten days.
Re Susslin, Bulletin 458, Item 2.

Accordingly, it is, on this 27th day of August, 1946,

ORDERED, that Plenary Retail Distribution License D-14, issued by the Township Committee of the Township of Weehawken to Thomas Lappin, for premises 4536 Park Avenue, Weehawken, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. September 3, 1946, and terminating at 9:00 a.m. September 13, 1946.

ERWIN B. HOCK
Deputy Commissioner.

10. MORAL TURPITUDE - ATROCIOUS ASSAULT AND BATTERY AND GRAND LARCENY ARE CRIMES INVOLVING MORAL TURPITUDE.

DISQUALIFICATION - APPLICATION TO LIFT - FACTS EXAMINED - APPLICATION TO LIFT DENIED BECAUSE OF PAST RECORD.

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

CONCLUSIONS.

Case No. 551.)
-----)

Petitioner's criminal record dates back to October 1924 when petitioner was convicted of grand larceny (auto), as a result of which he was sentenced on January 6, 1925, by a Judge of a Court of Quarter Sessions to an indeterminate term in a State Reformatory. Petitioner was released on parole from said penal institution on April 23, 1946.

On October 6, 1930, petitioner was placed on probation by a Judge of a Court of Quarter Sessions for the crime of unlawful cohabitation. On June 11, 1931, petitioner was convicted of atrocious assault and battery and received a suspended sentence by a Judge of a Court of Quarter Sessions. On February 8, 1933, petitioner was convicted of grand larceny and was sentenced to a term of one hundred twenty days in a county prison by a Judge of a Police Court. On October 15, 1936, petitioner pleaded guilty to simple assault, and was sentenced to a year in a penitentiary by a County Judge of another State. Again, on March 15, 1937, petitioner was convicted of assault and battery and carrying concealed weapons, and as a result thereof was sentenced to a State Penitentiary by a Judge of a Court of Quarter Sessions to eighteen months each on three counts, to run consecutively.

Since his discharge from the State Penitentiary on December 13, 1940, petitioner has been apprehended by the law enforcement authorities on several occasions, but no convictions resulted. His latest arrest occurred in January 1946.

All of the criminal convictions aforementioned appear to involve moral turpitude.

Petitioner produced four character witnesses who testified that they were of the opinion that petitioner has been leading a law-abiding life during the past five years. Nevertheless, I am not satisfied, after considering the extensive record of the petitioner, that his association with the alcoholic beverage industry will not be contrary to the public interest. The mere fact that petitioner has not been convicted of a crime within the past five years does not automatically entitle him to relief. Removal of a disqualification is discretionary. Re Case No. 178, Bulletin 478, Item 12. Furthermore, the local issuing authority of the city wherein petitioner resides has entered a formal objection to granting relief to petitioner so that he may become associated with the alcoholic beverage industry.

In view of the above, the petition is denied.

Dated: August 22, 1946.

ERWIN B. HOCK
Deputy Commissioner.

11. DISCIPLINARY PROCEEDINGS - FRONT - FALSE STATEMENT IN LICENSE APPLICATION CONCEALING MATERIAL FACT - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - AGGRAVATING CIRCUMSTANCES - ILLEGAL SITUATION CORRECTED - PREVIOUS RECORD - LICENSE SUSPENDED FOR A PERIOD OF 45 DAYS.

In the Matter of Disciplinary Proceedings against)

KATHERINE YATCYSN)
215 Newark & Pompton Turnpike)
Little Falls, N. J.,)

Holder of Plenary Retail Consumption License C-8 for the fiscal year 1945-46, and transferred during the pendency of these proceedings in said year to)

CONCLUSIONS AND ORDER

NESTOR'S COCKTAIL BAR, INC.,)
for the same premises,)

and renewed by the said Nestor's Cocktail Bar, Inc., now holding Plenary Retail Consumption License C-10 for the fiscal year 1946-47, issued by the Township Committee of the Township of Little Falls.)

William C. Egan, Esq., Attorney for Defendant-licensee.
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant, Katherine Yatcysn, pleaded non vult to charges that (1) she falsely answered a question in her application for license, in violation of R. S. 33:1-25, thereby concealing the interest of Nestor Yatcysn in the business operated under and by virtue of her said license; and (2) from May 7, 1941 until April 10, 1946, knowingly aided and abetted the said Nestor Yatcysn to exercise the rights and privileges of her license, in violation of R. S. 33:1-52.

The defendant admitted that this "front" was established because Nestor Yatcysn, at that time, was disqualified, by reason of conviction of crime involving moral turpitude, from having any interest in a retail liquor license in New Jersey. This disqualification was removed late in 1942, but the "front" was continued until the charges herein were served.

Defendant Yatcysn appeared and offered to correct the unlawful situation by causing the license to be transferred to a corporation of which she, Nestor Yatcysn -- her husband, and her two sons are the sole stockholders. It now appears that the transfer has been made and that the illegal situation no longer exists.

This fraud practiced on the issuing authority and the continuing of the "front" beyond January 1, 1946 brings the instant case well within the policy laid down in Re Nicomini, Bulletin 686, Item 7, where the Commissioner said:

"It is my considered opinion that a suspension of at least thirty days should be imposed in any case where the license application fails to disclose all of the real parties in interest. This minimum penalty is warranted because of the nature of the violation. The deliberate concealment of the

true owners of the license and business represents a fraud upon the issuing authority and the public. The greater the fraud, the greater will be the penalty. In particularly aggravated cases I shall have no hesitation in revoking the license outright.

"The stated policy will become effective with disciplinary proceedings hereafter instituted which involve 'front' situations continued or created after January 1, 1946."

This case is aggravated because the "front" was created in the first instance to shield a disqualified real owner.

In addition to the foregoing, the defendant herein has a previous record, viz., a seven-day suspension in 1941 for sale during prohibited hours.

Considering all the facts herein, I shall suspend the license for forty-five days. Re Nicomini, supra. If it were not for the fact that Nestor Yacyn's disqualification was removed by the Commissioner in 1942, the penalty herein would be much greater.

Although this proceeding was instituted against the prior licensee, any transferee is subject to the penalty which may be imposed herein. Nor does the proceeding abate by reason of the expiration of the licensing year on June 30, 1946. It remains fully effective against the licensee and license for the current (1946-47) period. State Regulations No. 16.

Accordingly, it is, on this 28th day of August, 1946,

ORDERED, that Plenary Retail Consumption License C-10, issued for the 1946-47 fiscal year by the Township Committee of the Township of Little Falls to Nestor's Cocktail Bar, Inc., for premises 215 Newark & Pompton Turnpike, Little Falls, be and the same is hereby suspended for a period of forty-five (45) days, commencing at 2:00 a.m. September 10, 1946, and terminating at 2:00 a.m. October 25, 1946.

ERWIN B. HOCK
Deputy Commissioner.

12. STATE LICENSES - NEW APPLICATIONS FILED

Trenton Beverage Co., t/a Colonial Liquor Company
130 Ward Avenue, Trenton, N. J.

Application for additional warehouse at 27-29 North Virginia Avenue, Atlantic City, N. J., filed August 28, 1946.

Sussex County Distillery Company, Inc.

Township of Wantage, Quarryville, Sussex County, N. J.

Application for Warehouse Receipts License
filed August 29, 1946.

Edward F. Ciccarone, t/a Ed Chicco, Importer

129 N. Connecticut Avenue, Atlantic City, N. J.

Application for State Beverage Distributor's License
filed September 3, 1946.

Jo-Mark Distributing Corporation

707 Bergen Avenue, Jersey City, N. J.

Application for Warehouse Receipts License
filed September 3, 1946.

Erwin B. Hock

New Jersey State Library Deputy Commissioner.