

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

June 8, 1948.

BULLETIN 806

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

June 8, 1948.

BULLETIN 806

1. DISCIPLINARY PROCEEDINGS - FAILURE TO NOTIFY ISSUING AUTHORITY OF CHANGE IN FACTS IN APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE RIGHTS AND PRIVILEGES OF LICENSE - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against)

JOSEPH MAIONE)
T/a TOM'S TAVERN)
Route 25 near Ward Avenue)
Bordentown, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-6 issued by the Township Committee of the Township of Bordentown.)

Felcone & Felcone, Esqs., Attorneys for Defendant.
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to the following charges:

"1. You failed to file with the Township Committee of the Township of Bordentown, within ten days after the occurrence thereof, written notice of change in facts set forth in answer to Question 31 of your license application dated July 3, 1947, upon which you obtained your current plenary retail consumption license, such change being that on or about July 23, 1947, you agreed to permit James Maione to retain all the profits derived from the licensed business; your failure to file such notice being in violation of R. S. 33:1-34.

"2. From July 23, 1947, until the present time, you knowingly aided and abetted James Maione to exercise, contrary to R. S. 33:1-26, the rights and privileges of your plenary retail consumption license; in violation of R. S. 33:1-52."

The record herein indicates that on July 23, 1947, the license in question was duly transferred from Thomas Maione to his father, Joseph Maione, who is defendant herein. Defendant immediately made arrangements with another son, James Maione, whereby the latter was to operate the business and "if he made a dollar, it was his". From the time that said agreement was entered into until after the proceedings herein were instituted, the profits of the business, over and above a certain rental paid to his father, were retained by James Maione. Such an arrangement was unlawful because, in effect, the father farmed out the license to his son.

It appears from an affidavit presented herein that defendant has now opened his own bank account, in which all monies received from the business are to be deposited and from which account all disbursements are to be made by checks drawn by defendant. Arrangements have also been made whereby defendant is to employ his son, James Maione, upon a straight salary basis less withholding taxes and social security. I shall accept the present arrangement as a correction of the unlawful situation which previously existed. Both defendant and his son, James Maione, appear to be fully qualified to hold a license. Under the

circumstances I shall suspend the license for a period of twenty days, the minimum penalty established for "front" cases. Re Russo, Bulletin 741, Item 4.

Accordingly, it is, on this 26th day of May, 1948,

ORDERED that Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Bordentown to Joseph Maione, t/a Tom's Tavern, for premises on Route 25 near Ward Avenue, Bordentown, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. June 2, 1948, and terminating at 2:00 a.m. June 22, 1948.

ERWIN B. HOCK
Commissioner.

2. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - FALSE ANSWER IN LICENSE APPLICATION.

CANCELLATION PROCEEDINGS - CLUB LICENSEE DID NOT HAVE EXCLUSIVE CONTINUOUS POSSESSION FOR THREE YEARS PRIOR TO APPLICATION FOR LICENSE - LICENSE ORDERED CANCELLED.

In the Matter of Disciplinary Proceedings against)

CLOUD COMBERS CLUB)
Terminal Bldg., Central Airport)
Pennsauken Township)
P.O. Camden, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-2 issued by the Township Committee of the Township of Pennsauken.)
-----)

Mitchell H. Cohen, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded not guilty to the following charges:

"1. In your application dated June 10, 1947, filed with the Township Committee of Pennsauken Township, and upon which you obtained your current club license, you falsely stated 'No' in answer to Question 29, which asks: 'Has any individual, partnership, corporation or association, other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?', whereas in truth and fact Central Airport Flying Service was so interested as the real and beneficial owner of the licensed business; said false statement being in violation of R. S. 33:1-25.

"2. From July 1, 1947 until the present time, you knowingly aided and abetted Central Airport Flying Service to exercise, contrary to R. S. 33:1-26, the rights and privileges of your club license; in violation of R. S. 33:1-52."

Defendant was also required to show cause why its license should not be cancelled upon the ground that the license had been issued in violation of Rules 3 and 4 of State Regulations No. 7, because the club had not been in active operation and had not been in exclusive continuous use and possession of a clubhouse or club quarters for at least

three years continuously prior to the submission of its application for a license.

Cloud Combers Club was organized in 1934. Its members consisted of pilots, student pilots and owners of airplanes. It maintained club quarters at Central Airport until shortly after this country entered World War II. Practically all of its members then entered service, and the Central Airport was taken over by the United States Navy. As a result, Cloud Combers Club remained dormant until hostilities ended.

During the year 1946, Central Airport Flying Service, a corporation which now operates Central Airport, expended the sum of about \$4,000.00 in furnishing and remodeling the clubroom now occupied by Cloud Combers Club. A reorganization meeting of the latter club was held on December 1, 1946, and thereafter the club obtained its liquor license for the fiscal year beginning July 1, 1947.

At the hearing held herein defendant did not dispute the following facts which appeared from the investigation held herein, namely, that Central Airport Flying Service advanced the license fee; that it paid for all liquor purchased by defendant, and that it deposited the proceeds from the sale of the alcoholic beverages in its bank account. It is apparent that Central Airport Flying Service had an interest in the license which should have been disclosed in the application, and that it exercised the rights and privileges of the license held by defendant. Hence I find defendant guilty as charged.

As to the rule to show cause: On the facts above stated, defendant had not been in active operation for at least three years continuously immediately prior to the submission of its application for license, as required by Rule 3 of State Regulations No. 7, and had not been in exclusive continuous possession and use of a clubhouse or club quarters for the same period of time, as required by Rule 4 of State Regulations No. 7.

Defendant alleges that it has corrected the unlawful situation by opening a bank account in which all receipts will be deposited; by opening up a new set of books, and by arranging to execute notes payable to the Central Airport Flying Service to cover its indebtedness. It has requested me to waive the provisions of Rules 3 and 4 of State Regulations No. 7 in accordance with the provisions of Rule 5 of State Regulations No. 7. Such relief is, of course, discretionary with the Commissioner and I conclude that, under all the circumstances, the request for relief should be denied. Hence I shall cancel the license issued to defendant. Re Twelve Aces Club, Bulletin 780, Item 1, and cases therein cited.

Accordingly, it is, on this 27th day of May, 1948,

ORDERED that Club License CB-2, issued by the Township Committee of the Township of Pennsauken to Cloud Combers Club, for premises at Terminal Building, Central Airport, Pennsauken Township, be and the same is hereby cancelled and declared null and void, effective at 3:00 a.m. June 1, 1948.

ERWIN B. HOCK
Commissioner.

3. DISCIPLINARY PROCEEDINGS - SUSPENSION FOR BALANCE OF TERM, WITH LEAVE TO PETITION TO LIFT UPON EXPIRATION OF 90 DAYS AND CORRECTION OF ILLEGAL SITUATION - TRANSFER GRANTED BY MUNICIPAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED.

In the Matter of Disciplinary)
Proceedings against)

MARY MASCIO)
T/a MARY'S GRILL)
122 Railroad Avenue)
Hammonton, N. J.,)

ON PETITION
O R D E R

Holder of Plenary Retail Consump-)
tion License C-21 issued by the)
Town Council of the Town of)
Hammonton.)

-----)
John Mascio, Petitioner, Pro Se.)

BY THE COMMISSIONER:-

On February 18, 1948, I suspended defendant's License C-21 for the balance of its term, effective February 24, 1948, after she had pleaded non vult to a charge that her husband, Albert Mascio, had an undisclosed interest in her license. See Bulletin 794, Item 14. In said order it was provided that, if the unlawful situation were corrected, a petition might be filed with me by a transferee of the license to lift the suspension after at least ninety days of the suspension had been served.

Pursuant to said leave, John Mascio has requested, in writing, that the suspension herein be lifted. He has represented to me that on May 24, 1948, the Town Council of the Town of Hammonton has granted a transfer of License C-21 from Mary Mascio to petitioner, John Mascio, and has further represented, in writing, that he is the purchaser in good faith of said license and business and that neither Albert Mascio nor Mary Mascio is now interested in any way in said license.

It appearing from the facts recited above that the unlawful situation has been corrected, and it further appearing that ninety days have expired since the suspension became effective, the suspension will be lifted, effective immediately.

Accordingly, it is, on this 28th day of May, 1948,

ORDERED that the suspension heretofore imposed be lifted, and that Plenary Retail Consumption License C-21, issued by the Town Council of the Town of Hammonton, be and the same is hereby restored to full force and operation, effective immediately.

ERWIN B. HOCK
Commissioner.

4. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MARY LELEGKO)
T/a IRONDALE TAVERN)
79 West Central Avenue)
Wharton, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of Wharton.)
-----)

Mary Lelegko, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded guilty to a charge alleging that she possessed illicit alcoholic beverages at her licensed premises, in violation of R. S. 33:1-50.

On May 4, 1948, an inspector of the State Department of Alcoholic Beverage Control seized a 4/5 quart bottle labeled "Haig & Haig Five Star Liqueur Blended Scots Whisky", when his field tests indicated that the contents of said bottle were not genuine as labeled. Subsequent analysis by the chemist employed by the Department established that said bottle bore a label which did not truly describe its contents.

Defendant claims to have no knowledge of the violation. "Knowledge", however, in such cases, is not an essential indication of guilt. Cedar Restaurant & Cafe Co. v. Hock, 135 N.J.L. 156.

Defendant has no prior adjudicated record. I shall suspend her license for the minimum period in illicit liquor cases, fifteen days, in accordance with the principle expounded in Re Rudolph, Bulletin 680, Item 1. Remitting five days of said suspension because of the plea will leave a net suspension of ten days.

Accordingly, it is, on this 1st day of June, 1948,

ORDERED that Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of Wharton to Mary Lelegko, t/a Irondale Tavern, for premises 79 West Central Avenue, Wharton, be and the same is hereby suspended for a period of ten (10) days, commencing at 1:00 a.m. June 8, 1948, and terminating at 1:00 a.m. June 18, 1948.

ERWIN B. HOCK
Commissioner.

5. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - SALE TO NON-MEMBERS FOR OFF-PREMISES CONSUMPTION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE PRIVILEGES OF A LICENSE - LICENSE REVOKED.

In the Matter of Disciplinary)
Proceedings against)

LAKWOOD LABOR CLUB, INC.)
Cedar Bridge Avenue)
Lakewood, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-1 issued)
by the Township Committee of the)
Township of Lakewood.)

Percy Camp, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to charges alleging that (1) on August 8, 9 and 12, 1947, it sold alcoholic beverages to non-members, and (2) on August 8, 1947, it sold alcoholic beverages for off-premises consumption. A "not guilty" plea was entered to charges alleging that (3) and (4), in its current license application it failed to reveal that Mary Collins is the real and beneficial owner of the licensed business and that she is permitted to retain all of the profits of the licensed business, and (5) ever since December 17, 1937, it permitted the said Mary Collins to exercise the rights and privileges of its successive licenses.

On the dates mentioned in the first charge, two ABC agents were served with alcoholic beverages at the club premises. On the occasion of their second visit on August 9, 1947, the agents became "members" of the club by the simple process of paying the sum of \$1.00 each to Mary Collins and being handed a "membership card". On their first visit the agents purchased three cans of beer for consumption off the licensed premises, and also observed a similar sale to another person.

On August 12, 1947, sworn statements were obtained from Mary Collins and also from Clarence A. Wimley, trustee and secretary of the club. In these statements it clearly appears that the license, although nominally issued to the club, is actually used for the sole benefit of Mary Collins, and that she retains all of the income from the licensed business. As stated by the affiants, "the club *** allows (Mary Collins) to use the license in consideration for (her) permission to let the membership meet" at the premises in question, which is the private home of Mary Collins.

I am not impressed with the attempt made at the hearing to deny the truth of the contents of these statements. The defense that Mary Collins had only the food concession and had no interest in the license or the business conducted thereunder is not worthy of belief. I find the defendant guilty as charged and, under the circumstances, have no alternative other than to revoke the license. Re French-American Athletic Club, Inc., Bulletin 791, Item 2; Re Linwood Rod and Gun Club, Bulletin 793, Item 4.

Accordingly, it is, on this 1st day of June, 1948,

ORDERED that Club License CB-1, issued by the Township Committee of the Township of Lakewood to Lakewood Labor Club, Inc., for premises on Cedar Bridge Avenue, Lakewood, be and the same is hereby revoked, effective immediately.

ERWIN B. HOCK
Commissioner.

6. DISCIPLINARY PROCEEDINGS - PERMITTING USE OF OBSCENE LANGUAGE ON LICENSED PREMISES - SALE OF ALCOHOLIC BEVERAGES TO PERSON ACTUALLY OR APPARENTLY INTOXICATED - LICENSEE ACTUALLY OR APPARENTLY INTOXICATED ON LICENSED PREMISES - LICENSE SUSPENDED FOR 40 DAYS.

In the Matter of Disciplinary Proceedings against)

STEPHEN BITTMAN)
31 Hensler Street)
Newark 5, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-124, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Charles Handler, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult to charges alleging:

"1. On April 26, 1948, you allowed, permitted and suffered lewdness and immoral activities in and upon your licensed premises, viz., foul and obscene language; in violation of Rule 5 of State Regulations No. 20.

"2. On April 26, 1948, you sold, served and delivered, and allowed, permitted and suffered the service and delivery of alcoholic beverages to Irene ---, a person who was actually and apparently intoxicated, and allowed, permitted and suffered the consumption of alcoholic beverages by such person on the licensed premises; in violation of Rule 1 of State Regulations No. 20.

"3. On April 26, 1948, you worked on the licensed premises while actually or apparently intoxicated; in violation of Rule 24 of State Regulations No. 20.

"4. On April 26, 1948, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance, in that you allowed, permitted and suffered all the foregoing violations to occur, and conducted the licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulations No. 20."

The language upon which the first charge is based was used by the defendant, then acting as bartender, and, unquestionably, was obscene.

The woman served was without doubt in a rather obvious drunken condition. The licensee was undoubtedly quite intoxicated. Cf. Re Nixon's Cafe, Inc., Bulletin 724, Item 3.

Viewing the whole sordid picture, it is clear that the licensed premises were being conducted in a manner offensive to common decency and public morals.

Defendant has no prior adjudicated record. Considering his prior, apparently law-abiding conduct during his operation of the business, and the plea, I shall suspend the license for a period of 40 days. Re Nixon's Cafe, Inc., supra.

Accordingly, it is, on this 1st day of June, 1948,

ORDERED that Plenary Retail Consumption License C-124, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Stephen Bittman, for premises 31 Hensler Street, Newark, be and the same is hereby suspended for the balance of its term, commencing at 2:00 a.m. June 7, 1948; 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 1948-1949 licensing year, such license shall be under suspension until 2:00 a.m. July 17, 1948.

ERWIN B. HOCK
Commissioner.

7. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

PATRICK T. & BESSIE C. CASSIDY)
T/a CASSIDY'S TAVERN)
White Horse Pike & Walnut Avenue)
Lindenwold)
P.O. Laurel Springs, N. J.,)

CONCLUSIONS
AND ORDER

-----)
Holders of Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of Lindenwold.)

Patrick T. & Bessie C. Cassidy, Defendant-licensees, Pro Se.
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendants plead non vult to a charge alleging that on April 15, 1948, they possessed an illicit alcoholic beverage, to wit, a 4/5 quart bottle labeled "Canadian Club Blended Whisky", which was not genuine as labeled, in violation of R. S. 33:1-50.

Defendants have no previous adjudicated record. The minimum fifteen-day suspension will be imposed, less five days for the plea entered herein, or a net suspension of ten days. Cf. Re Dentz, Bulletin 780, Item 8.

Accordingly, it is, on this 1st day of June, 1948,

ORDERED that Plenary Retail Consumption License C-6, issued by the Borough Council of the Borough of Lindenwold to Patrick T. & Bessie C. Cassidy, t/a Cassidy's Tavern, for premises at White Horse Pike & Walnut Avenue, Lindenwold, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. June 7, 1948, and terminating at 3:00 a.m. June 17, 1948.

ERWIN B. HOCK
Commissioner.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

GRETCHEN WARDLOW)
T/a HELMER'S CAFE & RESTAURANT)
1036 Washington Street)
Hoboken, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-222, issued by the Board of Commissioners of the City of Hoboken.)

-----)
Ralph E. Giordano, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to a charge alleging that she possessed illicit alcoholic beverages on her licensed premises, namely, two 4/5 quart bottles labeled "Canadian Club Blended Canadian Whisky", in violation of R. S. 33:1-50.

On April 7, 1948, an ABC agent tested 24 opened bottles on defendant's premises and seized the two bottles mentioned in the charge when his preliminary field test indicated that the contents thereof were not genuine. Subsequent analysis by a chemist employed by the Department of Alcoholic Beverage Control disclosed that the contents of the seized bottles varied substantially in acids, solids and color from the contents of a genuine sample of the same product.

Defendant and her husband deny that they tampered with the contents of the seized bottles. However, the mere possession of an illicit alcoholic beverage on licensed premises constitutes a violation. Cedar Restaurant v. Hock, 135 N.J.L. 156.

Defendant has no prior record. I shall suspend defendant's license for a minimum period of fifteen days, less five days for the plea, making a net suspension of ten days. Re Skripko, Bulletin 797, Item 11.

Accordingly, it is, on this 2nd day of June, 1948,

ORDERED that Plenary Retail Consumption License C-222, issued by the Board of Commissioners of the City of Hoboken to Gretchen Wardlow, t/a Helmer's Cafe & Restaurant, for premises 1036 Washington Street, Hoboken, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. June 14, 1948, and terminating at 2:00 a.m. June 24, 1948.

ERWIN B. HOCK
Commissioner.

9. DISCIPLINARY PROCEEDINGS - ALLEGED SALE TO MINORS - CHARGES DISMISSED FOR LACK OF PROOF.

In the Matter of Disciplinary Proceedings against)

WILLIAM J. & CHARLOTTE RULE)
T/a RULE'S TAVERN)
Bloomfield Ave. cor. Summit St.)
Parsippany-Troy Hills)
Route 6, R.D. 1, Boonton, N.J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Consumption License C-18 issued by the Township Committee of the Township of Parsippany-Troy Hills.)

William J. Camarata, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendants have pleaded not guilty to the following charges:

"1. On or about December 19, 1947, you sold alcoholic beverages to Richard --- and Coley ---, minors; in violation of R. S. 33:1-77.

"2. On or about December 19, 1947, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises, to Richard --- and Coley ---, persons under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

Both of the minors mentioned in the charges were seventeen years of age at the time the alleged violation occurred.

At the hearing held herein, Richard --- testified that he and Coley --- and James --- entered defendants' premises on December 19, 1947, at about 8:00 p.m. He further testified that they remained in defendants' premises for a period of about one-half hour, during which time two glasses of beer were served to each of the three young men by the bartender. Coley ---, the other minor, and James ---, who is twenty-three years of age, testified that they were in defendants' premises with Richard --- at the time mentioned in his testimony, and that each of them was served with two glasses of beer by the bartender. However, when questioned as to what day of the week it was, Coley --- answered "Saturday, I think." In fact, December 19, 1947 fell on a Friday.

Defendant testified that he employs no help and that the licensed premises are operated by him and his wife. He testified that he was tending bar on the evening of December 19, 1947, and that none of the three boys was in his premises at any time during said evening.

Seven additional witnesses testified on behalf of defendants. Each of these witnesses alleges that he or she was present on defendants' premises at some time during the evening of December 19th and

that the three boys were not present at any time during said evening. In general, testimony of this character is not very impressive because patrons may be honestly mistaken as to the particular days or hours of their visits to licensed premises. I have, therefore, examined this testimony very carefully. I am impressed by the testimony of several of the witnesses. Charles May, a retired manufacturer, and his wife, Carol May, testified that they have a distinct recollection of the evening of December 19th because it was the Friday before Christmas and exactly a week before December 26th, the date upon which they left for a trip to Florida. They both said that they arrived at defendants' premises at about 8:15 p.m. and remained until about 10:30 p.m. They denied that the boys were present at any time during their visit. Robert L. Carn, who is engaged in the heating and oil burner business, testified that he goes to defendants' premises almost every Friday evening to see the wrestling bouts which are shown on the television about 9:15 p.m. on Fridays. He says that he recalls Friday, December 19th, particularly because he stopped to see a deer which was hanging on the outside of the premises. This witness says he arrived about 8:00 p.m. and remained until after the wrestling bouts had been shown, and that the boys were not on the premises during that time. There is additional testimony that defendant William J. Rule had shot a deer during the hunting season and that the deer was hanging outside of his premises from December 15th to December 22nd. John J. Kath, who is employed in Newark, testified that he has a distinct recollection of the evening of December 19th because he and his wife had planned to attend a dinner in Morristown on that evening. He testified that he drove from Newark to defendants' premises; that he arrived there about 8:00 p.m.; that his wife arrived a little later, and that they both remained until about 10:00 p.m., at which time they left for Morristown. He testified that the boys were not on the premises at any time during the evening. The other three witnesses testified that they were on defendants' premises between 7:45 p.m. and 11:00 p.m. on December 19th, and that the boys were not present on defendants' premises at any time during the evening.

During the course of the investigation, Richard --- and Coley --- signed sworn statements in which they said they were served from eight to ten beers each in defendants' premises on the evening of December 19th. In his statement, Richard --- said: "We were drinking there for about an hour" and Coley --- said they arrived at 8:00 p.m. and left about 9:00 or 9:30 p.m. At the hearing none of the three young men would definitely identify William J. Rule as the person who was acting as bartender.

Weighing carefully all the testimony of the case, I conclude that the defendants' guilt of the charges as alleged has not been established by a fair preponderance of the evidence adduced. Under the circumstances I have no alternative except to dismiss the charges. Cf. Re Cartwright, Bulletin 725, Item 1.

Accordingly, it is, on this 2nd day of June, 1948,

ORDERED that the charges herein be and the same are hereby dismissed.

ERWIN B. HOCK
Commissioner.

10. NEW LEGISLATION - RESTRICTION OF PRIVILEGE OF SALE OF ALCOHOLIC BEVERAGES IN ORIGINAL CONTAINERS FOR OFF-PREMISES CONSUMPTION BY PLENARY AND SEASONAL RETAIL CONSUMPTION LICENSEES.

Senate Bill No. 321 was approved by Governor Driscoll on May 28, 1948 and thereupon became Chapter 98, P. L. 1948.

It reads as follows:

"AN ACT concerning alcoholic beverages, and supplementing chapter one of Title 33 of the Revised Statutes.

"BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

"1. The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act, may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises; provided, however, that where, prior to the effective date of this act, alcoholic beverages in original containers for off-premises consumption were sold and displayed for sale by the holder of such license, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, such sale and display shall be permitted as heretofore and notwithstanding renewal or transfer of the license either from person to person or place to place, subject to rules and regulations to be promulgated by the commissioner.

"2. Nothing in this act shall be deemed to limit the sale and display for sale of alcoholic beverages in original containers for consumption off the licensed premises to the public barroom on premises licensed under plenary retail consumption license or seasonal retail consumption license in any municipality in which the sale of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises is prohibited by law notwithstanding that, prior to such prohibition, such sale and display for sale was required to be limited to the public barroom.

"3. Nothing in this act shall be deemed to prohibit the lawful sale and delivery of alcoholic beverages in original containers by the holder of a plenary retail consumption license or seasonal retail consumption license issued for hotel premises to guests of the hotel in the regular course of business.

"4. This act shall take effect immediately."

Erwin B. Hock
ERWIN B. HOCK
Commissioner.

Dated: June 3, 1948.

11. STATE REGULATIONS - REGULATIONS NO. 32 PROMULGATED - RULES GOVERNING SALE OF ALCOHOLIC BEVERAGES IN ORIGINAL CONTAINERS BY CONSUMPTION LICENSEES.

REGULATIONS NO. 32

Sale of Alcoholic Beverages in Original Containers by Consumption Licensees.

Rule 1. All holders of plenary retail consumption licenses or seasonal retail consumption licenses who, on May 27, 1948, sold alcoholic beverages in original containers for consumption off the licensed premises, either to the exclusion of sale for consumption on the licensed premises or upon a portion of the licensed premises other than the public barroom, must make written declaration of such fact and file the same with the license issuing authority not later than June 18, 1948.

Rule 2. The declaration required by Rule 1 shall be in form of a notice to the license issuing authority advising of an amendment to the question in the application for current license which asks, "Describe building containing licensed premises in detail:....(b) For what purpose used?", to set forth in addition to any other matters therein stated, "Alcoholic beverages were sold on May 27, 1948 in original containers for off-premises consumption from portion of licensed premises other than public barroom as designated on sketch attached" and having attached thereto a sketch of the entire licensed premises with indication thereon of that portion of the licensed premises other than the public barroom in which alcoholic beverages were being sold on May 27, 1948 in original containers for off-premises consumption. Said notice shall be accompanied by an affidavit of the licensee attesting the truth of the statements made therein and a photograph not less than five by seven inches in size showing the interior of that portion of the licensed premises other than the public barroom in which alcoholic beverages were being sold on May 27, 1948 in original containers for off-premises consumption. Subsequent applications for license, including applications for transfer of license from person to person or place to place shall be similarly answered where appropriate.

Rule 3. Upon receipt of the declaration, sketch and photograph as required by Rule 1 in form prescribed by Rule 2, the license issuing authority shall attach the same to the application upon which the current license has been issued and shall cause immediate investigation to be made to verify the facts stated and represented therein. Thereafter and not later than June 30, 1948, each municipal license issuing authority shall certify to the State Commissioner of Alcoholic Beverage Control the names of the licensees and addresses of the licensed premises as to which declaration has been made as required by Rule 1, at the same time certifying its compliance with the provision hereof requiring investigation of the truth of the declaration.

Rule 4. Upon completion of investigation and certification as required by Rule 3, the license issuing authority shall cause the following notation to be made on the face of each license certificate involved which will be in effect on July 1, 1948 and thereafter:

"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".

License certificates issued or endorsed for transfer on the basis of subsequent applications shall bear similar notation where appropriate.

Future daily certifications of license issuance or transfer required by Rule 9 of Regulations No. 4 and Rule 22 of Regulations No. 6 shall include where appropriate, under the caption "Special Conditions, if any", the notation "Broad package privilege" to denote compliance with Rules 2 and 4 of these regulations.

Rule 5. Holders of plenary retail consumption licenses or seasonal retail consumption licenses not eligible to make the declaration required by Rule 1 because on May 27, 1948 they were not actually engaged in the sale of alcoholic beverages in original containers for off-premises consumption from a portion of the licensed premises other than the public barroom by reason of (1) building alteration or construction in progress, (2) prior destruction or loss of possession of the licensed premises, or (3) non-operation of the entire licensed business, but who, prior to May 28, 1948, (a) had sold alcoholic beverages in original containers for off-premises consumption from a portion of the licensed premises other than the public barroom, or (b) had actually undertaken alteration or construction of the licensed premises or premises to be licensed, intending and making provision thereon for the sale of alcoholic beverages in original containers for off-premises consumption from a portion of the premises other than the public barroom, may, by verified petition, request the State Commissioner of Alcoholic Beverage Control to permit amendment of the license application and notation of the licensed certificate in manner set forth in Rules 2 and 4. Said petition must bear the consent, in writing, of the municipal license issuing authority and must be filed with the State Commissioner of Alcoholic Beverage Control not later than June 18, 1948.

Rule 6. From and after July 1, 1948, no holder of a plenary retail consumption license or seasonal retail consumption license shall sell any alcoholic beverages in original containers for off-premises consumption except from the public barroom of the licensed premises unless the then current license certificate bears a notation as set forth in Rule 4 and the application for the then current license contains a statement as set forth in Rule 2; provided, however, that in the event that sale of alcoholic beverages by the glass or other open receptacle is prohibited by law in any particular municipality, holders of plenary retail consumption licenses and seasonal retail consumption licenses in such municipality may sell alcoholic beverages in original containers for off-premises consumption from any portion of the licensed premises notwithstanding that such sale was, prior to such prohibition, limited to the public barroom.

Rule 7. No holder of a plenary retail consumption license or seasonal retail consumption license having a public barroom existing on the licensed premises on May 28, 1948 shall sell any alcoholic beverage in original containers for off-premises consumption from any additional public barroom thereafter established on such premises or any premises to which the license may be transferred, except in so far as the privilege may be afforded pursuant to Rule 6.

Rule 8. Each municipal license issuing authority is required and directed to notify, in writing, every holder of a plenary retail consumption license or seasonal retail consumption license issued within its municipality of the provisions of the foregoing Rules not later than June 11, 1948.

ERWIN B. HOCK
Commissioner.

Dated: June 3, 1948.

12. RESTRICTION OF PRIVILEGE OF SALE OF ALCOHOLIC BEVERAGES IN ORIGINAL CONTAINERS FOR OFF-PREMISES CONSUMPTION BY PLENARY AND SEASONAL RETAIL CONSUMPTION LICENSEES (P.L. 1948, CH. 98 AND STATE REGULATIONS NO. 32).

TO ALL MUNICIPAL LICENSE ISSUING AUTHORITIES:

The "Package Store Bill" (Senate No. 321) was approved by Governor Driscoll on May 28, 1948 and is now Chapter 98 of the Pamphlet Laws of 1948. It restricts sale of "package goods" by consumption licensees to the public barroom unless such sales were being made from separate "package departments" or the licensee confined his activities solely to sale of "package goods" prior to May 28, 1948, the effective date of the act. Copy of the new law is enclosed.

The law also provides that consumption licensees who sold "package goods" exclusively or from separate "package departments" prior to May 28, 1948, may continue to do so only subject to rules and regulations to be promulgated by the Commissioner of Alcoholic Beverage Control. Accordingly, and also pursuant to power conferred by R. S. 33:1-39, State Regulations No. 32 have been promulgated effective June 3, 1948. Copy of the new regulations is also enclosed.

The regulations establish a time-table for and require the doing of certain things, as follows:

1. Not later than June 11, 1948, you must notify, in writing, the plenary and seasonal retail consumption licensees in your municipality of the provisions of the regulations. See Rule 8.

2. Not later than June 18, 1948, each consumption licensee who on May 27, 1948 operated a separate "package department" must file with you (see Rules 1 and 2):

- (a) A notice requesting amendment of his application for current license to declare past operation of a "package department";
- (b) A sketch of the entire licensed premises indicating the portion other than the public barroom being used on May 27, 1948 as the "package department";
- (c) A photograph of the interior of the premises showing the "package department" existing on May 27, 1948;
- (d) An affidavit attesting the truth of the matters in the petition and sketch.

NOTE: Consumption licensees who sell "package goods" only in the public barroom are not required to comply with the above instructions.

3. Not later than June 30, 1948, you must cause immediate investigation to be made to verify the facts and certify to the State Commissioner of Alcoholic Beverage Control the names of the licensees and addresses of the licensed premises as to which declarations have been made. At the same time, you must certify that investigation has been made as required. See Rule 3.

4. Immediately upon completion of investigation and after making certification to the State Commissioner of Alcoholic Beverage Control, you must cause notation to be made on license certificates involved in form as directed in Rule 4.

With respect to applications for future licenses, issuance of future license certificates and daily certification of license issuance or transfer, see Rules 2 and 4.

It is essential to proper liquor control and enforcement of the new law that all municipal license issuing authorities and those consumption licensees affected comply strictly with the regulations since failure of either so to do may result in the loss of the privilege to continue sale of "package goods" as heretofore. After July 1, 1948, no consumption licensee may sell "package goods" from any portion of the licensed premises except the public barroom unless a separate "package department" was operated on the licensed premises prior to May 28, 1948 and you and the licensee have taken the necessary steps to permit continued exercise of the privilege. See Rule 6.

Provision is made in the regulations for "hardship cases", viz., situations in which a licensee might otherwise lose the privilege although entitled thereto as a matter of fairness. See Rule 5. However, separate "package departments" may not be established in future merely by creating additional public barrooms. See Rule 7.

The foregoing constitutes a brief summary of the purposes and provisions of the new law and regulations to which reference should be made for more precise information concerning their various features and requirements.

It should be particularly noted by all concerned that the declaration as to past operation of a "package department" becomes part of the license application. Fraud, misrepresentation, or false or misleading statement in the application for license is cause for suspension or revocation of the license. See R. S. 33:1-25.

Dated: June 3, 1948.

ERWIN B. HOCK
Commissioner.

13. STATE LICENSES - NEW APPLICATIONS FILED.

Robert and Michael Russo, t/a Robert Russo and Son
199 - 2nd St., Newark, N. J.

Application filed June 1, 1948 for transfer of State Beverage Distributor's License SED-71 from Robert Russo.

Modestino Farina Winery Incorporated
72 Colden St. & Rear 70-72 Colden St., Newark, N. J.

Application filed June 2, 1948 for transfer of Plenary Winery License V-44, with retail privileges, for 1948-49 fiscal year, from Modestino Farina.

United Distillers of America, Inc.
350 Fifth Ave., New York, N. Y.

Application filed June 1, 1948 for Warehouse Receipts License for fiscal year commencing July 1, 1948.

Rapid Motor Lines, Inc.
229 Tenth Ave., New York, N. Y.

Application filed June 2, 1948 for Transportation License for fiscal year commencing July 1, 1948.

Erwin B. Hock

Commissioner.

New Jersey State Library