

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

BULLETIN 344 SEPTEMBER 18, 1939.

1. LIMITATION OF LICENSES - NOT PERMISSIBLE TO ISSUE LICENSES FOR SALE OF PARTICULAR KIND OF ALCOHOLIC BEVERAGE IN VIOLATION OF MUNICIPAL LIMITATION.

My dear Mr. Burnett:

An application has been made to the Mayor and Council of this Borough for a plenary retail distribution license. The Beverage Committee, of which I am a member, are of the opinion that such a license can not issue in view of our ordinance which limits such licenses and the limit has been exhausted. In other words, in view of the fact that the limit has been reached, no more licenses can be issued without violating the ordinance.

The applicant feels that in view of the fact that he will limit his sales under the license in question to the sale of wine only, his application does not come within the ordinance. He has raised the point that he will not sell beer, liquor or any beverages other than wine, and he seeks a license for the purpose of only the sale of wine.

Will you therefore be kind enough to inform me whether the Board can issue a Plenary Retail Distribution License solely for the sale of wine to the above named applicant without violating our ordinance.

Very truly yours,
Joseph Castel

August 16, 1939

Joseph Castel, Councilman,
Fairview, N. J.

My dear Mr. Castel:

Your understanding is absolutely correct.

If it were otherwise, then the ordinance would be a mere mockery, and capable of all kinds of evasion. One applicant could say that he wanted the license only for the sale of beer, and another only for whiskey. They in turn would be followed by applicants who sought a license to sell everything except rum or except gin or except cordials, and so on down the line. But the point is that the license applied for is a plenary license, and that means complete, full-fledged, and carrying permission to sell all kinds of alcoholic beverages. But more plenary licenses, by the very terms of the ordinance, may not be issued. Hence your point is well taken.

Cordially yours,

D. FREDERICK BURNETT,
Commissioner.

2. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against)

MOE KREGSTEIN,)
953 Broadway,)
North Bergen, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-1, issued by the)
Municipal Board of Alcoholic Beverage Control of the Township of)
North Bergen.)
- - - - -)

Ellamarye H. Failor, Attorney for the Department of Alcoholic Beverage Control.

Moe Kregstein, Pro Se.

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of selling liquor at his licensed premises on June 17, 1939 and June 21, 1939, in violation of Rule 6 of State Regulations No. 30. His license will, therefore, be suspended for five (5) days instead of the usual ten (10).

Subsequent to the institution of these proceedings, the above mentioned license has expired and has been renewed by the issuance of Plenary Retail Distribution License D-1 (1939-40).

Accordingly, it is, on this 16th day of August, 1939,

ORDERED, that Plenary Retail Distribution License D-1 (1939-40), heretofore issued to Moe Kregstein by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen, be and the same is hereby suspended for a period of five (5) days. Pursuant to notice of December 17, 1938, Bulletin 289, Item 1, the effective date of such suspension is reserved for future determination.

D. FREDERICK BURNETT,
Commissioner.

3. DISCIPLINARY PROCEEDINGS - SALES TO MINORS, EMPLOYMENT OF FEMALES, AND GAMBLING - 15 DAYS.

In the Matter of Disciplinary Proceedings against)

MAX JACOBS,)
5 Spring Street,)
Newark, New Jersey,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-59, issued by)
the Municipal Board of Alcoholic Beverage Control of the City of)
Newark.)
-----)

Samuel B. Helfand, Esq., Attorney for the State Department of Alcoholic Beverage Control.

Max Jacobs, Pro Se.

BY THE COMMISSIONER:

Licensee has pleaded guilty to (1) selling alcoholic beverages to minors, contrary to R. S. 33:1-77 and Rule 1 of State Regulations No. 20, (2) allowing a female to serve alcoholic beverages, contrary to Section (a) of Resolution No. 4889 adopted by the Board of Commissioners of the City of Newark on May 24, 1939, and (3) allowing gambling, to wit, a card game for money, on his licensed premises, contrary to Rule 7 of State Regulations No. 20.

By entering this plea in ample time before the day fixed for hearing, the Department has been saved the time and expense of proving its case. The license will, therefore, be suspended for fifteen days, instead of twenty days.

Accordingly, it is, on this 16th day of August, 1939,

ORDERED, that plenary retail consumption license C-59, heretofore issued to Max Jacobs by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of fifteen (15) days, commencing August 18, 1939, at 3:00 A.M. (Daylight Saving Time).

D. FREDERICK BURNETT,
Commissioner.

4. DISCIPLINARY PROCEEDINGS - FEMALE TENDING BAR AND GAMBLING.

In the Matter of Disciplinary Proceedings against)

HARRY GROSS,)
53 Fleming Avenue,)
Newark, New Jersey,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-327 issued by the)
Municipal Board of Alcoholic Beverage Control of the City of)
Newark.)
- - - - -)

Sidney Simandl, Esq., Attorney for the Licensee.
Stanton J. MacIntosh, Esq., Attorney for the Department of
Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee, through his attorney, has pleaded guilty to charges of (a) allowing his wife to tend bar during hours prohibited by local regulation, and (b) making cash pay-offs on a bagatelle machine in violation of Rule 7 of State Regulations No. 20.

The usual penalty for each violation is five days. However, the licensee entered his plea in ample time prior to hearing and thereby saved the Department the time and expense incident to proving its case. The license will, therefore, be suspended for a total of five days instead of ten.

Accordingly, it is, on this 16th day of August, 1939,

ORDERED that Plenary Retail Consumption License C-327, heretofore issued to Harry Gross by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of five (5) days, effective August 21, 1939 at 3:00 A.M. (Daylight Saving Time).

D. FREDERICK BURNETT,
Commissioner.

5. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against)

JOHN G. SEPPLE,)
3rd and Broad Streets,)
Phillipsburg, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-66, issued by the Board of Commissioners of the Town of Phillipsburg.)

Ellamarye H. Failor, Attorney for the Department of Alcoholic Beverage Control.

William C. Egan, Esq., Attorney for the Licensee.

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of selling liquor at his licensed premises on June 23, 1939 in violation of Rule 6 of State Regulations No. 30. His license will, therefore, be suspended for five (5) days instead of the usual ten (10).

Subsequent to the institution of these proceedings, the above mentioned license has expired and has been renewed by the issuance of Plenary Retail Consumption License C-66 (1939-40).

Accordingly, it is, on this 16th day of August, 1939,

ORDERED, that Plenary Retail Consumption License C-66 (1939-40), heretofore issued to John G. Sepple by the Board of Commissioners of the Town of Phillipsburg, be and the same is hereby suspended for a period of five (5) days. Pursuant to notice of December 17, 1938, Bulletin 289, Item 1, the effective date of such suspension is reserved for future determination.

D. FREDERICK BURNETT,
Commissioner.

6. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against)

ISRAEL WEINSTEIN,)
123 Wanaque Avenue,)
Pompton Lakes, N. J.,)

ORDER

Holder of Plenary Retail Distribution License D-4, issued by the Borough Council of the Borough of Pompton Lakes.)

Israel Weinstein, Pro Se.

The license of Israel Weinstein, issued for premises 123 Wanaque Avenue by the Pompton Lakes Borough Council, was heretofore suspended for five days and the effective date of such suspension reserved for future determination. (Bulletin 328, Item 10).

Subsequent to the institution of these proceedings, the above mentioned license has expired and has been renewed by the issuance of Plenary Retail Distribution License D-4 (1939-40).

It now appearing that the licensee is desirous of serving said suspension and getting it over with regardless of the ultimate determination of the constitutionality of Chapter 208 of the Laws of 1938 and the Fair Trade regulations adopted pursuant thereto;

It is, therefore, ORDERED, that Plenary Retail Distribution License D-4 (1939-40), heretofore issued to Israel Weinstein for premises 123 Wanaque Avenue, Pompton Lakes, N. J., by the Borough Council of the Borough of Pompton Lakes, be and the same is hereby suspended for a period of five days effective September 10, 1939 at midnight, Daylight Saving Time.

D. FREDERICK BURNETT,
Commissioner.

By: E. W. Garrett,
Chief Deputy Commissioner.

Dated: August 21, 1939.

7. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against)

MOE KREGSTEIN,)
953 Broadway,)
North Bergen, N. J.,)

ORDER

the holder of Plenary Retail Distribution License D-1, issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen.)
-----)

Moe Kregstein, Pro Se.

The license of Moe Kregstein issued for premises 953 Broadway by the North Bergen Municipal Board of Alcoholic Beverage Control was heretofore suspended for five days and the effective date of such suspension reserved for future determination. (Bulletin 344, Item 2).

It now appearing that the licensee is desirous of serving said suspension and getting it over with regardless of the ultimate determination of the constitutionality of Chapter 208 of the Laws of 1938 and the Fair Trade regulations adopted pursuant thereto;

It is, therefore, ORDERED, that Plenary Retail Distribution License D-1, heretofore issued to Moe Kregstein for premises 953 Broadway, North Bergen, N. J. by the North Bergen Municipal Board of Alcoholic Beverage Control, be and the same is hereby suspended for a period of five days effective September 1, 1939 at noon, Daylight Saving Time.

D. FREDERICK BURNETT,
Commissioner.

By: E. W. Garrett,
Chief Deputy Commissioner.

Dated: August 21, 1939.

8. ENFORCEMENT DIVISION ACTIVITY REPORT FOR AUGUST, 1939

To: D. Frederick Burnett, Commissioner.

ARRESTS: Total number of persons - - - - - 41
Licensees - 1 Non-licensees - 40

SEIZURES: Stills - total number seized - - - - - 10
Capacity 1 to 50 Gallons - - - - - 4
Capacity 50 gallons and over - - - - - 6

Motor Vehicles - total number seized - - - - - 6
Trucks - 1 Passenger Cars - 5

Alcohol

Beverage Alcohol - - - - - 465 Gallons

Mash - Total number of gallons - - - - - 17,175

Alcoholic Beverages

Beer, Ale, etc. - - - - - 6 Gallons

Wine - - - - - 172 "

Whiskies and other hard liquor - - - - - 33 "

RETAIL INSPECTIONS:

Licensed premises inspected - - - - - 1,189

Illicit (bootleg) liquor - - - - - 5

Gambling violations - - - - - 4

Sign violations - - - - - 21

Unqualified employees - - - - - 221

Other mercantile business - - - - - 19

Disposal permits necessary - - - - - 8

"Front" violations - - - - - 2

Improper beer markers - - - - - 1

Other violations found - - - - - 19

Total violations found - - - - - 300

Total number of bottles gauged - - - - - 9,524

STATE LICENSEES:

Plant Control inspections completed - - - - - 65

License applications investigated - - - - - 10

COMPLAINTS:

Investigated and closed - - - - - 348

Investigated, pending completion - - - - - 438

LABORATORY:

Analyses made - - - - - 189

Alcohol and water and artificial

coloring cases - - - - - 32

Poison and denaturant cases - - - - - 1

Respectfully submitted,

E. W. Garrett,

Chief Deputy Commissioner.

9. APPELLATE DECISIONS - KLAPPROTT v. ANDOVER TOWNSHIP.

AUGUST KLAPPROTT,)
)
 Appellant,)
)
 -vs-)
)
 TOWNSHIP COMMITTEE OF TOWNSHIP) ON APPEAL
 OF ANDOVER,) CONCLUSIONS.
)
 Respondent.)
)

For Appellant, Wilbur V. Keegan, Esq.
 For Respondent, Peter Friedman, Esq.,
 For Objector, Carl Kepner, Egbert Rosecrans, Esq.,
 For Objector, William Dodd, J. George Fredman, Esq.

BY THE COMMISSIONER:

Camp Nordland is a 200 acre tract in Sussex County, owned by the German-American Bund Auxiliary. On it, besides a boys' camp and one for girls, is a restaurant leased to and operated by August Klapprott wherein is served, as he says, as many as 5,000 persons in one day. His application for renewal of the liquor license which expired June 30, 1939 was denied. Hence this appeal.

The Township Committee alleges that Klapprott made mis-statements in his application in that he suppressed all information that the Bund had an interest in the license sought and in the business thereunder conducted.

It appears that he answered "No" in response to the interrogatory

"Has any person....corporation or association, other than the applicant, any interest directly or indirectly in the license applied for or in the business to be conducted?"

The question, therefore, is - Does the Bund have such an interest?

The lease from the Bund to Klapprott recites that the premises have been let

"from month to month to be used and occupied by the tenant solely for the purpose of conducting thereon the business which he is entitled lawfully to conduct as the holder of a plenary retail consumption license and in connection therewith the conduct of a restaurant."

The annual rent is \$4600, stipulated in Paragraph 3, as follows:

"Until the termination of the tenancy of the Tenant he shall pay during each one of the months of May, June, July, August and September of each and every year of such tenancy, the sum of \$500.00 Five hundred dollars provided, however, that if during any one of said months the net profit realized by him in the conduct of all the businesses aforesaid shall not equal \$500.00 Five hundred dollars, then the rental for the given month shall be reduced to an amount equal to said net profit for said month, so that in no case shall he be liable to pay rent for any one of said months in excess of the amount of the net profit realized by him from the conduct of his said businesses during such month."

Then follows a stipulation for rent of \$300. per month for the months of January, February, March, April, October, November and December of each year of the tenancy in the same language and subject to the same proviso for reduction to the amount of realized net profits.

Paragraph 4 of the lease reads:

"The provisions of the preceding paragraph (3) have been adopted and agreed upon by the parties to this indenture because of the uncertainty of the extent of the businesses which the Tenant may be able to develop upon the premises let to him."

It is clear that the object of the lease was to exploit the liquor license and that the rental was contingent upon the profits of the business.

If it be said that, however much the Bund is interested in the profits as a source of income, nevertheless the tenant might keep the excess, the answer is that the tenant didn't! The Bund treasurer testified that Klapprott paid it more rent in 1937 than stipulated -- "might be called contribution." How much more he did not say and the Bund refused to submit its books. Klapprott himself swore that he paid \$7200 rent in 1938 although the stipulation was but \$4600. Asked why, he replied: "Because I felt I made a little too much profit and paid them more."

Appellant argues that sharing profits as rent does not automatically make partners. Correct! But it is also true that such income division makes the Bund a participant in the business and that is what Klapprott's oath denied.

The testimony shows that Klapprott is the President of the Bund and resident general manager, leader and supervisor of the entire Camp Nordland; that Bund funds and his were continually commingled; that the equipment belonged to the Bund; that his sales records as licensee were signed by the treasurer of the Bund who acted as cashier for the licensee but received no compensation from him; that Bund members were generally employed by him without pay.

If this were Klapprott's own business, would he invest large sums in developing it upon a month to month tenancy whereby he could be ousted upon a mere month's notice? Or upon an agreement which split profits without any definition of how the net was to be computed -- how much for salaries, insurance, taxes, depreciation? Or upon an arrangement whereby all uncertainties were shouldered by the tenant? Or make egregious gifts to show devotion to his landlord?

All absurdities and the need for explanations of the kind "made in Germany" are ironed out once it is predicated that the business really belongs to the Bund and that the interlocking President-licensee is merely the leader principle in action.

In the face of this record which, at the least, calls for complete and adequate explanation, the Bund refused to produce its books and records. Without pausing to consider whether such contempt is ground of itself for denial of license, suffice it to say that the high-handed refusal warrants every intendment of deceptive concealment that may reasonably be derived from it. It confirms the inference that the business is that of the Bund.

I conclude that the Bund has a direct interest in the licensed business; that the liquor business at Camp Nordland is primarily its own; that Klapprott is a mere front or alter ego for it; that his sworn declaration that no one else was interested in the license sought is therefore false.

There are other matters of even graver moment.

The record shows that activities, some contrary to law and all hostile to the public interest, have occurred at Camp Nordland, viz:

1. On July 4th, the Bund paraded in uniforms similar to those worn in Nazi Germany and imitated the Hitler salute.
2. Pamphlets, books and propaganda inciting race and religious hatred have been circulated and disseminated.
3. Speeches and harangues have been made, endorsed with "heils", advocating that those who insult Hitler be punched in the nose; that Jews be deported, that all Jewish merchants and all newspapers, moving picture houses and program sponsors who employ Jews in preference to Gentiles be boycotted even as is "the New York Jews' World Fair"; that the President of the United States "if he has any character left, he had better look for a hole and crawl into it."
4. The Nazi flag has been flown above the American flag.
5. Stress has been laid upon imbedding the purpose of the Bund in the minds of the youth who, naturally enough, are considered the life line. Parents who are members of the Bund, are urged to cause their children to attend the camp's affairs. Songs are taught them, e.g. "We have sworn an oath to our flag, the flag is our father and God."
6. Dictators have been glorified. Democracies have been derided.

7. The Nazi salute has been given while the Star Spangled Banner was played.

8. The swastika is omnipresent. In the picture of George Washington it is stuck under his nose.

9. Everywhere there is an undercurrent of accumulating and uniformed force to be unleashed when the right moment comes and the word is passed — drill, goose-step, emulate — "As we have achieved in Germany, so we will do in America."

Klapprott does not deny this testimony. All he says is that he himself did not do or say so. Yet it was he who, as Master of Ceremonies, introduced the speakers. And it was he who was the leader, supervisor and manager of the whole camp, of which the restaurant is but a part. Yet not once did he stop or even lift a finger to interfere with such activities.

Licensed premises will not be tolerated as hot-beds in which to incubate hate and inculcate subversion. There is no room for the swastika.

The appeal is denied. The action of respondent is hereby affirmed.

D. FREDERICK BURNETT,
Commissioner.

September 12, 1939.

10. NEW LEGISLATION - LICENSES - RENEWAL DEFINED.

Assembly Bill No. 533 was approved by Governor Moore on August 2, 1939, and thereupon became Chapter 281, P.L. 1939.

It was effective immediately.

"An Act concerning the renewal of alcoholic beverage licenses, 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. Any license which is issued for a new license term to replace a license which expired on the last day of the license term which immediately preceded the commencement of said new license term or which is issued to replace a license which will expire on the last day of the license term which immediately precedes the commencement of said new term shall be deemed to be a renewal of the expired or expiring license; provided, that said license is of the same class and type as the expired or expiring license, covers the same licensed premises and is issued to the holder of the expired or expiring license; and provided further, that the application for said renewal shall have been filed with the proper issuing authority prior to the commencement of said new license term or not later than thirty days after the commencement of said new license term shall be deemed to be applications for new licenses.

"2. This act shall take effect immediately."

I note that the language of the final proviso is garbled and substantially defective. In order to make sense, there should be inserted in the next to the last line immediately following the words "new license term" a period followed by words such as "otherwise they."

I shall so construe it.

D. FREDERICK BURNETT,
Commissioner.

September 15, 1939.

11. ELIGIBILITY - MORAL TURPITUDE - FACTS EXAMINED - CONCLUSIONS.

September 8, 1939

Re: Case No. 288

Investigation discloses that, in 1918, the above individual was convicted of violating the Volstead Act, fined \$100.00 and sentenced to three months in a County Jail; in 1925, he was convicted on the same charge and fined \$250.00; in 1927, he was convicted in the State of New York on a charge of violating the Highway Law by driving a motor vehicle while intoxicated, fined \$250.00 and sentenced to one year in a City Prison; in 1927, he pleaded guilty to maintaining a disorderly house, was fined \$500.00 and received a suspended sentence of one year.

Applicant admits the above convictions and has testified that the disorderly house charge arose after a crap game had been raided in an hotel which he owned. Investigation confirms this testimony. Applicant has no criminal record subsequent to 1927.

While the record appears to be bad, none of the crimes involves moral turpitude. It is recommended that applicant be advised that he is eligible to be employed by a liquor licensee.

Edward J. Dorton,
Deputy Commissioner and Counsel.

APPROVED:

D. FREDERICK BURNETT,
Commissioner.

12. ELIGIBILITY - MORAL TURPITUDE - FACTS EXAMINED - CONCLUSIONS.

September 14, 1939

Re: Case No. 292

Investigation discloses that after applicant had been indicted on charges of receiving stolen goods, he was found guilty by a Jury and sentenced to serve from three to five years in State's Prison; that subsequently he was resentenced to serve eighteen months in the Penitentiary.

At the hearing applicant admitted the conviction and testified that he had served fifteen months in the Penitentiary. He denied that he was guilty of said charges, but in view of the finding of the Jury the question of his guilt cannot be redetermined herein.

The crime of receiving stolen goods ordinarily involves moral turpitude. Case No. 198, Bulletin 220, Item 9; Case No. 242, Bulletin 292, Item 2. Nothing appears which would lead to any other result in the present case. I believe that applicant has been convicted of a crime involving moral turpitude.

It is recommended, therefore, that applicant be advised that he is not eligible to be employed by a liquor licensee in the State of New Jersey.

Edward J. Dorton,
Deputy Commissioner and Counsel.

APPROVED:
D. FREDERICK BURNETT,
Commissioner.

13. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against)

JOE RUSS,
305 Washington Street,
Orange, New Jersey,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-20, issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange.)
-----)

Ellamarye H. Failor, Attorney for the Department of Alcoholic Beverage Control.

Joe Russ, Pro Se.

The licensee has pleaded guilty to a charge of selling liquor at his licensed premises on July 5, 1939, in violation of Rule 6 of State Regulations No. 30. His license will, therefore, be suspended for five days instead of the usual ten.

Accordingly, it is, on this 13th day of September, 1939,

ORDERED, that Plenary Retail Distribution License D-20, heretofore issued to Joe Russ by the Municipal Board of Alcoholic Beverage Control of the City of Orange, be and the same is hereby suspended for a period of five (5) days. Pursuant to notice of December 17, 1938, Bulletin 289, Item 1, the effective date of such suspension is reserved for future determination.

D. FREDERICK BURNETT,
Commissioner.

14. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against CHARLES MAIRE, 428 E. First Ave., Roselle, N. J., Holder of Plenary Retail Distribution License D-3, issued by the Mayor and Council of the Borough of Roselle.

CONCLUSIONS AND ORDER

Ellamarye H. Failor, Attorney for the Department of Alcoholic Beverage Control.
 Charles Maire, Pro Se.

The licensee has pleaded guilty to a charge of selling liquor at his licensed premises on July 25, 1939, in violation of Rule 6 of State Regulations No. 30. His license will, therefore, be suspended for five days instead of the usual ten.

Accordingly, it is, on this 13th day of September, 1939,

ORDERED, that Plenary Retail Distribution License D-3, heretofore issued to Charles Maire by the Mayor and Council of the Borough of Roselle, be and the same is hereby suspended for a period of five (5) days. Pursuant to notice of December 17, 1938, Bulletin 289, Item 1, the effective date of such suspension is reserved for future determination.

D. FREDERICK BURNETT,
 Commissioner.

15. SEIZURES - CONFISCATION PROCEEDINGS - ORDER MODIFIED - HEREIN OF CANINE ASYLUM.

In the Matter of the Seizure of a still and three motor vehicles, at the "Sweetbriar Farm", located on West Park Avenue, Oakhurst, in the Township of Ocean, County of Monmouth and State of New Jersey.

ORDER Case #5339

Conclusions were filed herein on August 15, 1939 padlocking a portion of the premises for a period of six (6) months, commencing the 16th day of September, 1939. Bulletin 343, Item 8.

Mrs. Martha Lyons, owner of said premises, has requested, in writing, that the effective date of said Order be postponed until October 3, 1939. Said request is based upon the ground that she has rented other premises in Wanamassa, which she will be unable to occupy until October 2, 1939, and she contends that if the order becomes effective before said date she will be unable to obtain her furniture which is stored on the premises, and moreover, that her dogs will be homeless.

The request appears most reasonable.

Accordingly, the order heretofore entered will become effective on October 3, 1939 instead of September 16, 1939, and will continue in effect until April 3, 1940.

D. FREDERICK BURNETT,
Commissioner.

Dated: September 15, 1939.

16. WINE - SALE AND DELIVERY IN NEW JERSEY BY FOREIGN WINERY - LICENSING REQUIREMENTS - SPECIAL PERMIT TO VALIDATE PAST UNLICENSED SALES.

Gentlemen:

Both the Mount Tivy Winery, Inc. and the R. Martini Wine Co., of California, manufacture all of the wine which they sell to New Jersey licensees. Inasmuch as they intend to have a representative (who is not an agent of either of them but a broker and independent contractor) visit certain of their customers in New Jersey, it will probably be necessary that they or their representative obtain a license under the New Jersey Alcoholic Beverage Control Act.

Needless to say, none of the wine sold is manufactured in New Jersey but orders are obtained and it is shipped to New Jersey buyers directly from the plants in California. The wineries do not now, and do not intend to sell the wine to their representative but he simply contacts the accounts in New Jersey and the wine is sold directly by the two wineries in question to these accounts and they are billed directly by the wineries.

In connection with this operation, I have two questions I would appreciate your answering:

1. Will it be sufficient for the representative to obtain the plenary winery license described in Subdivision 2(a) of Section 11 of the Act, the wineries to make shipment directly to the customers and to bill them directly for the purchase price of the wine?
2. If for any reason the license described in Subdivision 2(a) of section 11 is not sufficient if the wineries bill the customers directly, is this license sufficient if the wineries bill the representative and he in turn bills the customers? In this event also the wine would of course be shipped directly by the wineries in California to the customers in New Jersey.

I also note the requirement for special permit under the provisions of Section 75 of the Act. Will you advise me the fee that you will charge for the issuance of this license? Both of these wineries desire to have this matter completely straightened out as soon as possible.

Yours very truly,
E. O. Erickson

August 16, 1939

E. O. Erickson, Esq.,
San Francisco, Calif.

Dear Mr. Erickson:

I understand that both the Mount Tivy Winery, Inc. and the R. Martini Wine Co. wish to maintain representatives to sell their wines in New Jersey; that such representatives will actually be independent brokers or contractors and not in any sense employees of the wineries; and that on orders taken within this State by such brokers or contractors, it is proposed to ship the wine from the wineries direct to the New Jersey purchasers.

Such being the case, each such representative must obtain a Wine Wholesale License (see R. S. 33:1-11; Control Act Pamphlet, Section 12(2)b) and each salesman or missionary man employed by such licensee must obtain a Solicitor's Permit (see R. S. 33:1-67; Control Act, Pamphlet, Sections *14(b) 1, 2 and 3). A Plenary Winery License (R. S. 33:1-10; Control Act Pamphlet, Section 11(2)a) is not applicable because only wine which has been either manufactured or processed within New Jersey may be sold thereunder.

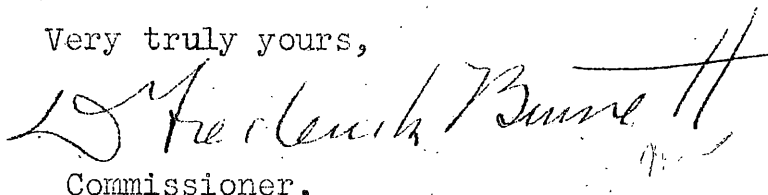
The California wineries may ship wine, on order of the holder of a New Jersey Wine Wholesale license, direct to purchasers in New Jersey, provided such shipments are made to the holder of a New Jersey manufacturer's or wholesaler's license. See Regulations No. 17, as amended. No such shipments may be made to retailers. The billing must be to the New Jersey wine wholesaler who made the sale, who will in turn bill the consignee. Payments must be similarly made, in reverse order. If the California winery bills direct, it will be making the sales, for which it must first procure a license.

On the other hand, if the New Jersey representatives are merely persons in the employ of the wineries, then the wineries must obtain New Jersey Wine Wholesale licenses, and each such representative a Solicitor's Permit.

Application forms for individual, partnership or corporate applicants, as the case may be, are available on request.

Before any licenses will be issued, both wineries must file applications with this office for Special Permits to validate past unauthorized sales in New Jersey. Each must be accompanied by an application fee of \$10.00. When the applications are received, I will review them, determine what the full fee for the permit should be and advise you further. The amounts of the fees will depend upon the representations in the applications.

Very truly yours,



Commissioner.