

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

BULLETIN 753

MARCH 11, 1947.

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UNITED STATES OF AMERICA

DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

10-1-4

CONFIDENTIAL

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

BULLETIN 753

MARCH 11, 1947.

1. DISCIPLINARY PROCEEDINGS - CHARGE OF PURCHASING ALCOHOLIC BEVERAGES FROM OTHER THAN NEW JERSEY MANUFACTURER OR WHOLESALER DISMISSED - DEPARTMENT FAILED TO SUSTAIN BURDEN OF PROOF.

In the Matter of Disciplinary  
Proceedings against

VIRGINIA LARSEN  
T/a OLE'S RANCH  
Dutchtown Road  
Voorhees Township  
P.O. Kresson, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-1, issued by the  
Township Committee of the Township  
of Voorhees.

Angelo D. Malandra, Esq., Attorney for Defendant-licensee.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic  
Beverage Control.

Defendant has pleaded not guilty to the following charge:

"On or about March 31, 1946, you, a New Jersey retail licensee, without authority of special permit purchased alcoholic beverages from a person not the holder of a New Jersey manufacturer's or wholesaler's license, which alcoholic beverages consisted of some 36 cases of stolen beer and also 12 cases of other stolen alcoholic beverages; your purchase of these alcoholic beverages being in violation of Rule 15 of State Regulations No. 20."

The evidence herein discloses that the alcoholic beverages in question were stolen from other licensed premises by three individuals. Two of these individuals, who are now confined to the New Jersey State Prison after having been convicted in criminal proceedings of the theft of the liquor, testified that they sold the stolen liquor to Ole Larsen, the husband of defendant-licensee.

It appears from the testimony that defendant's licensed premises consist of a large tract of land containing approximately thirty-four acres, on which is located a building used as the barroom, and separate buildings described as a barn and a tack-house. It appears that, from time to time, rodeos which are in charge of Ole Larsen are conducted on the licensed premises.

The evidence leads me to conclude that the alcoholic beverages were unloaded at 2:00 a.m. from an automobile which had stopped in a woods. The boxes and cartons were immediately carried to a point near the side door of defendant's barroom and shortly thereafter carried to the tack-house, which is located some distance from the barroom. There is nothing in the record to indicate what became of the alcoholic beverages after they were stored in the tack-house. which, it is admitted, is part of the licensed premises.

The Department conceded that the licensee did not directly purchase the alcoholic beverages. The individuals who stole the liquor never dealt with her and, in fact, never met her. The question remains as to whether the licensee purchased the stolen alcoholic beverages indirectly through her husband. In other words, was her husband acting as her agent?

The defendant-licensee has stated that her husband "has nothing to do whatsoever with the licensed business. It is entirely mine. I am the owner and the operator. He has no connection at all, except this, that he does help me around the place".

The essence of the offense alleged to have been committed by the licensee is the purchase set forth in the charge. No evidence was produced tending to show that the licensee had any knowledge of the purchase and, in the absence of any evidence that the alcoholic beverages in question were used in the defendant's business, I must accept as true her sworn testimony that she had absolutely no knowledge of the unlawful transaction. Thus, while a licensee is responsible for the acts of his employees or agents upon the licensed premises, and while it is admitted that the husband "helped around the place" and may, therefore, be deemed an "employee", there is no proof that, in purchasing the alcoholic beverages in question, he did so as her agent or for her account. In fact, from all that appears, the husband may have made the purchase with his own funds and for his own uses and purposes (and from the evidence wholly without the knowledge or consent of his wife, the defendant-licensee), in which case it would be his independent wrongful act, for which the licensee could not be held responsible.

The burden is on the Department to prove that the licensee, or someone on her behalf, purchased these alcoholic beverages. This burden has not been met and I must, therefore, dismiss the charge.

Accordingly, it is, on this 26th day of February, 1947,

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

ERWIN B. HOCK  
Deputy Commissioner.

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

In the Matter of Disciplinary  
Proceedings against

RICHARD BUSH  
T/a DICK'S TAVERN  
627 Lexington Avenue  
Clifton, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-24, issued by the  
Municipal Council of the City  
of Clifton.

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

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

On January 28, 1947, an ABC agent seized one 4/5 quart bottle  
labeled "Old Taylor Kentucky Straight Bourbon Whiskey" and one 4/5  
quart bottle labeled "Old Grand Dad Kentucky Straight Bourbon Whiskey"  
when preliminary tests thereof indicated that the contents of the  
bottles were not genuine as labeled. Subsequent analyses of the  
contents of the bottles in question by the Department chemist  
revealed several differences in characteristics between the whiskey  
described on the labels and that in the bottles.

Defendant has no previous adjudicated record. I shall, therefore,  
impose a minimum suspension of fifteen days, less five days' remis-  
sion for the plea entered herein, or a net suspension of ten days.  
Re Forte, Bulletin 749, Item 10.

Accordingly, it is, on this 28th day of February, 1947,

ORDERED that Plenary Retail Consumption License C-24, issued by  
the Municipal Council of the City of Clifton to Richard Bush,  
t/a Dick's Tavern, for premises 627 Lexington Avenue, Clifton, be  
and the same is hereby suspended for a period of ten (10) days, com-  
mencing at 3:00 a.m. March 10, 1947, and terminating at 3:00 a.m.  
March 20, 1947.

ERWIN B. HOCK  
Deputy Commissioner.

### 3. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PREVIOUS RECORD - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary )  
Proceedings against )

LOUIS GENTILE )  
171 Fairmount Avenue )  
Jersey City 6, N. J., )

CONCLUSIONS  
AND ORDER )

Holder of Plenary Retail Consump- )  
tion License C-24, issued by the )  
Board of Commissioners of the )  
City of Jersey City. )  
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John B. Graf, Esq., Attorney for Defendant-licensee.  
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic  
Beverage Control.

The defendant pleaded non vult to a charge alleging that he possessed an illicit alcoholic beverage, to wit, a 4/5 quart bottle of "Hudson's Bay Brand Best Procurable Scotch Whisky A Blend", which contained an alcoholic beverage not genuine as labeled, in violation of R. S. 33:1-50.

On December 18, 1946, an ABC agent tested the contents of 28 open bottles of liquor at the defendant's premises and seized the one bottle in question. Chemical analysis disclosed that the solid content of the beverage was so much greater than that of a genuine sample of the same product as to permit only of the conclusion that the seized bottle had been refilled with another alcoholic beverage.

There is no evidence that the defendant had personally tampered with the contents of the container and, in the agent's presence, the defendant summarily discharged his bartender despite the latter's claim of innocence.

The recital of the facts contained in the previous paragraph is important only because of the necessity of determining the appropriate penalty now to be inflicted in view of the imposing record compiled by the defendant during his tenure as a licensee. This record, all the proceedings of which took place before the local governing body, includes a suspension of three days in April 1936 for serving females at his bar, contrary to local regulation; three days in November 1938 for sales during prohibited hours on Election Day; fifteen days in November 1944 for sales to minors; and five days in December 1946 for sales during prohibited hours. It should be noted that the last mentioned penalty, involving a second "hours" offense, was manifestly inadequate. Especially is this true in view that the Department's recommendation to the local authority was that the penalty therefor should be "heavy-fisted".

The defendant is thus a fifth offender. Ordinarily, it would not be unreasonable to conclude that the defendant has demonstrated his unfitness to continue to hold the privileges of his liquor license. I am, however, necessarily influenced by the fact that there is nothing in the record to implicate the defendant personally with the one-bottle violation involved in the instant charge. While the violation, of course, is complete without knowledge or personal participation (see Cedar Restaurant & Cafe Co. v. Hock, (Sup. Ct.), not yet officially reported, decided January 29, 1947), these circumstances are pertinent on the issue of whether outright revocation is mandatorily indicated. In addition, more than ten and eight years, respectively, have elapsed since the defendant's first two suspensions.

A consideration of all the attendant circumstances, including the defendant's plea of non vult herein, leads me to conclude that the suspension herein should be fixed at a period of sixty days. Such will be the order.

Accordingly, it is, on this 28th day of February, 1947,

ORDERED that Plenary Retail Consumption License C-24, issued by the Board of Commissioners of the City of Jersey City to Louis Gentile, 171 Fairmount Avenue, Jersey City, be and the same is hereby suspended for a period of sixty (60) days, commencing at 2:00 a.m. March 6, 1947, and terminating at 2:00 a.m. May 5, 1947.

ERWIN B. HOCK  
Deputy Commissioner.

4. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES -  
STRIP TEASE DANCE - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary  
Proceedings against

MORRIS DI ANGELO

T/a CLUB LIDO

1418 Broadway

Camden, N. J.,

CONCLUSIONS  
AND ORDER.

Holder of Plenary Retail Consump-  
tion License C-22 for the fiscal  
year 1945-46 and C-193 for the  
fiscal year 1946-47, issued by the  
Municipal Board of Alcoholic Beverage  
Control of the City of Camden.

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

Defendant pleaded not guilty to the following charge:

"On February 9, 10, 15 and 16, 1946, you allowed, permitted and suffered lewdness and immoral activities in and upon the licensed premises, viz., a lewd and immoral dance, in violation of Rule 5 of State Regulations No. 20."

An investigator of the Department of Alcoholic Beverage Control testified that he visited defendant's licensed premises on the night of February 9th and early morning of February 10, 1946, and again on the night of February 15th and early morning of February 16, 1946, and that while there on the first three dates above enumerated, he saw one Paulette \_\_\_\_\_ perform in the following manner:

"Paulette came from a room which is located to the rear of the bandstand dressed in a flowing black robe. She proceeded to dance gracefully to the tune of 'A Pretty Girl is Like a Melody'. As she danced about she slowly unpinned or unzipped the outer gown and finally took it off and stood clad in a silver opaque brassiere and a pair of pants. She danced about in the center of the room and then proceeded to execute a series of what is commonly known as 'bumps'. This was accomplished by the weaving of her hips from side to side and backward and forward. Her backward and forward motion was made in a hard driving motion forward and ended abruptly at the forward motion.

While she was executing these series of 'bumps' she slightly flexed her knees and threw her shoulders back in the fashion just described. After this Paulette again danced about and took off the opaque brassiere and stood revealed in a transparent net brassiere. At this time the nipples of her breasts were plainly visible to me from the position I was standing in the rear of the room. In describing her attire I failed to mention that she had a fringe which she wore about her hips. She had that on when she took off her gown."

He also testified that, on the dates in question, this same young woman performed a "fan dance", attired only in a net brassiere and panties.

His testimony as to both of these dances was generally corroborated by the testimony of three other ABC investigators. Although the various investigators used different words to describe the movements of Paulette's body during the course of the first mentioned dance, all testified that she executed "bumps", a maneuver well known in burlesque, and that she ran her hands over and across her body, her breasts and shoulders.

The apparel worn by Paulette during the first dance which she performed before the investigators identified themselves was introduced in evidence, and consists merely of a flimsy, transparent net brassiere and a very skimpy garment which has been described as "net panties". There was also placed in evidence the white fringe which had been worn about her hips. During part of the first mentioned dance, according to the testimony of the investigators, Paulette had removed an opaque brassiere and the fringe, which latter garment she waved over her head for a moment before disappearing into the rear room.

In the second dance, above referred to as the "fan dance", Paulette was attired only in the net brassiere and panties aforementioned and carried two huge fans.

In addition to the testimony of Paulette, who said that she had performed the same dance for many years and in many places and that she saw nothing vulgar or indecent in it, the licensee also produced, as witnesses, two men who had been engaged in the theatrical booking business for some time. Both asserted that they had seen Paulette's act and did not consider it indecent or in any sense immoral or lewd. Six patrons expressed a similar viewpoint.

Despite Paulette's protestations that the dance was merely "exotic and glamorous", it was basically a "strip tease" dance. On cross-examination, the dancer herself, when asked why she turned her back to the audience and "flashed" the fringed garment, answered, "It is a tease". It would seem fair to conclude that the dance was in fact a "strip tease", a familiar trick of the trade in burlesque designed to arouse the curiosity of the male by gradual and deftly executed disrobing rather than by sudden absolute nudity. That the dance was more than "glamorous and exotic" would seem to be borne out by other parts of the testimony, including that which relates to the "bumps" executed by Paulette during her "strip" dance. This also smacks of burlesque, in which Paulette admits having worked for a time. Furthermore, the evidence shows that the performer used makeup on her body "to portray a faultless body" and employed vivid red makeup on the nipples of her breasts, thus prominently focusing attention upon them, the flimsy transparent net brassiere introduced in evidence being visibly discolored by the aforementioned red makeup. If, in fact, this dance was merely "exotic" or "glamorous", as claimed by Paulette, there would have been no necessity for the



stripping or the "tease", as she termed it, and certainly no possible excuse for the accentuation of the breasts by means of the aforementioned makeup.

I am convinced and must conclude that the dance was in fact a "strip tease"; that it was a performance which was intended to and actually did create the impression of nudity; that it was executed in a manner to appeal to and arouse and inflame the passions of its male spectators; and that, as such, it is lewd and immoral within the meaning and intendment of the aforementioned regulation.

The "fan dance" is perhaps a more subtle performance, depending largely upon the finesse of the dancer for its effect. The main purpose of the fans or other "props" is to conceal both the nudity, if nudity there be, and the covering, if covering there be. The general nature and purpose of such performances, although perhaps somewhat "tamer" than the "strip tease", is the same, and they, too, are proscribed by the said regulations.

Entertainment, if presented upon licensed premises, must be of such character as not to be inimical to the public welfare and morals or to the best interests of the industry. The late Commissioner Burnett, in Re Turner, Bulletin 214, Item 10, in discussing the use of "so-called net gauze over the dancer's skin", said: "Whatever has the appearance of evil and is separated from it only by a 'so-called net gauze', is not fit for taverns".

It also has been ruled that the exhibition, on licensed premises, of moving pictures of a woman posing in the nude "is not conducive to good morals \*\*\* and will not be tolerated". Re Melchiorre, Bulletin 578, Item 3. Nudity or the simulation thereof has no place in the liquor industry. Re Melchiorre, supra; Re Turner, supra; Re Lozier, Bulletin 354, Item 6. Nor has the "strip tease", the "fan dance", or any other performance which may tend to arouse and inflame sexual passions.

R. S. 33:1-73 provides that the Alcoholic Beverage Control Law is "intended to be remedial of abuses inherent in liquor traffic and should be liberally construed". In the very recent case of Kravis v. Hock, (Case No. 223 at January Term 1947 of New Jersey Supreme Court, not yet officially reported), Chief Justice Case, in applying the aforementioned rule of liberal construction, said: "\*\*\*the act in question" (aiding and abetting in lewd entertainment upon licensed premises) "was actually one of the abuses which seems to be inherent in the liquor traffic \*\*\*."

In Commonwealth v. Hildebrand, 11 A. 2nd 688, the Superior Court of Pennsylvania, in affirming disciplinary action against a liquor licensee where a performer had executed a "strip tease act", in the course of which she danced around "in typical burlesque fashion", declared that it was immaterial whether the dancer was in fact nude, saying, at page 690, "The question involved is not whether the performer was entirely nude, but whether the appearance of nudity, accompanied by public disrobing, was a suggestive and improper form of entertainment". The court then concluded that the said entertainment was "lewd, immoral and improper".

Rule No. 5 of State Regulations No. 20 provides, among other things, that no licensee shall allow, permit or suffer, in or upon the licensed premises, lewdness or immoral activities. Morris DiAngelo, defendant-licensee, testified that he had not seen the dance performed nor had it been called to his attention that the dance was not permissible upon the licensed premises. However, the licensee cannot "pass the buck" by attempting to place the blame on a booking agent. See Re Peabody, Bulletin 177, Item 9. He is responsible for the proper conduct of his licensed premises and must see to it that the exhibitions which he permits thereon are entirely

within the law and regulations. Re Lozier, supra. In this connection, it is significant that, in Commonwealth v. Hildebrand, supra, the licensee was not present at the objectionable performance and was, in fact, only the "nominal proprietor", the premises being managed by another.

In view of the foregoing, I find the licensee guilty as charged. Since the dances which form the basis of the charge herein were not accompanied by any aggravating circumstances, I shall suspend the license for thirty days.

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 fiscal year 1946-47. State Regulations No. 16.

Accordingly, it is, on this 28th day of February, 1947,

ORDERED that Plenary Retail Consumption License C-193, issued for the current fiscal year by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Morris DiAngelo, t/a Club Lido, for premises 1418 Broadway, Camden, be and the same is hereby suspended for a period of thirty (30) days, commencing at 7:00 a.m. March 10, 1947, and terminating at 7:00 a.m. April 9, 1947.

ERWIN B. HOCK  
Deputy Commissioner.

5. DISCIPLINARY PROCEEDINGS - "FRONT" - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF LICENSE - LICENSE SUSPENDED FOR BALANCE OF THE TERM, WITH PRIVILEGE TO APPLY FOR LIFTING OF SUSPENSION AFTER 40 DAYS UPON CORRECTION OF ILLEGAL SITUATION.

In the Matter of Disciplinary Proceedings against )

EDWARD C. DUPRE )  
T/a VERONA COCKTAIL BAR & GRILL )  
141 Bloomfield Avenue )  
Verona, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-1 issued by the Mayor and Council of the Borough of Verona. )

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Dunn & Bannon, Esqs., by James J. Bannon, Jr., Esq., Attorneys for Defendant-licensee.

Alexander Waugh, Esq., Attorney for Borough of Verona.

Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

Defendant has pleaded non vult to charges alleging that (1) in violation of R. S. 33:1-25, he falsely stated in his application for his license that no person other than himself was interested in the license whereas in truth and fact Fred W. Johnson was interested in the license and the business conducted thereunder; and (2) in violation of R. S. 33:1-52, he knowingly aided and abetted the said Fred W. Johnson to exercise the rights and privileges of his license since March 15, 1946.

Defendant has pleaded not guilty to charge (3) which alleges that, on October 30, 1946, he worked on the licensed premises while actually or apparently intoxicated, in violation of Rule 24 of State Regulations No. 20.

Defendant held a plenary retail consumption license for the premises in question for the fiscal year 1945-46. In March 1946 he sold a half-interest in his license to Fred W. Johnson who thereafter, and apparently up to the present time, has shared in the profits of the business. In alleged mitigation of the admitted violation defendant alleges that no application to transfer the license to the partnership was filed in April 1946 because the landlord of the premises refused to enter into a new lease and the lease then held by defendant prohibited him from taking in a partner without the landlord's consent. Defendant also alleges that in June 1946 the situation was explained to the Borough Clerk, who then advised him that the license should be renewed in his name and thereafter transferred to the partnership. Defendant applied for and obtained renewal of the license for the present fiscal year. The Borough Clerk has advised me that in June 1946 he understood that the partnership was merely contemplated and that he advised defendant to apply for a transfer to the partnership when that relationship was effected. In any event, no application to transfer the license from defendant to the partnership (consisting of himself and Johnson) was filed until October 8, 1946, and apparently the local issuing authority has taken no action upon that application to date.

As to charge (3): The two witnesses who testified on behalf of the Department stated that, on the occasion in question, defendant "had been drinking a little bit" and that his condition was "about the same as any other ordinary man who is sober." Defendant denied that on the occasion in question he was actually or apparently intoxicated. Upon the evidence presented, charge (3) is dismissed.

As to the penalty to be imposed because of the plea entered as to charges (1) and (2): Since it appears that the unlawful situation continues to exist, I have no alternative except to suspend the license for the balance of the fiscal year. In the ordinary case I would grant leave to defendant to apply to me for an order lifting the suspension after the expiration of twenty days from the effective date thereof on presentation of proper proof that the unlawful situation has been corrected. Cf. Re Russo, Bulletin 741, Item 4. However, it appears that defendant had been previously warned concerning an alleged "front" involving another individual. Under the circumstances of this case, leave will be given to file a petition to lift the suspension herein imposed after the expiration of forty days from the effective date thereof, upon proof that the unlawful situation has been corrected.

Accordingly, it is, on this 3rd day of March, 1947,

ORDERED that Plenary Retail Consumption License C-1, issued by the Mayor and Council of the Borough of Verona to Edward C. Dupre, t/a Verona Cocktail Bar & Grill, for premises 141 Bloomfield Avenue, Verona, be and the same is hereby suspended for the balance of its term expiring June 30, 1947, effective at 7:00 a.m. March 10, 1947, with leave to file a petition to lift said suspension as aforesaid.

ERWIN B. HOCK  
Deputy Commissioner.

6. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

HARRY A. HUBBARD )

T/a ATLANTIC HOTEL )

121 Fair Haven Rd. )

Fair Haven, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-1, issued by the )  
Borough Council of the Borough )  
of Fair Haven. )  
- - - - - )

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

Defendant has pleaded non vult to a charge alleging that he possessed illicit alcoholic beverages at his licensed premises, in violation of R. S. 33:1-50.

On September 18, 1946, an investigator of the State Department of Alcoholic Beverage Control seized one 4/5 quart bottle labeled "Old Blended Scotch Whisky Johnnie Walker Black Label", one 4/5 quart bottle labeled "Liqueur Blended Scotch Whisky Vat 69", one 4/5 quart bottle labeled "McCallum's Perfection Blended Scots Whisky", and one 4/5 quart bottle labeled "Usher's Green Stripe Blended Scotch Whisky", when his field tests indicated that the contents of said bottles were not genuine as labeled. Subsequent analyses by the Department chemist disclosed that said bottles contained alcoholic beverages not genuine as labeled.

Defendant has no prior adjudicated record. The minimum suspension in similar cases is twenty days. Re Johnson, Bulletin 680, Item 10. I shall suspend the license for twenty days and remit five days thereof because of the plea, Re Gelb, Bulletin 741, Item 8, leaving a net suspension of fifteen days.

Accordingly, it is, on this 3rd day of March, 1947,

ORDERED that Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Fair Haven to Harry A. Hubbard, t/a Atlantic Hotel, 121 Fair Haven Rd., Fair Haven, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. March 17, 1947, and terminating at 2:00 a.m. April 1, 1947.

ERWIN B. HOCK  
Deputy Commissioner.

7. DISCIPLINARY PROCEEDINGS - PERMITTING GAMBLING AND LOTTERIES ON LICENSED PREMISES - POSSESSING CONTRACEPTIVES - PURCHASING ALCOHOLIC BEVERAGES FROM PERSON NOT THE HOLDER OF A NEW JERSEY MANUFACTURER'S OR WHOLESALE'S LICENSE - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA .

In the Matter of Disciplinary  
Proceedings against )

DANIEL WROSLOWSKY )

466 State Street )

Perth Amboy, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )

tion License C-5, issued by the )

Board of Commissioners of the )

City of Perth Amboy. )

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Andrew D. Desmond and Jacob Levinson, Esqs., by Andrew D. Desmond,  
Esq., Attorneys for Defendant-licensee.

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

Defendant pleads non vult to charges alleging that (1) he allowed, permitted and suffered bookmaking on and about the licensed premises, in violation of Rule 7 of State Regulations No. 20; (2) he allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the "numbers game", to be offered for sale and to be sold on and about his licensed premises, in violation of Rule 6 of State Regulations No. 20; (3) he possessed contraceptives upon and about the licensed premises, in violation of Rule 9 of State Regulations No. 20; and (4) he purchased alcoholic beverages from a person not the holder of a New Jersey manufacturer's or wholesaler's license, in violation of Rule 15 of State Regulations No. 20.

The departmental file in the instant case discloses that on August 8, 1946 and on August 9, 1946, an ABC investigator placed bets on horse races and also on numbers with one Fred Herman on defendant's licensed premises. On August 9, 1946, the bets were placed with Herman in the presence of the defendant-licensee.

During a search of the second floor of the licensed premises on August 9, 1946, a suitcase containing contraceptives was found. Also on the second floor of the licensed premises the ABC agents discovered several cases of Scotch whisky for which no invoice or invoices to establish from whom they had been purchased were or could be produced.

Defendant alleges in attempted mitigation of suspension to be imposed herein that the suitcase containing the contraceptives was the property of an itinerant peddler and that he was unaware of the contents thereof. This may or may not be true. In all fairness the evidence gives no indication whatsoever that the licensee at any time trafficked in the above mentioned merchandise.

With respect to the Scotch whisky in question, the defendant contends that he purchased it from a bona fide distributor but inadvertently mislaid the invoices for these items. I am not impressed by his story, particularly since the distribution of one of the brands involved has been confined for some years past to two wholesalers in this state and neither has any record of making any sale of the brand to the defendant. The only reasonable assumption, therefore, is that he purchased this whisky from an improper source. There is nothing in the record, however, to indicate that the whisky was stolen merchandise.

Although the within violations might well warrant revocation of defendant's license, I shall take into consideration his otherwiseblemished record during the six years that he has held a license. Under the circumstances, I shall suspend defendant's license for sixty days, less five days for the plea entered herein, or a net suspension of fifty-five days.

Accordingly, it is, on this 4th day of March, 1947,

ORDERED that Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the City of Perth Amboy to Daniel Wroslowsky, for premises 466 State Street, Perth Amboy, be and the same is hereby suspended for a period of fifty-five (55) days, commencing at 2:00 a.m. March 12, 1947, and terminating at 2:00 a.m. May 6, 1947.

ERWIN B. HOCK  
Deputy Commissioner.

8. DISCIPLINARY PROCEEDINGS - CHARGE OF PERMITTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF LICENSE DISMISSED - . DEPARTMENT FAILED TO SUSTAIN BURDEN OF PROOF.

In the Matter of Disciplinary )  
Proceedings against )

ROBERT SCORDUZIO )  
T/a BOB'S VICTORY BEER GARDEN )  
Williamstown Road )  
Winslow Township )  
P. O. Sicklerville, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-1, issued by the )  
Township Committee of the )  
Township of Winslow. )  
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Charles A. Rizzi, Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., appearing for Department of Alcoholic  
Beverage Control.

Defendant has pleaded not guilty to charges alleging that:

"1. In your application, filed with the Township Committee of Winslow Township and upon which you obtained your current plenary retail consumption license, you falsely stated 'No' in answer to Question 30, which asks: 'Has any individual....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 Alice Goodwin had such an interest in that she was co-owner with you of said business; such false statement being in violation of R. S. 33:1-25.

"2. From July 1, 1944 until the present time, you knowingly aided and abetted Alice Goodwin to exercise, contrary to R. S. 33:1-26, the rights and privileges of your plenary retail consumption license, thereby yourself violating R. S. 33:1-52."

The evidence against defendant consists of statements, dated December 12, 1946, obtained from him and Alice Goodwin by an ABC agent. In these statements both parties admitted that they were partners in the licensed business.

The evidence given at the hearing discloses that on May 11, 1944, Robert Scorduzio and Alice Goodwin purchased the premises in question from William Johnson, who then held a liquor license. Title to the real estate was taken in the name of both purchasers, but the liquor license was transferred by the Township Committee from William Johnson to Robert Scorduzio, individually. Defendant testified that Alice Goodwin does not now have, and never did have, any interest in the liquor license. Defendant testified that continuously since May 1944 he has taken all receipts of the licensed business; that he has paid all license fees, purchased all liquors and paid all bills. There is no evidence to the contrary. Defendant further testified that his admission, in the above mentioned statement, that he and Alice Goodwin were "partners" was intended to apply solely to the ownership of the property. The attorney for the Township testified that the local issuing authority investigated the matter carefully at the time of the transfer and renewal and concluded that the license belonged to Scorduzio alone, although the property was owned by him and Alice Goodwin.

The question in this proceeding does not concern the title to the real estate but, rather, the ownership of the license and the business conducted thereunder. From the evidence presented herein it appears that the license and the business conducted thereunder were and are the sole property of defendant, and that Alice Goodwin, despite her interest in the real property, has never exercised any rights or privileges under the license. I shall dismiss the charges. Re Rubin, Bulletin 458, Item 8; Re Pisanxo, Bulletin 516, Item 5.

Accordingly, it is, on this 4th day of March, 1947,

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

ERWIN B. HOCK  
Deputy Commissioner.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AND KEEPING PREMISES OPEN FOR BUSINESS DURING PROHIBITED HOURS - HINDERING AND FAILING TO FACILITATE AN INVESTIGATION - LICENSE SUSPENDED FOR 35 DAYS.

In the Matter of Disciplinary Proceedings against

GEORGE P. WOLF  
T/a EVERGREEN FARMS & COUNTRY CLUB  
Old White Horse Pike  
Waterford, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Waterford.

Joseph P. Wilson, Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

The defendant has pleaded non vult to charges alleging that (1) on January 12, 1947, between 2:00 a.m. and 3:00 a.m., he operated his tavern and kept it lighted up and open for business, in violation of a local ordinance; and (2) he hindered and failed to facilitate the investigation then being made by agents of the State Department of Alcoholic Beverage Control, in violation of R. S. 33:1-35.

The municipal ordinance of the Township of Waterford provides, in part, "No licensees shall operate or keep lighted up or open for business any place so licensed between the hours of 2:00 a.m. and 7:00 a.m."

On Sunday morning, January 12, 1947, at about 2:25 a.m., investigators of the State Department of Alcoholic Beverage Control observed that the licensed premises were completely lighted and apparently being operated. They also then observed about eighteen people consuming their drinks, and at about 2:40 a.m., observed the service of other drinks to some of the customers. Entering the licensed premises without difficulty, they identified themselves to the licensee's wife who was behind the bar and seized the beverages which she had recently served. The licensee, by force, spilled most of the contents of the two glasses. Enough of the contents of the glasses were saved to permit a determination that said contents were alcoholic beverages. The licensee further refused to clear the premises of customers when requested to do so by the agents. As a matter of fact the evidence indicates he encouraged and assisted his customers to make a considerable disturbance until one of the agents summoned the assistance of the State Police by telephone. Obviously, the defendant's attitude was far from one of cooperation and assistance.

The interference with the orderly process of law enforcement by a licensee will not be countenanced. Under all the circumstances in this case and considering the plea entered herein, I shall impose the minimum suspension of fifteen days for charge (1), plus an additional twenty days for charge (2), making the total penalty thirty-five days. If it were not for the fact that the defendant's record heretofore was unblemished, I would impose a substantially greater penalty.

Accordingly, it is, on this 4th day of March, 1947,

ORDERED that Plenary Retail Consumption License C-12, issued by the Township Committee of the Township of Waterford to George P. Wolf, of the Evergreen Farms & Country Club, for premises Old White Horse Pike, Waterford, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 2:00 a.m. March 11, 1947, and terminating at 2:00 a.m. April 15, 1947.

ERWIN B. HOCK  
Deputy Commissioner.



10. DISCIPLINARY PROCEEDINGS - COURT OF ERRORS AND APPEALS HAVING AFFIRMED DISMISSAL OF WRIT, ORDER ENTERED FIXING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against )

THE PANDA (a corporation)  
990 Frelinghuysen Avenue  
Newark 5, N. J., )

O R D E R

Holder of Plenary Retail Consumption License C-180 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )  
- - - - - )

It appearing that, by Conclusions and Order herein, dated April 18, 1946, the license of The Panda (a corporation) was suspended for a period of fifteen days (see Bulletin 707, Item 9), and

It further appearing that, by Order dated April 22, 1946 (see Bulletin 707, Item 12), said suspension was stayed until further order because defendant represented that it intended to apply for a writ of certiorari to review said Conclusions and Order, and

The Supreme Court of the State of New Jersey having granted and dismissed a writ of certiorari, and the Court of Errors and Appeals of the State of New Jersey having affirmed the action of the Supreme Court;

It is, on this 6th day of March, 1947,

ORDERED that Plenary Retail Consumption License C-180, issued for the current fiscal year to The Panda (a corporation); by the Municipal Board of Alcoholic Beverage Control of the City of Newark for premises 990 Frelinghuysen Avenue, Newark, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. March 24, 1947, and terminating at 2:00 a.m. April 8, 1947.

ERWIN B. HOCK  
Deputy Commissioner.

11. STATE LICENSES - NEW APPLICATION FILED.

Famous Brands Agency, Inc. (State Beverage Distributor's License SBD-143)  
956-958 Main Ave.  
Clifton, N. J.

Application for additional warehouse at 65-67 North 9th St., Paterson, New Jersey, filed March 6, 1947.

ERWIN B. HOCK  
Deputy Commissioner.

12. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

BERNARD DALLIO )  
T/a BEN'S BEER GARDEN )  
489 Passaic Avenue )  
Lodi, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-8, issued by the )  
Mayor and Council of the Borough )  
of Lodi. )  
----- )

Bernard Dallio, Defendant-licensee, Pro Se.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic  
Beverage Control.

The defendant has pleaded non vult to a charge alleging the sale of alcoholic beverages for consumption off the licensed premises, in violation of Rule 1 of State Regulations No. 38.

On Saturday, February 15, 1947, two investigators of the State Department of Alcoholic Beverage Control entered the licensed premises of defendant at about 10:05 p.m., after observing several other patrons purchase alcoholic beverages in original containers and carry their purchases off the premises. At about 10:35 p.m., one of the agents purchased a pint bottle of whiskey. The bartender placed the unopened bottle in a paper bag and accepted payment therefor.

Defendant has no prior adjudicated record. I shall, therefore, suspend his license for fifteen days and remit five days thereof because of the plea, leaving a net suspension of ten days.  
Re VanHarken, Bulletin 678, Item 10.

Accordingly, it is, on this 7th day of March, 1947,

ORDERED that Plenary Retail Consumption License C-8, issued by the Mayor and Council of the Borough of Lodi to Bernard Dallio, t/a Ben's Beer Garden, for premises 489 Passaic Avenue, Lodi, be and the same is hereby suspended for a period of ten (10) days, commencing at 4:00 a.m. March 17, 1947, and terminating at 4:00 a.m. March 27, 1947.

*Erwin B. Hock*  
Deputy Commissioner.