

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

BULLETIN 811

JULY 21, 1948.

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New Jersey State Library

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

BULLETIN 811

July 21, 1948.

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

In the Matter of Disciplinary Proceedings against )

ANTHONY ALESI )  
T/a THE APPLGARTH HOTEL )  
Applegarth-Prospect Plains Road )  
Monroe Township )  
P. O. Hightstown, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-10 for the 1947-48 and 1948-49 licensing years, issued by the Township Committee of the Township of Monroe. )  
----- )

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

BY THE COMMISSIONER:

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 June 2, 1948, an inspector of the State Department of Alcoholic Beverage Control seized one 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky", when his field tests indicated that the contents of said bottle were not genuine as labeled. Subsequent analysis by the chemist employed by this Department established that said bottle bore a label which did not truly describe its contents.

Defendant admits that it is possible that he or his bartender, by mistake, poured "Harwood" into the "Canadian Club" bottle. In any event, regardless of fault or knowledge, defendant is responsible for any "refills" found in his liquor stock. Re The Dubonnet, Inc., Bulletin 803, Item 8.

Defendant has no previous adjudicated record. I shall suspend his license for fifteen days, the minimum penalty indicated in such cases. Remitting five days of said suspension because of the plea will leave a net suspension of ten days. Re Lelegko, Bulletin 806, Item 4.

Although this proceeding was instituted during the licensing year 1947-48, it does not abate but remains fully effective against the renewal license for the licensing year 1948-49. State Regulations No. 16.

Accordingly, it is, on this 12th day of July, 1948,

ORDERED that Plenary Retail Consumption License C-10, issued for the 1948-49 licensing year by the Township Committee of the Township of Monroe to Anthony Alesi, t/a The Applegarth Hotel, for premises Applegarth-Prospect Plains Rd., Monroe Township, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. July 20, 1948, and terminating at 3:00 a.m. July 30, 1948.

ERWIN B. HOCK  
Commissioner.

2. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

AMERICAN LEGION MEMORIAL PARK ASSOCIATION, INC. ) 122 Greenwich Street ) Belvidere, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-182 for the 1947-48 and 1948-49 licensing periods, issued by the State Commissioner of Alcoholic Beverage Control. )

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Harry Runyon, 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 it sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages on its licensed premises on Sunday, May 30, 1948, in violation of a local ordinance prohibiting any such activity on Sunday.

At about 3:10 p.m. on Sunday, May 30, 1948, two investigators of the State Department of Alcoholic Beverage Control entered the premises of the licensee and found the bar in full operation. Many members were consuming beer. The bartender in charge admitted the sale and service of said beverage.

An ordinance of the Town of Belvidere, adopted February 28, 1944, prohibits sale of alcoholic beverages on Sunday.

Defendant has no prior adjudicated record. I shall suspend the license for a period of fifteen days. Remitting five days thereof because of the plea will leave a net suspension of ten days.  
Re Madison Lodge B.P.O. Elks #1465, Bulletin 623, Item 14.

Although this proceeding was instituted during the 1947-48 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1948-49. State Regulations No. 16.

Accordingly, it is, on this 12th day of July, 1948,

ORDERED that Club License CB-182, issued by the State Commissioner of Alcoholic Beverage Control for the 1948-49 licensing period, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 a.m. July 19, 1948, and terminating at 1:00 a.m. July 29, 1948.

ERWIN B. HOCK  
Commissioner.

3. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL ORDINANCE - PREVIOUS RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against A. A. BEHLING T/a RAINBOW LAKE HOTEL Bridgeton-Vineland Pike 4 Mi. West of Vineland-Norma Circle Pittsgrove P.O. Bridgeton, R.D. 6, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-3 for the 1947-48 and 1948-49 licensing years, issued by the Township Committee of the Township of Pittsgrove.

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

BY THE COMMISSIONER:

Defendant pleads non vult to a charge alleging that he sold and served alcoholic beverages during prohibited hours, in violation of a local ordinance.

On Sunday, May 24, 1948, between 12:01 a.m. and 12:45 a.m., an ABC agent purchased several rounds of alcoholic beverages which were served to him and a companion by an employee of the defendant. The local ordinance prohibits the sale and service of alcoholic beverages on Sundays.

Defendant has a previous adjudicated record. Effective February 9, 1948, defendant's license was suspended by the local issuing authority for a period of five days as a result of his plea of guilty to charges alleging sale and service of alcoholic beverages during prohibited hours.

Ordinarily the penalty for an "hours" violation of the type in question is fifteen days. Re Carrigan, Bulletin 773, Item 15. In view of the suspension in February, 1948 on a similar charge, I shall suspend defendant's license for a period of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Although this proceeding was instituted during the licensing year 1947-48, it does not abate but remains fully effective against the renewal license for the licensing year 1948-49. State Regulations No. 16.

Accordingly, it is, on this 12th day of July, 1948,

ORDERED that Plenary Retail Consumption License C-3, issued for the 1948-49 licensing year by the Township Committee of the Township of Pittsgrove to A. A. Behling, t/a Rainbow Lake Hotel, Bridgeton-Vineland Pike, 4 Mi. West of Vineland-Norma Circle, Pittsgrove, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 12:01 a.m. July 19, 1948, and terminating at 12:01 a.m. August 13, 1948.

ERWIN B. HOCK Commissioner.

4. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS (SUNDAY) - SALE OF ALCOHOLIC BEVERAGES TO NON-MEMBERS - LICENSE SUSPENDED FOR A PERIOD OF 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against THE SEVENTH WARD DEMOCRATIC CLUB 925 Chestnut Street Camden, N. J., Holder of Club License CB-35 for the licensing year 1947-48, and CB-22 for the licensing year 1948-49, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

CONCLUSIONS AND ORDER

Walter A. Uliase, Esq., Attorney for Defendant-licensee. William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to charges alleging that (1) on Sunday, June 13, 1948, it sold, served and delivered alcoholic beverages in violation of a local ordinance which prohibits such activity between 2:00 a.m. on Sunday and 7:00 a.m. the following day, and (2) at said time it sold alcoholic beverages to a person who was neither a club member nor a guest of any member, in violation of Rule 8 of State Regulations No. 7.

Since there appear to be no aggravating circumstances and the defendant has no prior record, I shall impose the usual fifteen-day penalty for each of the violations in question. Cf. Re First Ward Democrat Club, Bulletin 739, Item 1. Five days will be remitted for the plea, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 12th day of July, 1948,

ORDERED that Club License CB-22 issued for the current licensing year by the Municipal Board of Alcoholic Beverage Control of the City of Camden to The Seventh Ward Democratic Club, for premises 925 Chestnut Street, Camden, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. July 19, 1948, and terminating at 2:00 a.m. August 13, 1948.

ERWIN B. HOCK Commissioner.

5. ADVERTISING - HIGH SCHOOL PUBLICATIONS - ADVERTISING OF ALCOHOLIC BEVERAGES THEREIN DISAPPROVED.

July 12, 1948.

State Committee of New Jersey Licensed Beverage Industries Inc. Jersey City, N.J.

Gentlemen:

I have before me your letter of July 6th asking whether liquor dealers may advertise in high school year books in this state.

The Department has heretofore expressly stated that this type of advertisement is wholly out of place (Bulletin 225, Item 6). In New Jersey licensees may not allow any minor to be sold or served, or to consume, any alcoholic beverages at their premises. Since we know that substantially all high school students are minors, it is both

inept and inappropriate for liquor dealers to advertise in high school publications. Any and all advertising of alcoholic beverages should be kept out of the high schools, and out of their publications.

Common sense makes this conclusion inescapable. For the guidance of any errant licensee, I am herewith detailing my specific and emphatic disapproval of any advertising of the above type.

I am glad to note that you appear to be in wholehearted agreement with this view. If you are aware of any licensees who have engaged in the above practice, please let me know and I shall promptly do the necessary to set them straight.

Very truly yours,  
ERWIN B. HOCK  
Commissioner.

6. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
ANDREW COREMIN & ALEXANDER LINGER  
2 Third Street  
Passaic, N. J.,  
Holders of Plenary Retail Consumption License C-136 for the 1947-48 and 1948-49 licensing years, issued by the Board of Commissioners of the City of Passaic.

CONCLUSIONS  
AND ORDER

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Defendant-licensees, by Alexander Linger, Partner.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendants plead non vult to charges alleging that they sold, served and delivered alcoholic beverages to minors, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

On May 26, 1948, two females, one of whom was fifteen and the other nineteen years of age, were each served several drinks of whiskey at the defendants' tavern. On May 30, 1948, the older female and a 17-year-old boy were served with beer at the licensed premises.

The defendants have no previous record. The violation is aggravated, however, by the immaturity of the two younger minors and well warrants the imposition of a thirty-day penalty. Five days will be remitted for the plea, leaving a net suspension of 25 days.

Accordingly, it is, on this 12th day of July, 1948,

ORDERED that Plenary Retail Consumption License C-136, issued for the current licensing year by the Board of Commissioners of the City of Passaic to Andrew Coremin and Alexander Linger, for premises 2 Third Street, Passaic, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 3:00 a.m. July 19, 1948, and terminating at 3:00 a.m. August 13, 1948.

ERWIN B. HOCK  
Commissioner.

7. APPEAL CASES - JULY 1, 1946 THROUGH JUNE 30, 1948.

July 7, 1948.

Memorandum to: Erwin B. Hock, Commissioner.  
From: Edward J. Dorton, Deputy Commissioner.

Cases undecided June 30, 1946. . . . .	20
Cases filed for period July 1, 1946 through June 30, 1947. . . . .	<u>.172</u>
Total. . . . .	192

Disposition

Affirmed. . . . .	69
Modification of Penalty . . . . .	1
Remanded. . . . .	29
Reversed. . . . .	15
Reversed with Condition . . . . .	1
Withdrawn . . . . .	18
Not decided . . . . .	<u>59</u>
Total . . . . .	192

Cases undecided June 30, 1947. . . . .	59
Cases filed for period July 1, 1947 through June 30, 1948. . . . .	<u>.103</u>
Total. . . . .	162

Disposition

Affirmed . . . . .	111
Modification of Penalty. . . . .	1
Remanded . . . . .	3
Reversed . . . . .	24
Dismissed, Question Moot . . . . .	3
Withdrawn. . . . .	5
Undecided. . . . .	<u>15</u>
Total. . . . .	162

Edward J. Dorton,  
Deputy Commissioner.

8. DISQUALIFICATION - PREVIOUS PETITION DENIED - APPLICATION HEREIN GRANTED.

In the Matter of an Application )  
to Remove Disqualification )  
because of a Conviction, pursuant )  
to R. S. 33:1-31.2. )  
Case No. 671. )  
----- )

CONCLUSIONS  
AND ORDER

BY THE COMMISSIONER:

In a prior proceeding, decided on September 11, 1947, I ruled that the crime of highway robbery of which petitioner was convicted in 1919 involved the element of moral turpitude. Although petitioner had not been convicted of any other crime, the petition for relief at that time was denied because petitioner gave false statements to ABC agents and had been working on licensed premises, despite the fact that he was ineligible to be so employed. Petitioner was granted leave to file a new petition if he became a citizen of the United States. Re Case No. 588, Bulletin 777, Item 3.

The petitioner has reapplied to have his disqualification removed. The petitioner has not been arrested or convicted since the denial of his former petition, and there is no evidence to indicate that he has worked on licensed premises since the time he was notified that he was ineligible. Petitioner, who was a bartender for many years, testified that he was and still is very sick and that he has done only odd jobs since he was declared ineligible to be associated with the alcoholic beverage industry.

On March 29, 1948, petitioner became a naturalized citizen of the United States.

Petitioner produced three character witnesses, who testified that he bears a reputation for being a law-abiding citizen in the community in which he resides. The Police Department of the municipality in which petitioner lives has certified to this Department that there are no pending complaints against petitioner or pending investigations concerning his conduct.

After considering the evidence presented herein, I believe that petitioner has been sufficiently punished by being denied the right to work as a bartender during the past ten months. I shall grant the relief sought.

Accordingly, it is, on this 13th day of July, 1948,

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

ERWIN B. HOCK  
Commissioner.

9. DISCIPLINARY PROCEEDINGS - FAILURE TO REVEAL PAYMENT OF PROFITS TO NON-LICENSEE - AIDING AND ABETTING NON-LICENSEE TO EXERCISE RIGHTS AND PRIVILEGES OF LICENSE - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against )

HARRY S. LaPOFF )  
2701 Hudson Blvd. )  
North Bergen, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-4 for the 1947-48 and 1948-49 licensing years, issued by the Board of Commissioners of the Township of North Bergen. )

----- )  
Harry S. LaPoff, Defendant-licensee, Pro Se.  
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded not guilty to charges alleging that (1) in his license application dated May 13, 1947, he failed to reveal that Morris Harding was the real and beneficial owner of the licensed business; (2) in said application he failed to reveal that he had agreed to permit the said Morris Harding to retain all of the profits of the licensed business, and (3) since September 25, 1942, he has permitted the said Morris Harding to exercise the rights and privileges of his successive licenses.

The proofs fail to support the allegation made in the first charge. On the contrary, it appears that ever since September 25, 1942, when the license was originally placed in the name of the defendant, the license and business conducted thereunder has been the sole property of the defendant.

The defendant admits, however, that he purchased the license and business in order that his brother-in-law, Morris Harding, should have a means of supporting his family, and that Morris Harding has received all of the profits of the business ever since September 25, 1942. This arrangement was unlawful, since it resulted in defendant "farming out" his license to his brother-in-law. Cf. Re Maione, Bulletin 806, Item 1. The defendant is, therefore, guilty of charges (2) and (3).

By way of correction, the defendant has submitted a written agreement of employment under which Morris Harding receives a stipulated weekly wage from the defendant. It further appears that all of the receipts of the business are now deposited in a bank account in the defendant's name, and that all bills are paid by the defendant directly from that account.

The license will be suspended for a period of twenty days. Cf. Re Maione, supra.

Accordingly, it is, on this 13th day of July, 1948,

ORDERED that Plenary Retail Distribution License D-4, issued for the 1948-49 licensing year by the Board of Commissioners of the Township of North Bergen to Harry S. LaPoff, for premises 2701 Hudson Blvd., North Bergen, be and the same is hereby suspended for a period of twenty (20) days, commencing at 9:00 a.m. July 20, 1948, and terminating at 9:00 a.m. August 9, 1948.

ERWIN B. HOCK  
Commissioner.

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

In the Matter of Disciplinary Proceedings against )

HAMILTON CLUB OF PATERSON, N.J., )  
32 Church Street )  
Paterson 1, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-14 for the 1947-48 and 1948-49 licensing years, issued by the Board of Alcoholic Beverage Control of the City of Paterson. )  
----- )

Evans, Hand & Evans, Esqs., by John F. Evans, Esq., Attorneys 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 it possessed illicit alcoholic beverages on its licensed premises, namely, two 4/5 quart bottles labeled "Canadian Club Blended Canadian Whisky", in violation of R. S. 33:1-50.

On May 19, 1948, an ABC agent tested twenty-three opened bottles of liquor on defendant's licensed premises and seized the two bottles in question when preliminary field tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by the Department chemist discloses that the contents of the seized bottles varied substantially in acids, solid content and color from the contents of a genuine sample of the same product.

Defendant has no previous adjudicated record. I shall suspend defendant's license for a period of fifteen days, less five days for the plea entered herein, leaving a net suspension of ten days. Re Wardlow, Bulletin 806, Item 8.

Although this proceeding was instituted during the 1947-48 licensing year, it does not abate but remains fully effective against the renewal license for the licensing year 1948-49. State Regulations No. 16.

Accordingly, it is, on this 14th day of July, 1948,

ORDERED that Plenary Retail Consumption License C-14, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Hamilton Club of Paterson, N. J., for premises 32 Church Street, Paterson, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. July 19, 1948, and terminating at 3:00 a.m. July 29, 1948.

ERWIN B. HOCK  
Commissioner.

11. SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC AND OTHER BEVERAGES, FURNISHINGS, FIXTURES, AND EQUIPMENT IN FORMER TAVERN ORDERED FORFEITED FOR UNLAWFUL SALE OF ALCOHOLIC BEVERAGES THEREIN - FORMER LICENSEE'S APPLICATION FOR RETURN OF PROPERTY DENIED - CIGARETTE VENDING MACHINE, PINBALL MACHINE, AND ICE CREAM FREEZER RETURNED TO CLAIMANTS WHO ESTABLISHED THEIR GOOD FAITH AND ABSENCE OF KNOWLEDGE OF SPEAKEASY ACTIVITIES AT THE PREMISES.

In the Matter of the Seizure )  
on March 20, 1948, of a quantity )  
of alcoholic and other beverages, )  
and furniture, fixtures and equip- )  
ment, at 422 South Third Street, in )  
the City of Camden, County of )  
Camden and State of New Jersey. )

Case No. 7238

ON HEARING  
CONCLUSIONS AND ORDER

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David R. Brone, Esq., Attorney for Joseph Fimiani.  
George G. Tartar, Esq., Attorney for Majestic Novelty Co.  
Herman Hurowitz, Esq., Attorney for Abbotts Dairies, Inc.  
Harry Castelbaum, Esq., appearing for State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes, to determine whether a quantity of alcoholic and other beverages, and furniture, fixtures and equipment, itemized in a schedule attached hereto, seized on March 20, 1948 in Joseph Fimiani's restaurant located at 422 South Third Street, Camden, N. J. constitute unlawful property and should be forfeited.

It appears that Fimiani conducted a licensed tavern at the place until his license was revoked on June 20, 1946. Since then he has not held any license authorizing him to sell or serve alcoholic beverages, and the restaurant has not been licensed for the sale of alcoholic beverages.

On the afternoon of March 20, 1948, three ABC agents entered the restaurant to check a complaint that alcoholic beverages were being sold there. According to the agents, one of their number purchased bottles of beer and drinks of whiskey from Fimiani. The agents, after arranging with Fimiani to return later that day for a steak dinner, left without disclosing their identity. When they returned, they had dinner, and each of the agents purchased bottles of beer, and one agent purchased drinks of whiskey from Fimiani. The agents say that when paying Fimiani for the steaks they asked him how it came about that he charged so little for the meals, and that he replied, "I don't make no money on food. My money comes from selling beer and whiskey."

The agents then disclosed their identity, and seized about 112 bottles of beer which were in the refrigerator and cellar, and a large quantity of wine and whiskey. They also seized the furnishings of the place, which included a pinball machine, a cigarette vending machine, and an ice cream cabinet and compressor. Fimiani was arrested on charge of unlawful sale of alcoholic beverages.

When the matter came on for hearing pursuant to R.S. 33:1-66, Joseph Fimiani appeared with counsel and sought return of all of the seized property. An appearance was also entered by counsel for Majestic Novelty Company, which sought return of the pinball machine and cigarette vending machine, and counsel for Abbotts Dairies, Inc., which sought return of the ice cream cabinet and compressor.

Joseph Fimiani denied that he sold beer to the ABC agents on the afternoon of March 20th. However, he admits that after the agents finished their steaks that evening, all of the men drank beer. He claims that he permitted them to have the beer without charge, because

of some conversation concerning the purchase of his furniture. He says that the wine and whiskey seized was that which remained when his license was revoked, retained by him in anticipation either that he would regain his license or that it would be sold.

I am not impressed by Fimiani's story that he gave the agents the beer. There appears to be no reason for the agents to unjustly accuse Fimiani of selling beer and whiskey. He does not contradict their statement that he told them he made money from selling beer and whiskey. I therefore find that Fimiani actually sold them beer and whiskey on the day in question.

I further conclude that the seized beer, and other alcoholic beverages, were intended to be sold unlawfully at the premises. Hence, such alcoholic beverages are illicit and, together with the fixtures, furnishings and other personal property seized therewith in the building, constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(i) and (y), R.S. 33:1-2, R.S. 33:1-66. It should be noted that the alcoholic beverages, intended for ultimate resale by Fimiani, likewise are technically illicit as an independent violation of the law in that they were stored without any license or permit from the State Department of Alcoholic Beverage Control. See Seizure Case No. 7066, Bulletin 757, Item 8.

Since the evidence establishes that Fimiani was operating a speakeasy, he cannot obtain return of any property seized there. See Seizure Case No. 7088, Bulletin 760, Item 7, Seizure Case No. 7248, Bulletin 807, Item 3. Loss of such property is well deserved when a former licensee continues to sell alcoholic beverages after his license has been revoked. Seizure Case No. 7066, *supra*. Fimiani's request for return of the seized property is therefore denied.

The Majestic Novelty Company claims that it had no knowledge that Fimiani was conducting a speakeasy at the place where their machines were located, and had no reason to suspect that such illegal activities were being carried on there. If it establishes these facts, I have the discretionary authority to return the machines to them. R. S. 33:1-66(f).

Emanuel Spector, the manager of such company, testified it had some business dealings with Fimiani when he operated a tavern at the place, but had no machines there for a number of years. On November 5, 1947, Fimiani requested them to place the pinball machine and cigarette vending machine in his establishment. They checked his current activities, and were informed that he intended to operate a lunch business. He inspected the place from time to time and observed soft drinks and food there, but did not see any alcoholic beverages.

I am satisfied that the claimant did not know or have any reason to suspect that Fimiani was carrying on speakeasy activities at his establishment, which actually was a restaurant. It does not appear that Fimiani had a reputation as a speakeasy operator, or was ever arrested or convicted for an offense of that nature. Hence, the pinball machine and cigarette vending machine will be returned to the claimant. Cf. Seizure Case No. 7088, *supra*.

The claim of Abbotts Dairies, Inc. is in general respect similar to that of the Majestic Novelty Co. A representative of the dairy company testified that, upon receipt of a call for ice cream, he called at Fimiani's establishment on September 9, 1947, and arranged for the installation of the freezer cabinet and compressor, made six or seven routine visits there thereafter, on which occasions he observed patrons dining but there were no alcoholic beverages visible, nor being consumed by such patrons, and that, in so far as he could tell, Fimiani was actively operating a lunch room. The ice cream equipment will be returned to Abbotts Dairies, Inc.

Accordingly, it is DETERMINED and ORDERED that if, on or before the 26th day of July, 1948, Majestic Novelty Co. pays the costs of seizure and storage of the pinball machine and cigarette vending machine seized in the case, such machines will be returned to that company; and it is further

DETERMINED and ORDERED that if, on or before the 26th day of July, 1948, Abbotts Dairies, Inc. pays the costs of seizure and storage of the ice cream freezer cabinet and compressor seized in the case, that equipment will be returned to such company; and it is further .

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

ERWIN B. HOCK  
Commissioner.

Dated: July 14, 1948.

SCHEDULE "A"

- 264 - 4/5 qt. bottles of wine
- 90 - bottles of other alcoholic beverages
- 1 - 5-gal. jug of alcoholic beverages
- 112 - bottles of beer
- 1/4 - bbl. Birch Beer
- 4 - gals. of wine
- 126 - chairs and 4 stools
- 32 - tables
- 811 - pieces of assorted dishes
- 1 - box of assorted dishes
- 49 - pieces assorted bedroom furniture
- 2 - clothes hampers
- 3 - booths and lights with mirror sides attached
- 1 - microphone electro Voice Model V2 HIZ
- 1 - piano bench
- 1 - Story & Clark Upright Piano
- 1 - Big League Pinball machine #2441 (with currency therein)
- 1 - cigarette vending machine (with cigarettes and currency therein)
- 1 - RCA Victor Radio, Serial #8020A
- 12 - wicker bread baskets
- 14 - containers assorted glassware
- 15 - containers empty bottles
- 17 - containers assorted sodas
- 1 - door fan - Robbins & Meyer #2204 FH
- 2 - small rugs
- 1 - smoking stand
- 1 - amplifier
- 3 - electric fans
- 2 - metal nickel cooler parts
- 1 - carton pepperseed jars glasses
- 1 - electric coffee vaculator (nickel)
- 1 - empty metal trunk
- 1 - empty suitcase
- 3 - metal sinks
- 3 - clocks
- 1 - Coca Cola cooler
- 2 - beer coolers
- curtain stretchers
- 7 - trays
- 1 - loud speaker amplifier, 2 sections
- quantity of records
- 1 - box assorted toys

SCHEDULE "A" (Cont'd)

- 1 - Frost Master
- 1 - Singing Towers Juke Box #101629 (and currency therein)
- 1 - bar top and siding
- 1 - basket light bulbs
- 1 - Frigidaire
- 2 - Refrigerators Units and Blowers
- 1 - Cabinet Oven #217 G
- 2 - National Cash Registers
- 1 - Abbotts Ice Cream Freezer
- 2 - bar cooler covers
- 1 - Meat Slicer American #545680
- 1 - case with soda, empty bottles and lamp shades
- 1 - gas plate
- 1 - Generator #1221
- 22 - (approx.) containers of various foodstuffs various pots and pans

12. SEIZURE - FORFEITURE PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY SOCIAL CLUB AT SOCIAL FUNCTION WITHOUT OBTAINING SPECIAL PERMIT - NO PREVIOUS BACKGROUND OF UNLAWFUL SALES OF ALCOHOLIC BEVERAGES - ALL SEIZED PROPERTY RETURNED UPON ISSUANCE OF VALIDATING PERMIT.

In the Matter of the Seizure )  
 on April 25, 1948, of a quantity )  
 of beer and other alcoholic bever- )  
 ages, a bar and other fixtures and )  
 equipment, at 81 Ege Avenue, in the )  
 City of Jersey City, County of Hudson )  
 and State of New Jersey. )

Case No. 7252

ON HEARING  
CONCLUSIONS AND ORDER

-----  
 Louis E. Saunders, Esq., Attorney for Fidelity Lodge #986, I.B.O.P.O.E. and Richard Johnson.  
 Harry Castelbaum, Esq., appearing for State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes, to determine whether a quantity of beer and other alcoholic beverages, a bar and other fixtures and equipment, itemized in a schedule attached hereto, and \$32.35 in cash, seized on April 25, 1948 in the club quarters of Fidelity Lodge #986, located at 81 Ege Avenue, Jersey City, N. J., constitute unlawful property and should be forfeited.

It appears that it came to the attention of the State Department of Alcoholic Beverage Control that the "Boosters" club of the Lodge was advertising a cocktail party at the place to be held on the date in question. Since the premises were not licensed for the sale of alcoholic beverages, and no special permit had been issued to either the club or Lodge authorizing the sale or service of alcoholic beverages, an ABC agent visited the place to check the activities there.

The agent purchased drinks of alcoholic beverages from Richard Brown, who was tending bar. Clifford W. Jackson was selling tickets which entitled the purchaser to one cocktail. After purchasing the alcoholic beverages, the ABC agent, as well as other agents who joined him, disclosed their identity, and obtained signed statements from Brown and Jackson admitting the unlawful sale of alcoholic beverages, and stating that the \$32.35 represented initial cash of \$23.15, receipts of sales of whiskey and beer of \$5.60, and receipts from sales of admission tickets of \$3.60.

The agents seized 47 cans of beer, 14 bottles of whiskey, a bar, cash register, chairs and tables, and other equipment in the place.

The seized alcoholic beverages are technically illicit because intended for unlawful sale. R. S. 33:1-1(i). Illicit alcoholic beverages, and all personal property seized therewith on the premises constitute unlawful property subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

When the matter came on for hearing pursuant to R.S. 33:1-66, counsel entered an appearance for the Lodge, which sought return of the furniture and equipment.

The gist of its claim is that the "Boosters" club is composed of a small group of its members, recently organized, functioning independently for purely social purposes; that such club received permission from the Lodge custodian to use the quarters for its affair, and that the Lodge was justified in assuming that if the club served alcoholic beverages it would do so legally, pursuant to a special one-day permit. The Lodge, which is the owner of the building and its furnishings, had obtained such a permit when it held an affair in December 1947.

A member of the "Boosters" club testified that the committee which planned the affair had very little time to obtain a special permit after they decided to sell alcoholic beverages at the affair, and "just went ahead".

The "Boosters" club could have obtained a special permit at a fee of \$10.00 for its affair, it being reasonable to assume that they could have obtained the consent of the local authorities to issuance of such permit. All that appears is that the club committee, although publicizing the affair, used poor judgment in failing to apply for a permit. The Lodge has no record of carrying on speakeasy activities at its quarters, and there is no evidence that it had such a practice. Distinguish Seizure Case No. 7131, Bulletin 800, Item 2.

Under these circumstances, I will entertain an application from the "Boosters" club for a retroactive validating permit to cover the affair held on April 25, 1948, at a fee of \$25.00. Upon issuance of such permit, and payment of the costs of seizure and storage, all of the seized property including the cash will be returned to the Lodge. The cash register, alcoholic beverages and cash, to which the Lodge does not claim ownership, will, of course, be returned by it to their respective owners. It is therefore not necessary to decide the other claims presented.

Accordingly, if, on or before the 26th day of July, 1948, the "Boosters" club applies for a retroactive validating special permit to cover its affair held on April 25, 1948, and pays the costs of seizure and storage, all of the seized property, more fully described in Schedule "A" attached hereto, will be returned to Fidelity Lodge #986, I.B.O.P.O.E., upon issuance of such permit.

ERWIN B. HOCK  
Commissioner.

Dated: July 14, 1948.

SCHEDULE "A"

- 47 - cans of beer
- 14 - 4/5 qt. bottles of other alcoholic beverages
- 25 - whiskey glasses
- 1 - National Cash Register #2038712 (and \$32.35 in currency therein)
- 1 - 10 ft. bar
- 7 - wooden tables
- 50 - chairs
- 1 - record player and amplifier (Begen) and 11 records
- 1 - player grand piano and stool

## 13. LICENSED PREMISES - PRACTICE OF PERMITTING CHILDREN TO VIEW TELEVISION EXHIBITIONS IN TAVERNS DISAPPROVED.

July 20, 1948

Mr. Patrick Radigan  
Hoboken, N. J.

Dear Mr. Radigan:

Several recent newspaper stories have focused attention on a "Children's Hour" which you apparently conduct in the barroom of your licensed premises. It is my understanding that at certain times you suspend the operation of your alcoholic beverage business and invite children into the tavern to witness, on your television screen, certain programs designed especially for children.

One of the newspaper articles related that last summer you had found youngsters watching the progress of baseball games in a "darkened" corner of the tavern and that they "scampered out" when their presence was discovered. This article quotes you as saying that, because these poor children have no other opportunity to see television programs, you would, from time to time, close down the place for business and open it for the children.

Another newspaper carried a series of photographs portraying the story of your "Children's Hour". One picture shows a group of children apparently watching a television program, two sitting on bar stools and others standing against the bar behind which is a display of alcoholic beverages.

Assuming that the information contained in the newspaper articles and the picture display are correct, there seems to be no doubt of your sincere desire to provide entertainment for these children. I assure you that I personally appreciate the kind thoughts which may have motivated your well-intentioned action. I believe, however, you will agree with me that a barroom with bar stools for orchestra seats and a bar and back bar displaying alcoholic beverages for props, hardly constitutes the proper setting for a "Children's Hour". Longfellow would turn in his grave at the sad spectacle of the "Children's Hour" being staged in the locale of a barroom.

I greatly fear that any course of conduct which encourages, even entices, minors of tender and impressionable age to seek entertainment in a public barroom can only bring severe criticism from the public generally, and this even though no alcoholic beverage activity is carried on during the time the minors are on the licensed premises.

The seriousness of the social and moral implications where children seek entertainment amidst bar stools and whiskey bottles requires that I disapprove of your plan however worthy your intention.

Accordingly, please let me have, by return mail, your assurance that you have discontinued the practice.

Very truly yours,  
ERWIN B. HOCK  
Commissioner.

## 14. STATE LICENSES - NEW APPLICATIONS FILED.

George B. Chelius, Jr., Paul J. Brienza, James N. Durkin &  
George A. Kelley, t/a George B. Chelius, Jr. and Associates  
11 Commerce St. (Suite 622-23)  
Newark, N. J.

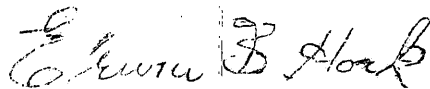
Application for Limited Wholesale License filed July 12, 1948.

Maple Leaf Distributing Co.  
S/S State Highway Route #28  
Clinton Township, N. J.

Application for Limited Wholesale License filed July 12, 1948.

St. Francis Vineyards, Inc.  
110 River Road  
Edgewater, N. J.

Application for Plenary Winery License filed July 20, 1948.



Commissioner.