

BULLETIN 932

APRIL 22, 1952.

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STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1060 Broad Street Newark 2, N. J.

BULLETIN 932

APRIL 22, 1952.

1. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1951 TO MARCH 31, 1952

	1st Quarter July, Aug., Sept.	2d Quarter Oct., Nov., Dec.	3d Quarter Jan., Feb., Mar.	Total
<b>ARRESTS:</b>				
Total number of persons arrested	71	76	56	203
Licenses and employees	19	20	26	65
Bootleggers	52	56	29	137
Personating an ABC officer	0	0	1	1
<b>SEIZURES:</b>				
Motor vehicles - Boats	1	0	0	1
- Cars	3	5	1	9
- Trucks	2	3	0	5
Still - over 50 gallons	3	5	1	9
- 50 gallons or under	6	6	6	18
Alcohol - gallons	124.42	0	4.28	128.70
Mash - gallons	19,528.64	2,938.00	11,275.00	33,741.64
Distilled alcoholic beverages - gallons	20.20	219.69	8.89	248.78
Wine - gallons	176.36	4.90	12.63	193.89
Brewed malt alcoholic beverages - gallons	195.94	74.51	28.54	298.99
<b>RETAIL LICENSES:</b>				
Premises inspected	2,073	1,855	2,647	6,575
Premises where alcoholic beverages were gauged	2,254	2,775	2,971	8,000
Bottles gauged	38,643	43,610	46,686	130,939
Premises where violations found	752	497	549	1,798
Violations found	786	579	636	2,001
Type of violations found:				
Unqualified employees	72	84	73	229
Regs. #38 sign not posted	21	7	14	42
Other mercantile business	10	3	6	19
Disposal permit necessary	6	3	5	14
Probable fronts	2	3	5	10
Gambling devices	6	1	2	9
Improper beer taps	3	6	0	9
Prohibited signs	2	0	0	2
Other violations	664	472	531	1,667
<b>STATE LICENSES:</b>				
Premises inspected	93	69	79	241
License applications investigated	50	19	39	108
<b>COMPLAINTS:</b>				
Complaints assigned for investigation	1,413	1,471	1,540	4,424
Investigations completed	1,307	1,469	1,364	4,140
Investigations pending	(178)	(105)	165	163
<b>LABORATORY:</b>				
Analyses made	354	374	321	1,049
Refills (from licensed premises) - bottles	11	6	14	31
Bottles from unlicensed premises	47	99	27	173
<b>IDENTIFICATION BUREAU:</b>				
Criminal fingerprint identifications made	55	61	77	193
Persons fingerprinted for non-criminal purposes	849	533	593	1,975
Ident. contacts w/ other enforcement agencies	606	461	563	1,630
MV ident. via N.J. State Police Teletype	30	23	35	88
<b>DISCIPLINARY PROCEEDINGS:</b>				
Cases transmitted to municipalities	37	40	51	128
Violations involved:				
Sale during prohibited hours	16	22	16	54
Sale to minors	12	13	27	52
Failure to afford view into premises during prohibited hours	2	4	3	9
Permitting hostesses on premises	0	6	1	7
Sale to non-members by clubs	1	2	3	6
Permitting brawls on premises	0	2	3	5
Permitting bookmaking on premises	4	0	0	4
Rossessing chilled beer (OL licensee)	3	0	0	3
Permitting gambling (cards, wager)	1	1	1	3
Permitting lottery activity on premises	1	0	1	2
Employing unqualified persons	0	2	0	2
Sale outside scope of license	0	1	0	1
Permitting slot machines on premises	0	0	1	1
Possessing contraceptives on premises	0	0	1	1
Cases instituted at Division	37	50*	55	142
Violations involved:				
Sale to minors	11	10	19	40
Permitting immoral activity on premises	8	6	8	22
Sale during prohibited hours	4	1	8	13
Possessing illicit liquor	3	6	3	12
Sale below minimum resale price	1	8	2	11
Sale outside scope of license	2	2	4	8
Permitting hostesses on premises	2	2	3	7
Employing unqualified persons	2	2	3	7
Fraud and front	1	2**	4	7
Delivery without bona fide invoice	1	2	2	5
Mislabeling beer taps	2	1	1	4

\*1 includes cancellation proceedings (limited distribution premises not operated as bona fide food store)

\*\*1 includes cancellation proceedings (licensee not a bona fide club at time license application was made)

	1st Quarter July, Aug., Sept.	2d Quarter Oct., Nov., Dec.	3d Quarter Jan., Feb., Mar.	Total
DISCIPLINARY PROCEEDINGS (Cont'd)				
Cases instituted at Division (Cont'd)				
Violations involved:				
Unauthorized transportation	2	1	1	4
Sale to non-members by clubs	0	2	2	4
Permitting slot machines on premises	0	0	3	3
Storage off licensed premises	1	1	0	2
Permitting pin ball machines on premises	1	0	1	2
Permitting prostitutes on premises	1	0	1	2
Permitting bookmaking on premises	1	0	2	3
Failure to afford view into premises during prohibited hours	1	0	1	2
Permitting female impersonators on premises	0	2	0	2
Permitting brawls on premises	0	2	1	3
Sale to intoxicated persons	0	1	1	2
Aiding and abetting unlicensed sale	0	0	2	2
Failure to report retailer in default	1	0	0	1
Sale beyond scope of permit	1	0	0	1
Aiding & abetting unauthorized transportation	1	0	0	1
Hindering investigation	1	0	0	1
Retailer bottling without license	0	1	0	1
Permitting gambling (cards, wager, fights)	0	1	3	4
Permitting lottery activity on premises	0	1	3	4
Furthering illegal activity	0	1	0	1
Solicitor-permittee employed by retailer	0	0	1	1
Retailer employing solicitor-permittee	0	0	1	1
Retailer soliciting house to house	0	0	1	1
Violation of special ruling	0	0	1	1
Employing female bartender	0	0	1	1
Sale to non-members by special permittee	0	0	1	1
Possessing contraceptives on premises	0	0	1	1
Failure to file notice of change in application	0	0	1	1
False statement in license application	0	0	1	1
Cases brought by municipalities on own initiative and reported to division	19	27	35	81
Violations involved:				
Sale to minors	11	12	18	41
Permitting brawls on premises	5	4	4	13
Sale during prohibited hours	1	5	6	12
Permitting bookmaking on premises	2	3	3	8
Sale to intoxicated persons	1	3	0	4
Permitting lottery activity (numbers)	0	0	4	4
Conducting business as a nuisance	0	3	0	3
Permitting immoral activity on premises	0	2	1	3
Hindering investigation	0	1	0	1
Employing unqualified persons	1	1	0	2
Permitting gambling on premises	0	0	2	2
Permitting hostesses on premises	0	1	0	1
Furthering illegal activity	0	1	0	1
Employee working while drunk	0	1	0	1
Fraud and front	0	1	0	1
Retailer soliciting passersby	0	1	0	1
CANCELLATION PROCEEDINGS INSTITUTED AT DIVISION	1	13	0	14
Violations involved:				
License issued in excess of statutory limitation	1	0	0	1
Limited distribution premises not operated as bona fide food stores	0	13	0	13
HEARINGS HELD AT DIVISION:				
Total number of hearings held	104	97	106	307
Appeals	15	8	11	34
Disciplinary proceedings	40	50	52	142
Eligibility	24	18	22	64
Seizures	7	18	7	32
Tax revocation	1	2	12	15
Applications for license	16	1	2	19
Miscellaneous	1	0	0	1
PERMITS ISSUED:				
Total number of permits issued	7,332	3,444	2,081	12,857
Employment	2,109	460	426	2,995
Solicitors	2,939	174	241	3,354
Disposal of alcoholic beverages	293	258	262	813
Social affairs	1,086	986	746	2,818
Special wine	210	1,158	49	1,417
Miscellaneous	695	408	357	1,460

EDWARD J. DORTON  
Acting Director.

Dated: April 9, 1952.

April 7, 1952.

2. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1951 TO MARCH 31, 1952 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Number Surren- dered	Number Licen- ses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	Expired		
Atlantic	488	\$ 204,000.00	71	\$ 25,212.50	18	\$ 1,674.73						577	\$ 230,887.23
Bergen	812	305,720.00	298	79,695.85	79	7,474.58	59	\$ 2,519.22	5	\$ 1,318.88	5	1248	396,728.53
Burlington	186	72,525.00	31	8,850.00	36	5,150.00	1	25.00				254	86,550.00
Camden	456	218,500.00	82	31,425.00	67	8,267.80			1	375.00	1	605	258,567.80
Cape May	133	65,750.00	11	3,700.00	16	1,700.00						160	71,150.00
Cumberland	81	34,800.00	13	3,500.00	30	4,060.00						124	42,360.00
Essex	1377	759,305.56	350	203,850.00	100	13,343.64	33	1,650.00				1860	978,149.20
Gloucester	107	33,700.00	13	2,950.00	14	1,397.40						134	38,047.40
Hudson	1557	675,054.00	299	118,310.00	78	9,201.39	69	2,942.74			1	2002	895,508.13
Hunterdon	76	25,100.00	6	1,787.50	6	700.00						88	27,587.50
Mercer	425	257,400.00	51	20,800.00	53	7,449.18			1	102.50	1	529	285,751.68
Middlesex	634	300,403.21	72	21,820.00	74	6,820.78	6	300.00				786	329,343.99
Monmouth	543	277,807.22	117	39,971.37	31	3,633.15	10	390.45	28	12,321.79	28	701	334,123.98
Morris	353	121,700.21	97	29,871.25	43	4,184.33	13	946.71	6	1,229.40	6	506	157,931.90
Ocean	193	104,417.15	45	18,200.00	16	1,976.97						254	124,594.12
Passaic	878	359,680.00	167	51,328.08	36	4,420.42	11	512.50				1092	415,941.00
Salem	50	18,944.52	7	1,300.00	15	1,270.82			1	262.50	1	72	21,777.84
Somerset	185	75,140.00	38	10,189.00	19	2,399.46						242	87,728.46
Sussex	170	45,137.88	19	3,555.00	9	532.40	1	50.00	1	225.00	1	199	49,500.28
Union	546	288,021.23	143	57,426.16	64	7,131.57	32	1,625.00				785	354,203.96
Warren	148	41,905.00	18	3,257.50	30	2,941.92			2	257.60	2	196	48,362.02
Total	9398	4,285,010.98	1948	736,999.21	834	95,730.54	235	10,961.62	45	16,092.67	46	12414	\$5,144,795.02

Edward J. Dorton  
Acting Director.

Respectfully submitted,  
John H. Michelson, Deputy Director

## 3. APPELLATE DECISIONS - KLEIN v. NEW BRUNSWICK.

FANNIE KLEIN, trading as  
COLLEGE INN BEER GARDEN,

Appellant,

-vs-

BOARD OF COMMISSIONERS OF THE  
CITY OF NEW BRUNSWICK,

Respondent.

ON APPEAL  
CONCLUSIONS AND ORDER

Leo J. Berg, Esq., Attorney for Appellant.  
Paul W. Ewing, Esq., Attorney for Respondent.

This is an appeal from an order entered by respondent on January 15, 1952, whereby it suspended appellant's plenary retail consumption license for thirty days after finding appellant guilty of charges alleging that on September 13, 1951, September 24, 1951, and October 9, 1951, appellant, by her agents, servants or employees, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20. Similar charges with respect to alleged sales on October 1 and October 3, 1951, were dismissed by respondent. The premises in question are located at 67 Georges Road, New Brunswick.

Upon the filing of the appeal an order was entered herein staying the effect of the suspension until the entry of a further order.

At the hearing on this appeal respondent produced three witnesses -- the minor (seventeen-year-old Alice ---), a male friend of the minor, and a member of the New Brunswick Police Department. On direct examination Alice --- testified that she had been in the licensed premises on September 13, 1951, about 6:30 p.m., at which time she "sat at the bar" and "was served a glass of beer", and that later "that night" she again entered the licensed premises, at which time "I think I bought a glass of beer and a container of beer". On cross-examination Alice said she "thought" she bought a glass of beer at 6:30 p.m. on September 13 and, as to the second occasion later that night, she testified that she bought only a "container of beer".

With respect to September 24, 1951, Alice merely testified that she was in the licensed premises but made no claim that she had been sold any alcoholic beverages on that day.

Continuing with her direct examination, Alice further testified that she entered the licensed premises about 6:30 p.m. on October 9, 1951, and that she "thought" she bought beer. On cross-examination she testified that she bought a "container of beer" on that occasion from Sam Klein, husband of the licensee.

The testimony of the minor's male companion failed to corroborate her testimony as to alleged sales of alcoholic beverages on September 13 or October 9. His only testimony as to said dates was that he saw her there on September 13 with an empty whiskey glass in front of her.

The police officer testified that on November 2, 1951, the minor identified Sam Klein at the licensed premises as the person who had served her alcoholic beverages and that she made two statements in which she claimed to have bought alcoholic beverages at the licensed premises on the various dates alleged in the charge.

On behalf of appellant Sam Klein testified that he did not tend bar on his wife's premises at any time on September 13,

September 24 or October 9, and that, in fact, on the latter evening he had been in a synagogue attending Yom Kippur services. His testimony was corroborated by Michael Delbono, who is regularly employed as a bartender, and by Charles McNerney, who was employed as bartender on the evening of October 9. Each of these three witnesses, as well as the licensee and her son-in-law, testified that Alice was never served with alcoholic beverages on appellant's premises. Appellant's witnesses also testified that, because of local regulations, females are served only at tables and never at the bar, as Alice testified.

The record herein indicates that Alice also alleged that she had purchased alcoholic beverages from the licensee or Sam Klein, her husband, on October 1 and October 3. At the hearing below respondent dismissed the charges as to said dates, apparently because it has been clearly established that Mr. and Mrs. Klein were in Monticello, New York, on October 1 and 3. Weighing the uncorroborated testimony of the minor, which is uncertain in many particulars, against the evidence produced by appellant, I find that there is not sufficient evidence in the case to sustain the finding of guilt as to any of the dates mentioned in the charges. Hence, the action of respondent must be reversed. Cf. Rogers v. Hoboken, Bulletin 925, Item 2.

Accordingly, it is, on this 4th day of April, 1952,

ORDERED that the action of the respondent in finding the appellant guilty of the charge herein, and suspending her license for thirty days, be and the same is hereby reversed.

EDWARD J. DORTON  
Acting Director.

- 4. DISCIPLINARY PROCEEDINGS - FAILURE TO NOTIFY LOCAL ISSUING AUTHORITY OF CHANGE OF FACTS IN APPLICATION - AIDING AND ABETTING NON-LICENSEES TO EXERCISE PRIVILEGES OF LICENSE - FALSE ANSWER IN APPLICATION CONCEALING LIEN - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO FILE APPLICATION TO LIFT AFTER 25 DAYS, PROVIDED ILLEGAL SITUATION CORRECTED.

In the Matter of Disciplinary )  
Proceedings against )  
  
HAROLD and HELEN BLYMAN )  
T/a WEE INN )  
East Side of Highway #30 )  
Lebanon Township )  
P.O. Glen Gardner R.D., N.J., )

CONCLUSIONS  
AND ORDER

Holders of Plenary Retail Consump- )  
tion License C-7, issued by the )  
Township Committee of the Township )  
of Lebanon. )  
- - - - - )

Harold and Helen Blyman, Defendant-licensees, Pro Se.  
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

Defendants have pleaded non vult to charges which in substance allege that (1) in violation of R.S. 33:1-34, they failed to notify the local issuing authority in writing that on or about August 10, 1951, they entered into a partnership agreement with Edgar and Jessie May (Sally) Evernham whereby they agreed to pay them fifty

per cent. of the net profits from their licensed business; (2) in violation of R. S. 33:1-52, they knowingly aided and abetted said persons to exercise, contrary to R. S. 33:1-26, the rights and privileges of their license, and (3) in violation of R. S. 33:1-25, they falsely stated in their renewal application for the current license period that there were no liens held by others on the goods or equipment used in connection with the alcoholic beverage business, whereas in fact the First National Bank of Bound Brook held a conditional bill of sale on the beer cooler system used in connection with such business.

The file herein discloses that the defendant-licensees entered into an agreement, dated August 10, 1951, with Edgar Evernham and Jessie May (Sally) Evernham whereby the latter were "to take complete charge and operate same on a profit sharing basis 50% to each party". Edgar Evernham and Jessie May (Sally) Evernham have operated the business continually until the present time in accordance with the provisions of the aforesaid agreement. The facts herein indicate that the license in the defendants' names has been "farmed out" to said Edgar Evernham and Jessie May (Sally) Evernham, who apparently are not personally disqualified from holding a license.

Defendants have no prior record. Since it appears that the unlawful situation continues to exist, I have no alternative except to suspend the license for the balance of the term. However, I shall entertain an application by verified petition to lift the suspension herein imposed if and when the unlawful condition is corrected, but under no circumstances will said suspension be lifted until after twenty-five days from the effective date thereof. Cf. Re Mousaw, Bulletin 844, Item 5.

Accordingly, it is, on this 1st day of April, 1952,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Lebanon to Harold and Helen Blyman, t/a Wee Inn, for premises on the east side of Highway #30, Lebanon Township, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. April 7, 1952.

EDWARD J. DORTON  
Acting Director.



5. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS (SUNDAY) IN VIOLATION OF LOCAL ORDINANCE - SALE TO NON-MEMBERS - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

CLUB ARABY  
919 South 3rd Street  
Camden, N.J.,

CONCLUSIONS  
AND ORDER

Holder of Club License CB-42,  
issued by the Municipal Board of  
Alcoholic Beverage Control of the  
City of Camden.

-----  
Club Araby, Defendant-licensee, by Joseph J. Burgo, Secretary.  
David S. Piltzer, Esq., appearing for Division of Alcoholic  
Beverage Control.

The defendant has pleaded guilty to charges alleging that (1) on Sunday, January 27, 1952, 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 bona fide guest of a member, in violation of Rule 8 of State Regulations No. 7.

The file herein discloses that, on Sunday, January 27, 1952, a person who was not a member or guest of a member of defendant club purchased alcoholic beverages at the licensed premises at 3:45 a.m. and at 4:00 a.m.

Defendant's license for the year 1943-44 was revoked for a dissimilar violation, Bulletin 631, Item 10. Because of lapse of time the prior record will not be considered. I shall impose the usual fifteen-day suspension 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 7th day of April, 1952,

ORDERED that Club License CB-42, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Club Araby, 919 South 3rd Street, Camden, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 7:00 a.m. April 14, 1952, and terminating at 7:00 a.m. May 9, 1952.

EDWARD J. DORTON  
Acting Director.

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - AGGRAVATING CIRCUMSTANCES - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

BELMAR DELICATESSEN CO., INC. )  
T/a SURF BAR & GRILLE )  
54 South New York Ave. and N.W. )  
cor. New York & Pacific Aves. )  
Atlantic City, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-224, issued by the )  
Board of Commissioners of the City )  
of Atlantic City. )

----- )  
Belmar Delicatessen Co., Inc., by William Ratay, President.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

The defendant pleaded non vult to a charge that it sold, served and delivered alcoholic beverages to four minors and permitted the consumption of alcoholic beverages by said minors upon its licensed premises in violation of State Regulation.

The file discloses that, on the night of March 6, 1952, two members of the Atlantic City Police Department observed a group of young persons drinking beer at a table on the licensed premises. Further investigation disclosed that two of the females in the group were 17 and 18 years of age, respectively, and that two of the males in the group were 19 years of age. Statements were taken from the minors and two bartenders from which it appears that the bartender who was on duty when the group entered at 9:00 p.m. refused to sell or serve anything but soft drinks to two of the minors and served beer to the other two minors. However, when the night bartender came on at 9:30 p.m., he raised no question as to the ages of any of the members of the group but on three occasions filled an order for glasses of beer which were transported to the table by one of the males. All four minors above referred to consumed these drinks of beer.

Because of the number of minors involved and the fact that the youngest is only 17 years of age the minimum penalty would normally be twenty days. Cf. Re Kaczorowski and Blazejewski, Bulletin 913, Item 14. However, defendant corporation has a record of prior convictions. Its license was suspended by the local authorities for two days effective June 20, 1944 and for twenty days effective April 27, 1945, for sales of alcoholic beverages to minors, for one day (sentence suspended September 4, 1947) for mislabeled beer tap, for two days effective July 13, 1948 for noise and nuisance and ten days effective March 7, 1949 for noise and nuisance. Since only the last two offenses occurred after the present stockholders, officers and directors were connected with the corporation I shall consider only those offenses in determining the penalty in the instant case. Cf. Sparrow Cigar Co., Inc., Bulletin 832, Item 3; Club Benmar, Inc., Bulletin 874, Item 9. Therefore I shall suspend defendant's license for a total period of twenty-five days. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 4th day of April, 1952,

ORDERED that Plenary Retail Consumption License C-224, issued by the Board of Commissioners of the City of Atlantic City to Belmar Delicatessen Co., Inc., t/a Surf Bar & Grille, 54 South New York Ave. and N.W. cor. New York & Pacific Aves., Atlantic City, be and the same is hereby suspended for a period of twenty (20) days, commencing at 7:00 a.m. April 16, 1952, and terminating at 7:00 a.m. May 6, 1952.

EDWARD J. DORTON  
Acting Director.

7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BEYOND TERMS OF LICENSE - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

STANLEY PERLOWSKI  
432 Grove Street  
Jersey City, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-250, issued by the  
Municipal Board of Alcoholic  
Beverage Control of the City of  
Jersey City.

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Stanley Perlowski, Defendant-licensee, Pro Se.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

Defendant pleaded non vult to charges alleging that he (1) sold alcoholic beverages outside the scope and terms of his plenary retail consumption license, contrary to R. S. 33:1-26, in violation of R. S. 33:1-2, and (2) sold an alcoholic beverage at retail in original container for off-premises consumption on Sunday, in violation of Rule 1 of State Regulations No. 38.

The file discloses that on Sunday morning, February 17, 1952, two ABC agents observed that, while the doors to defendant's licensed premises were locked and while there appeared to be no activity at the licensed premises, the unlicensed grocery and butcher shop next door (operated by defendant) was open for business. At approximately 9:15 a.m. the agents apprehended a patron leaving this grocery and butcher shop with a sealed full pint bottle of whiskey under his jacket. Both the patron and the licensee admitted that the licensee had sold said whiskey to the patron that morning, the licensee explaining that he had entered his licensed premises through the cellar, obtained the bottle of whiskey and returned to his grocery and butcher shop where he sold the whiskey to the patron.

As to Charge 1: R.S. 33:1-26 confines the operation and effect of every license to the licensed premises and, hence, the sale was made outside the scope and terms of defendant's plenary retail consumption license.

As to Charge 2: The sale was made in violation of Rule 1 of State Regulations No. 38 which prohibits inter alia all such sales on Sunday.

Defendant has no prior adjudicated record. I shall suspend the license for ten days on the first charge (Re Rosenberg, Bulletin 881, Item 4), and for fifteen days on the second charge (Re Rodolfa, Bulletin 916, Item 16), making a total of twenty-five days. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 4th day of April, 1952,

ORDERED that Plenary Retail Consumption License C-250, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Stanley Perlowski, for premises 432 Grove Street, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. April 16, 1952, and terminating at 2:00 a.m. May 6, 1952.

EDWARD J. DORTON  
Acting Director.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

NICHOLAS GRANDE  
246 Heller Parkway  
Newark 7, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-282, issued by the  
Municipal Board of Alcoholic  
Beverage Control of the City of  
Newark.

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Anthony Giuliano, Esq., Attorney for Defendant-licensee.  
William F. Wood, Esq., appearing for Division of Alcoholic  
Beverage Control.

Defendant has pleaded non vult to a charge alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe the contents thereof, in violation of Rule 27 of State Regulations No. 20.

On February 6, 1952, two ABC agents examined forty-five bottles of alcoholic beverages on defendant's licensed premises and seized one 4/5 quart bottle labeled "Old Grand Dad Kentucky Straight Bourbon Whiskey 100 Proof" and one 4/5 quart bottle labeled "Canadian Club Blended Canadian Whiskey 90.4 Proof" when their field tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by a Division chemist disclosed that the contents of the seized bottles were not genuine as labeled.

Defendant has a prior adjudicated record. Effective January 27, 1941, defendant's license was suspended for five days for failure to keep his licensed premises closed, and for sale of alcoholic beverages during prohibited hours, both in violation of a local ordinance. Bulletin 442, Item 4. However, since five years have elapsed since this prior violation of a dissimilar character was committed, I shall not consider the prior record in fixing a penalty herein. I shall suspend defendant's license for a period of fifteen days. Five days will be remitted because of the plea entered herein, leaving a net suspension of ten days. Re Murphy, Bulletin 907, Item 10.

Accordingly, it is, on this 2nd day of April, 1952,

ORDERED that Plenary Retail Consumption License C-282, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Nicholas Grande, 246 Heller Parkway, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. April 14, 1952, and terminating at 2:00 a.m. April 24, 1952.

EDWARD J. DORTON  
Acting Director.

9. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY (RESTAURANT) -  
ALCOHOLIC BEVERAGES, MOTOR VEHICLE USED TO TRANSPORT ALCOHOLIC  
BEVERAGES, FIXTURES AND FURNISHINGS FORFEITED - CLAIM OF INNOCENT  
LIENOR OF MOTOR VEHICLE RECOGNIZED.

In the Matter of the Seizure	)	Case No. 7978
on December 8, 1951 of a quantity	)	
of alcoholic beverages, various	)	
fixtures, furnishings and res-	)	ON HEARING
taurant equipment and a Cadillac	)	CONCLUSIONS AND ORDER
sedan and three automobile tires,	)	
at premises located on Route #2,	)	
Woodville, in the Borough of	)	
Englishtown, County of Monmouth	)	
and State of New Jersey.	)	

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Charles Blume, Esq., Attorney for American Credit Corporation.  
Harry Castelbaum, Esq., appearing for the Division of Alcoholic  
Beverage Control.

On December 8, 1951, ABC agents seized a quantity of alcoholic beverages, and the fixtures, furnishings, and equipment of a restaurant operated by Ozzie Canada and his wife, Lottie, located on Route #2, Woodville, Englishtown, N. J. because of alleged unlicensed sales of alcoholic beverages therein on that day. The agents also seized a Cadillac sedan owned by Ozzie and Lottie Canada, parked outside the restaurant, because of the alleged unlawful transportation of the eight cases of beer found therein.

At the seizure hearing in the case, held pursuant to R. S. 33:1-66, an appearance was entered on behalf of American Credit Corporation, which sought recognition of its lien on the motor vehicle. No other claim, or defense to forfeiture of the seized property has been presented.

From the evidence it appears that an ABC agent entered Canada's unlicensed restaurant on the day in question to investigate whether alcoholic beverages were being sold. There were about 60 men and women patrons present. Ozzie Canada and his wife, Lottie, were selling food, beer and whiskey to these persons. The agent purchased drinks of beer and whiskey from Lottie Canada for himself and a companion. He paid her for these items with a \$5.00 bill, whose serial number had previously been noted. Shortly thereafter other ABC agents and State Troopers entered the restaurant. Thereupon ABC agents seized the beer in front of the first agent and his companion; a pint bottle of wine which a patron had handed to the first agent; 38 cans of beer and 22 pints of wine which were in the restaurant; and its equipment and furnishings. The \$5.00 bill was recovered from Lottie Canada. The agents also seized the Cadillac sedan and 192 - 12 oz. cans of beer therein.

Neither Ozzie Canada nor Lottie Canada held any license authorizing either of them to sell or serve alcoholic beverages, and the restaurant was not licensed for that purpose. The Cadillac sedan was not licensed to transport alcoholic beverages.

The alcoholic beverages seized in the restaurant obviously were intended for unlawful sale, and hence are illicit. The quantity of beer in the Cadillac sedan is likewise illicit because it could be legally transported only in a vehicle licensed for that purpose, irrespective of its intended use. R. S. 33:1-1(i), R. S. 33:1-2. Such illicit alcoholic beverages, the vehicle in which it was transported, and the fixtures and equipment seized in the restaurant, constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-66.

The American Credit Corporation advanced \$2,373.76 to Ozzie and Lottie Canada towards the purchase of the Cadillac sedan on January 2, 1951, secured by a conditional sales contract thereon, and the balance presently due the finance company is \$1,384.46.

It further appears that before the finance company advanced the money it was informed that Ozzie Canada was self employed in the trucking business; was the owner of and resided at 30 Avenue A -- Freehold; and was furnished with the names of various concerns as references. The finance company checked with these references and with an independent investigating agency and ascertained that the residence and occupation of Ozzie Canada corresponded to its information, and that he was a good financial risk.

It seems to have been a reasonably prudent investigation, which did not disclose any unlawful alcoholic beverage activity by Ozzie Canada in the past, or any likelihood of such activities in the future. I shall therefore recognize the lien claim of the American Credit Corporation against the Cadillac sedan in the amount of \$1,384.46. R. S. 33:1-66(f).

The Director of the Division of Purchase and Property has notified this Division that the State of New Jersey is not interested in retaining the Cadillac sedan for the use of any state agency upon payment of the lien claim. There is a strong likelihood that the proceeds of the sale of such motor vehicle may exceed the lien claim.

Accordingly, it is DETERMINED and ORDERED that the Cadillac sedan, described in Schedule "A" attached hereto, constitutes unlawful property and the same be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, and that it shall be offered for sale at public sale, pursuant to terms to be then announced, and sold by the Acting Director of the Division of Alcoholic Beverage Control if a bid satisfactory to him is obtained, otherwise the motor vehicle will be returned to the finance company upon payment of the costs; and it is further

ORDERED that if the Cadillac sedan is sold, out of the proceeds of said sale there shall be first deducted the costs of seizure, storage and sale as have been or may be incurred; second, there shall be paid out of the balance, if any, to the American Credit Corporation its lien claim, recognized to the extent of \$1,384.46; and third, the balance, if any, of the proceeds of such sale, after the payments aforesaid, shall be retained for the use of the State of New Jersey; and it is further

DETERMINED and ORDERED that the balance of the seized property described in the aforesaid Schedule "A" constitutes unlawful property, and the same be and is hereby 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 Acting Director of the Division of Alcoholic Beverage Control.

Dated: April 3, 1952

EDWARD J. DORTON  
Acting Director.

SCHEDULE "A"

- |                                |                                       |                      |
|--------------------------------|---------------------------------------|----------------------|
| 22 -                           | pint bottles of wine                  |                      |
| 230 -                          | cans of beer                          |                      |
| 1 -                            | bar                                   |                      |
| 13 -                           | cases of soda                         |                      |
| 2 -                            | music boxes 2nd currency therein      |                      |
| 39 -                           | music records                         |                      |
| 5 -                            | chairs                                |                      |
| 1 -                            | Servel gas refrigerator               |                      |
| 1 -                            | Crosley Frigidaire                    |                      |
| 1 -                            | cash register                         |                      |
| 1 -                            | Coca Cola ice box                     |                      |
| 1 -                            | pie box                               | 2 - oil stoves       |
| 2 -                            | tables                                | 1 - gas range        |
| 1 -                            | grill plate                           | 3 - automobile tires |
| 1 -                            | Cadillac sedan, Serial No. 496276209, |                      |
| 1951 N.J. Registration M/E18Z. |                                       | \$5.00 in cash       |

10. CANCELLATION PROCEEDINGS - CHARGE ALLEGING THAT LICENSE HAD BEEN IMPROVIDENTLY ISSUED IN VIOLATION OF P.L. 1951, c. 163, DISMISSED FOR LACK OF PROOF.

In the Matter of Cancellation  
Proceedings against

ALFRED D. HAINES

W/S Lakehurst Road

Pemberton Township

P.O. Browns Mills, N.J.,

CONCLUSIONS  
AND ORDER

Holder of Limited Retail Distri-  
bution License DL-1, issued by  
the Township Committee of the  
Township of Pemberton.

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W. Thomas McGann, Esq., Attorney for Licensee.  
Anthony Meyer, Jr., Esq., appearing for Division of Alcoholic  
Beverage Control.

Licensee was ordered to show cause why his limited retail distribution license for the current licensing year should not be suspended, revoked or cancelled and declared null and void for the reason that said license was improvidently issued, in violation of R. S. 33:1-12(3)b (as amended by P.L. 1951, ch. 163).

The pertinent portion of P.L. 1951, ch. 163, which became effective on June 5, 1951, provides as follows:

"Limited retail distribution license. 3b. The holder of this license shall be entitled, subject to rules and regulations, to sell any unchilled, brewed, malt alcoholic beverages in quantities of not less than seventy-two fluid ounces for consumption off the licensed premises; but only in original containers; provided, however, that this license shall be issued only for premises operated and conducted by the licensee as a bona fide grocery store, meat market, meat and grocery store, delicatessen, or other type of bona fide food store at which groceries or other foodstuffs are sold at retail; and provided further, that this license shall not be issued except for premises at which the sale of groceries or other foodstuffs is the primary and principal business and at which the sale of alcoholic beverages is merely incidental and subordinate thereto.\*\*\*"

At the hearing herein an ABC agent testified that on July 30, 1951, he visited the licensed premises which contained two large rooms. He further testified that the rear room was used for the storage of beer and that the front room contained counters with various kinds of baked goods, and shelves containing potato chips, some baked goods and candies. The shelves were located on the left of the room as one entered the premises. The front room also contained a deep freeze unit and an ice cream freezer. Soda and beer were displayed on the rear shelves of the front room. Another investigator testified that he visited the licensed premises on October 24, 1951, and made a sketch of the premises which indicated that at that time the shelves on the left side of the front room, and some of the shelves in the rear part of the front room, contained canned goods of all kinds. This witness testified that the deep freeze unit contained all kinds of frozen foods, fruits and vegetables, and that a refrigerator contained packaged meats, milk and dairy products.

At the hearing the licensee testified that the building was completed about April 1950 and was then operated by another individual primarily as a bakery, although butter, eggs, candies and



milk were also sold. In January 1951 the licensee obtained a limited retail distribution license for the premises in question, upon which premises the other individual then operated the bakery as a concession upon the licensed premises. In June 1951 the concessionaire began to sell canned goods. In August 1951 the other individual surrendered the concession, and since that time the licensee has operated the entire business as his own. The evidence satisfies me that the premises are now operated as a grocery store containing a complete line of groceries of all descriptions, and that the sale of beer, while substantial, is incidental and subordinate to the grocery business.

It is impossible to determine the exact nature of the business as it was conducted on July 1, 1951, when the renewed license for the current licensing year became effective. However, upon the evidence presented I conclude that the licensee now conducts a bona fide grocery store or other type of bona fide food store at which groceries or other foodstuffs are sold at retail; that the sale of groceries or other foodstuffs is the primary and principal business, and that the sale of alcoholic beverages is merely incidental and subordinate thereto. Under the circumstances, the rule to show cause will be discharged.

Accordingly, it is, on this 7th day of April, 1952,

ORDERED that the rule to show cause be and the same is hereby discharged.

EDWARD J. DORTON  
Acting Director.

11. CANCELLATION PROCEEDINGS - CHARGE ALLEGING THAT LICENSE HAD BEEN IMPROVIDENTLY ISSUED IN VIOLATION OF P.L. 1951, c. 163, SUSTAINED - LICENSE CANCELLED.

In the Matter of Cancellation )  
Proceedings against )

ABRAHAM POLSKY )  
603 Harrison Avenue )  
Harrison, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Limited Retail Distri- )  
bution License DL-1, issued by )  
the Town Council of the Town of )  
Harrison. )

-----)  
Joseph F. McCarthy, Esq., Attorney for Licensee.  
Anthony Meyer, Jr., Esq., appearing for Division of Alcoholic  
Beverage Control.

Licensee was ordered to show cause why his limited retail distribution license for the current licensing year should not be suspended, revoked or cancelled and declared null and void for the reason that said license was improvidently issued, in violation of R. S. 33:1-12(3)b (as amended by P.L. 1951, ch. 163).

The pertinent portion of P.L. 1951, ch. 163, which became effective on June 5, 1951, provides as follows:

"Limited retail distribution license. 3b. The holder of this license shall be entitled, subject to rules and regulations, to sell any unchilled, brewed, malt alcoholic beverages in quantities of not less than seventy-two fluid ounces for consumption off the licensed premises; but only in original containers; provided, however, that this license shall be issued only for premises operated and conducted by the licensee as a bona fide grocery store, meat market, meat and grocery store, delicatessen, or other type of bona fide food store at which groceries or other



foodstuffs are sold at retail; and provided further, that this license shall not be issued except for premises at which the sale of groceries or other foodstuffs is the primary and principal business and at which the sale of alcoholic beverages is merely incidental and subordinate thereto.\*\*\*"

At the hearing held herein an ABC agent testified that he visited the licensed premises on July 23, 1951, and made a sketch of the interior of the licensed premises. The sketch indicates that there was a soda fountain, with seven stools in front thereof, on the right side of the store as one enters the premises; that toys were displayed in both show-windows and in a show-case located on the interior of the premises; that there were shelves containing stationery, magazines, greeting cards, paper plates, cups, toys and games. There was also a candy stand and a cigar case located on the premises.

The licensee testified that he has held a limited retail distribution license for the premises in question since 1934. Frankly admitting that he had not put in groceries because there are "five grocery stores in the same block", licensee nevertheless contends that his principal business consists of the sale of ice cream, sodas, candy, peanuts and potato chips, and that all of these items are "foodstuffs".

It seems to be clear from the evidence that the licensee does not conduct a grocery store, meat market, meat and grocery store or delicatessen. The question, therefore, is whether the licensee's store should be classified as "other type of bona fide food store at which groceries or other foodstuffs are sold at retail" and, if so, whether "the sale of groceries and other foodstuffs is the primary and principal business". Webster defines "foodstuff" as "anything used for food". In construing the phrase "other type of bona fide food store at which groceries or other foodstuffs are sold at retail", we must consider the preceding language of the section in determining the intent of the Legislature. Thus, although milk, bread, cakes, candy and ice cream may be classified as food (36 C.J.S. 1041), nevertheless, premises conducted solely as a milk-bar, bakery, candy store or ice cream parlor may not be termed "other type of food store" in the same sense in which we would designate a grocery store, meat market, meat and grocery store or delicatessen as a food store. On the other hand, if the premises are used for the sale of "grocery" items such as tea, sugar, coffee, spices, fruits, vegetables, cheese, meats, delicatessen items and canned foods, then the premises may be considered as a "food store" and the additional sales of milk, bread, cakes, candies and ice cream may be included in determining whether the sale of groceries and other foodstuffs is the primary and principal business. A "food store" may also sell such items as cigars, cigarettes, tobacco, newspapers, magazines and stationery but, under the section considered herein, such sales may not constitute the primary and principal business.

Applying the above principles, I conclude that the licensee does not conduct a bona fide food store. I must further conclude that the license for the present licensing year was improvidently issued in violation of the provisions of the Alcoholic Beverage Law as amended by P.L. 1951, ch. 163, which became effective June 5, 1951. I shall, therefore, cancel the license. R.S. 33:1-31(a).

Accordingly, it is, on this 7th day of April, 1952,

ORDERED that Limited Retail Distribution License DL-1, issued by the Town Council of the Town of Harrison to Abraham Polsky, for premises 603 Harrison Avenue, Harrison, be and the same is hereby cancelled and declared null and void, effective at 9:00 a.m. April 10, 1952.

EDWARD J. DORTON  
Acting Director.

## 12. STATE LICENSES - NEW APPLICATIONS FILED.

Monte Carlo Wine Industries, Ltd.

349 Delavan St.

New Brunswick, N. J.

Application filed April 8, 1952 for Public Warehouse License.

Super Service Motor Freight Company, Inc.

Fessler's Lane

Nashville, Tennessee.

Application filed April 9, 1952 for Transportation License.

New Jersey Express Corp.

566 - 52nd St.

West New York, N. J.

Application filed April 9, 1952 for transfer of Transportation License from Pascale Trucking Company, Inc.

Atlantic Beverage - Wildwood

121 Walnut Ave.

North Wildwood, N. J.

Application filed April 9, 1952 for State Beverage Distributor's License.

Atlantic Beverage - Atlantic City

2001-3-5-7-9-11 Baltic Avenue

Atlantic City, N. J.

Application filed April 9, 1952 for transfer of State Beverage Distributor's License from Harry S. Miller & Arthur H. Ferrin, t/a Atlantic Beverage.

Atlantic Beverage Co.

2001-3-5-7-9-11 Baltic Avenue

Atlantic City, N. J.

Application filed April 9, 1952 for Transportation License.

Philip Boreedy

T/a Ocean County News Company

Manahawkin, N. J.

Application filed April 17, 1952 for Transportation License.

*Edward J. Dorton.*

Acting Director.