

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

BULLETIN 701

MARCH 15, 1946.

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

BULLETIN 701

MARCH 15, 1946

1. APPELLATE DECISIONS - GOLDEN v. PLAINFIELD.

HARRY GOLDEN, )

Appellant, )

-VS-

COMMON COUNCIL OF THE )  
CITY OF PLAINFIELD, )

Respondent )

ON APPEAL  
CONCLUSIONS AND ORDER

George F. Hetfield, Esq., Attorney for Appellant.  
Salvador Diana, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

Appellant was found guilty by respondent of the following charge:

"On September 4, 1945, between the hours of 5:00 p.m. and 9:30 p.m., on your licensed premises, you served or permitted to be served alcoholic beverages to Russell Lawrence who was then and there actually or apparently intoxicated, in violation of Section 8 of the City Ordinance entitled, 'An Ordinance Concerning Alcoholic Beverages', approved February 18, 1942."

Respondent suspended appellant's license for a period of five days. This appeal was taken to review the action of the respondent and a stay was granted by me upon the filing of the appeal.

In the same disciplinary proceedings wherein appellant was found guilty as set forth above, he was also charged with a violation of Section 17 of a local ordinance prohibiting a licensee from permitting or allowing disturbances, brawls or unnecessary noises, or suffering the licensed place to be conducted in such a manner as to become a nuisance. Respondent found appellant not guilty on this additional charge.

It may very well be that a licensee should be held responsible for a disturbance on the licensed premises (Rule 5 of State Regulations No. 20) where he sells an excessive number of drinks to a patron as a result of which the latter becomes intoxicated and creates a disturbance even though the licensee thereafter refrains from selling the patron alcoholic beverages. Cf. Benak v. Egg Harbor, Bulletin 626, Item 6.

Under the circumstances, the sole question on appeal concerns the single charge upon which appellant was found guilty by respondent.

The record herein discloses that Russell Lawrence had been in appellant's premises between 5:00 p.m. and 8:00 p.m. on September 4, 1945, that he left the premises about 8:00 p.m., returned about 8:25 p.m. and remained there until approximately 9:30 p.m. Shortly before 9:30 p.m. the licensee was playing shuffleboard with Lawrence and two of his companions. There is no doubt that during the course of the game Lawrence became very noisy and argumentative. In fact,

he became so noisy that the licensee on occasions requested him either to be quiet or leave the place. At about 9:30 p.m. Lawrence engaged in a verbal altercation with one of the patrons and then left the licensed premises. This patron followed Lawrence to the street and after they had reached the sidewalk he struck him and knocked him down. Lawrence was brought into the licensed premises in a semi-conscious condition and after being revived was helped to a bus and sent home.

It is apparent that the appellant was completely uncooperative with the police during the course of their subsequent investigation of this brawl. However, the licensee was not charged with hindering or delaying an investigation in violation of R. S. 33:1-35 and, hence, I may not permit his uncooperative attitude towards the police to influence my decision of the narrow factual issue developed by the appeal.

A careful reading of the entire record fails to disclose that Lawrence was in fact actually or apparently intoxicated or showed any signs of intoxication prior to the time the shuffleboard game was in progress. Aside from the testimony of Earl Smith hereafter considered, there is no credible testimony that any alcoholic beverages were served to Lawrence after his conduct indicated that he was actually or apparently intoxicated. The licensee testified that during the evening, between 6:00 p.m. and 9:30 p.m., he served about four drinks to Lawrence but denies that the patron was actually or apparently intoxicated at the time that any of the drinks were served. In my opinion, Lawrence was served many more than four drinks during the evening.

It is evident that the finding of guilt was largely predicated upon the testimony given by the witness Earl Smith before the local Board. Smith then testified that he "thought" a glass of beer had been served to Lawrence by the licensee after the shuffleboard game was finished. At the appellate hearing, however, Smith testified that he was certain that no drinks had been served to Lawrence after the shuffleboard game was finished. This testimony, of course, neutralizes the testimony given by Smith at the hearing below and thus the record is barren of any credible testimony that appellant was guilty as charged. I have given no weight to Lawrence's testimony that he was served with a drink after the shuffleboard game was finished because I have reached the conclusion that his testimony is not to be relied upon. Upon the evidence as presented, I am reluctantly forced to conclude that the finding of guilt herein cannot be sustained. Cf. Re De Vito, Bulletin 277, Item 12. Respondent is to be commended for its careful consideration of the evidence below which justified the result reached. If appellant desires to remain in the liquor business he will exclude troublemakers from his premises in the future.

Accordingly, it is, on this 11th day of March, 1946,

ORDERED, that respondent's action in finding appellant guilty of the charge considered herein and suspending his license for a period of five days as a result thereof, be and the same is hereby reversed.

ALFRED E. DRISCOLL  
Commissioner.

DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS (SUNDAY), IN VIOLATION OF MUNICIPAL REGULATION - LICENSE SUSPENDED FOR A PERIOD OF 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ARTHUR JOSEPH LIPPENS and )  
MARIE LOUISE LIPPENS )  
137 Highland Street )  
Paterson 4, N. J., )

CONCLUSIONS  
AND ORDER

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Holders of Plenary Retail Consumption License C-253, issued by the Board of Alcoholic Beverage Control of the City of Paterson. )  
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Charles De Walsche, Esq., Attorney for Defendant-licensees.  
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendants plead non vult to a charge alleging that on Sunday, February 17, 1946, between the hours of 3:00 a.m. and 1:00 p.m., they sold and served alcoholic beverages upon their licensed premises in violation of Section 2 of a resolution adopted by the Board of Alcoholic Beverage Control of the City of Paterson on June 28, 1935, as amended June 30, 1939.

The file discloses that on Sunday, February 17, 1946, at about 11:20 a.m., an agent of the State Department of Alcoholic Beverage Control entered the barroom of the licensed premises by way of the kitchen door. The ABC agent observed three men at the bar, two of whom had alcoholic beverages in front of them while the third man had an empty glass in front of him. The agent ordered a drink of whiskey, which was served to him by one of the defendant-licensees. Soon thereafter another ABC agent entered the premises via the kitchen and then both agents made their identities known to Arthur Lippens, one of the licensees.

This arrangement to obtain alcoholic beverages during prohibited hours has all the attributes of an "old-fashioned speakeasy." I gave timely warning to licensees that engaging in illegal operations of this character would warrant a minimum suspension of thirty days. Re Miles, Bulletin 673, Item 8. There are no extenuating circumstances in this case.

Defendants have no previous adjudicated record. I shall, therefore, suspend the license for a period of thirty days, less five days' remission for the plea entered herein, or a net suspension of twenty-five days.

Accordingly, it is, on this 11th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-253, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Arthur Joseph Lippens and Marie Louise Lippens, for premises 137 Highland Street, Paterson, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 3:00 a.m. March 18, 1946, and terminating at 3:00 a.m. April 12, 1946.

ALFRED E. DRISCOLL  
Commissioner.

3. APPELLATE DECISIONS - HUDSON BERGEN COUNTY RETAIL LIQUOR STORES ASSOCIATION v. HOBOKEN, MARINELLI ET AL. - ORDER CANCELLING LICENSE STAYED PENDING APPLICATION FOR WRIT OF CERTIORARI.

HUDSON BERGEN COUNTY RETAIL LIQUOR STORES ASSOCIATION, )

Appellant, )

-vs-

BOARD OF COMMISSIONERS OF THE CITY OF HOBOKEN, ROSE PIZZINO, CHARLES MARINELLI, RAYMOND A. LEWIS and JOHN J. LILLIS, )

Respondents )

O R D E R

BY THE COMMISSIONER:

It appearing that, by Conclusions and Orders dated March 8, 1946, plenary retail distribution licenses held by each of the four individual respondents were cancelled, set aside and declared null and void, and each individual respondent directed forthwith to cease all alcoholic beverage activity under the license theretofore issued to him, and

It further appearing that respondent Charles Marinelli has declared his intention to apply to a Justice of the Supreme Court for a writ of certiorari to review the said Conclusions and Orders and to prosecute the writ, if granted, with due diligence, and

It further appearing to my satisfaction that Charles Marinelli may suffer irreparable harm if a stay is not granted by me pending application to a Justice of the Supreme Court for said writ, and

It further appearing that the other individual respondents are entitled to the same relief since the issues in all cases are substantially the same;

It is, on this 11th day of March, 1946,

ORDERED, that the effect of the orders heretofore entered herein be and the same is hereby stayed until further orders are entered herein; on condition, however, that application for writ of certiorari shall be made to a Justice of the New Jersey Supreme Court at the earliest possible date and thereafter prosecuted with diligence.

ALFRED E. DRISCOLL  
Commissioner.

4. APPELLATE DECISIONS - WINNER AND JONES v. DELRAN TOWNSHIP AND OTT.  
 WINNER AND JONES v. DELRAN TOWNSHIP AND PERSIC.

HOWARD T. WINNER and  
 REV. CHARLES E. JONES,  
 Appellants,

-vs-

TOWNSHIP COMMITTEE OF THE TOWNSHIP  
 OF DELRAN, and MARTIN J. OTT,  
 t/a LAUREL RUN TAVERN,  
 Respondents.

ON APPEAL

CONCLUSIONS AND ORDER

HOWARD T. WINNER and  
 REV. CHARLES E. JONES,  
 Appellants,

-vs-

TOWNSHIP COMMITTEE OF THE TOWNSHIP  
 OF DELRAN and LOUIS F. PERSIC,  
 Respondents.

- Frank C. Propert, Esq., Attorney for Appellants.
- Daniel Lichtenthal, Esq., Attorney for Respondent,  
 Township Committee of the Township of Delran.
- John S. Conroy, 3rd, Esq., Attorney for Respondent-licensee,  
 Martin J. Ott.
- Robert W. Criscuolo, Esq., Attorney for Respondent-licensee,  
 Louis F. Persic.

BY THE COMMISSIONER:

These appeals were simultaneously filed from the issuance by the respondent of two plenary retail consumption licenses: one to Martin J. Ott for premises at the northeast corner of Hartford Road and Moorestown-Bridgeboro Road, and the other to Louis F. Persic for premises on River Road (or St. Miniel Avenue), both premises being located in the Township of Delran. Both appeals, since they involve licenses issued on the same day by the respondent and are concerned with substantially similar issues, will be decided together.

In both cases, the appellants urge that the respondent abused its discretion by issuing the two additional consumption licenses in view of the three such licensed establishments already outstanding in the municipality.

One of the appellants, who is minister of the Bridgeboro Methodist Church, voiced the opinion that the three existing licensed premises were sufficient to cater to the needs of the community, which has a population of approximately 2,000 inhabitants. In addition, he asserted that the additional licenses would place an unwarranted burden upon the limited police force of the township.

My personal views on the desirability of restricting the issuance of new licenses are now well known. I have long advocated the adoption of measures to limit consumption licenses to one for every 1,000 of population. If, therefore, I were a member of the local issuing authority, I would have voted to deny both applications under consideration. However, my jurisdiction in these appeal cases is limited to a review of the action of the local Board. It is not my function to substitute my private opinion for the decision reached by the Board but, rather, to determine whether there is reasonable basis

for such decision and, if so, to affirm irrespective of my personal views. In order to justify a reversal of such decision, the law requires that the appeal record contain evidence clearly indicating an arbitrary abuse of the discretion lodged in the issuing authority to determine, in the first instance, whether a particular application for license should be granted or denied. The burden of sustaining this issue rests upon the appellants.

Two of respondent's three Committeemen testified that, in their opinion, the issuance of both the Ott and Persic licenses filled a need in the municipality. The Ott premises are located about a mile distant from the next nearest tavern and are situated on a well-traveled highway. The neighborhood is similar to that generally found along main arteries of travel in rural communities, with some farm land and scattered residences. The Ott tavern is the only licensed premises along the strip of the highway that runs through the township.

The Persic premises are located on St. Mihiel Drive, also a busy thoroughfare, and in the vicinity of a beach front and a dredge harbor which accommodates many boats and yachts. The location is some fifteen hundred feet from the next nearest consumption establishment.

Concerning the police force, it was stipulated by all interested parties that it consists of four part-time constables and one police officer. In addition, the Riverton barracks of the State Troopers is located about one and a half miles from the community. The record is barren of any evidence showing any past enforcement difficulties and the Committeemen stated that, in their opinion, the present constabulary was adequate to safeguard the interests of the entire community.

There is no doubt that the local residents displayed great interest in the two applications. At the meeting at which the licenses were granted, the room was filled to capacity and standees lined the walls. Petitions pro and con were presented. Although there is some disagreement in the record on the question, it was the opinion of both Committeemen that a majority of the townspeople are in favor of the issuance of these licenses. In this connection, it is interesting to note that the third Committeeman testified that his negative votes were influenced by the fact that he had promised "these people" he would so vote and "I keep my word when I tell someone I am going to do something." Queried as to how he would have voted in the absence of such promise, he replied: "The evidence showed many people for it, and in that case I suppose I would have voted for it." In any event, it is clear that there is substantial sentiment in support of the respondent's action.

The blanket statements, without more, by one witness in the Ott case, that a reduction in the value of his property would result and, by another witness, that some children board the school bus in the vicinity of Ott's premises, do not present any judicable issues.

A consideration of all the evidence fails to establish that respondent's determination in either case is founded upon so arbitrary or unreasonable an exercise of discretion that it may not be permitted to stand. Under the circumstances, I have no alternative other than to affirm the issuance of both licenses.

Accordingly, it is, on this 12th day of March, 1946,

ORDERED, that the petitions of appeal be and the same are hereby dismissed.

ALFRED E. DRISCOLL  
Commissioner.

5. DISCIPLINARY PROCEEDINGS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE (FARMING OUT LICENSE) - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR A PERIOD OF 10 DAYS.

In the Matter of Disciplinary Proceedings against )  
 LAKE HIAWATHA COUNTRY CLUB )  
 North Beverwyck Road & )  
 Minnehaha Blvd. )  
 Parsippany-Troy Hills Township )  
 P. O. Lake Hiawatha, N. J., )  
 Holder of Plenary Retail Consumption License C-26 issued by the )  
 Township Committee of Parsippany-Troy Hills, and transferred during )  
 the pendency of the proceedings to )  
 LAKE HIAWATHA INN, INC. )  
 for the same premises. )

CONCLUSIONS AND ORDER

John H. Grossman, 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 the following charge:

"From on or about March 24, 1945 and until on or about October 9, 1945, you knowingly aided and abetted Adolph Vogel and from on or about April 10, 1945 and until the present time, you also knowingly aided and abetted John C. DeYoung to exercise, contrary to R. S. 33:1-26, the rights and privileges of your successive plenary retail consumption licenses, thereby yourself violating R. S. 33:1-52."

While the defendant Lake Hiawatha Country Club was the holder of a plenary retail consumption license for the fiscal year 1944-45, it entered into an agreement with Adolph Vogel whereby he and his wife were hired as stewards. The agreement, however, provided that the Vogels were to receive all of the profits of the liquor business after deduction of the carrying charges which were fixed at \$125.00 per month. Under the precedents established in similar cases heretofore decided, this agreement constituted an unlawful farming out of the liquor license issued to the club.

It further appears that, while this agreement was in effect, Adolph Vogel and John C. DeYoung made an arrangement between themselves whereby the latter was to assist in the operation of the licensed business and to share the profits made by the Vogels therefrom. The agreement between defendant-licensee and Adolph Vogel was terminated on October 9, 1945, but John C. DeYoung was thereafter permitted to retain the profits of the licensed business until the charges herein were preferred.

On February 19, 1946 the Township Committee of the Township of Parsippany-Troy Hills transferred License C-26 from Lake Hiawatha Country Club to Lake Hiawatha Inn, Inc., subject to the suspension to be imposed in this proceeding. Ninety per cent. of the stock of Lake Hiawatha Inn, Inc. is owned by members of the Board of Directors

of the Lake Hiawatha Country Club, and ten per cent. of the stock of Lake Hiawatha Inn, Inc. is owned by John C. DeYoung. Lake Hiawatha Inn, Inc. has rented the licensed premises from the Country Club at a yearly rental of \$1,250.00 for the first two years, and a yearly rental of \$1,500.00 for the third year of the lease. Lake Hiawatha Inn, Inc. has entered into a written agreement with John C. DeYoung whereby it has hired him as steward at a weekly salary of \$50.00 plus two per cent. of the gross volume of business. From the facts set forth herein it sufficiently appears that the unlawful arrangements heretofore existing have been corrected. The license will, therefore, be suspended for ten days. Re Club Parsippany, Inc., Bulletin 411, Item 8.

Accordingly, it is, on this 12th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-26, issued by the Township Committee of the Township of Parsippany-Troy Hills to Lake Hiawatha Country Club, for premises on North Beverwyck Rd. & Minnehaha Blvd., Parsippany-Troy Hills, and transferred during the pendency of these proceedings to Lake Hiawatha Inn, Inc. for the same premises, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. March 18, 1946, and terminating at 3:00 a.m. March 28, 1946.

ALFRED E. DRISCOLL  
Commissioner.

6. REGULATIONS NO. 37 - LICENSEES - "OFF LIMITS", "OUT OF BOUNDS" AND "CURFEW" ORDERS OF THE MILITARY AND NAVAL AUTHORITIES - REGULATIONS NO. 37 ABROGATED, EFFECTIVE IMMEDIATELY.

TO ALL NEW JERSEY LICENSEES:

Regulations No. 37, promulgated May 15, 1943, were a timely and important measure to backstop the "off limits", "out of bounds" and "curfew" orders of the military and naval authorities -- to assure compliance with those orders by licensees. Now New Jersey is no longer an armed camp. In conferences between members of this Department and the proper military and naval authorities, it has been determined and agreed that Regulations No. 37 have served their useful purpose and that hereafter any "off limits", "out of bounds" or "curfew" orders of the military and naval authorities may be backstopped adequately by the State Commissioner's special ruling directed to the particular licensee concerned and dealing with the merits of the specific situation. Accordingly, State Regulations No. 37 are hereby abrogated, effective immediately.

ALFRED E. DRISCOLL  
Commissioner.

Dated: March 12, 1946.

7. APPELLATE DECISIONS - GORDON v. NORTH HANOVER TOWNSHIP.

EARL B. GORDON, t/a GORDON'S  
 TAVERN, )  
 )  
 Appellant, )  
 -vs- )  
 )  
 TOWNSHIP COMMITTEE OF THE )  
 TOWNSHIP OF NORTH HANOVER )  
 (Burlington County), )  
 )  
 Respondent )

ON APPEAL  
 CONCLUSIONS AND ORDER

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 Felcone & Felcone, Esqs., Attorneys for Appellant.  
 Powell & Parker, Esqs., by Robert W. Criscuolo, Esq.,  
 Attorneys for Respondent.

BY THE COMMISSIONER:

This is an appeal from the refusal of respondent to grant appellant's application for a transfer of his plenary retail consumption license from premises on the east side of Main Street, Cookstown, to premises north side of the New Egypt-Cookstown Road.

Appellant's stated grounds of appeal are that (1) respondent, in its resolution denying the license, did not assign any reason for its action and (2) respondent's action was capricious and discriminatory.

It is undisputed that the resolution denying the transfer, as adopted by the Township Committee, contained no stated reason for the denial. I have repeatedly stated that issuing authorities, when acting upon applications, should state the reason for their decision. Cf. Gorcica v. Wallington, Bulletin 659, Item 10.

The reasons for the denial, however, are adequately stated in the Answer filed by respondent Township Committee, and appellant was afforded a "hearing de novo" herein.

The substantial reason alleged by the respondent for the denial of the transfer is that public need and convenience will not be served by the transfer.

The proposed premises were, at the request of the appellant, viewed by the Hearer. This inspection and the testimony herein discloses that the license now held by appellant was issued for premises in a village or settlement known as Cookstown, situated partly in New Hanover Township and partly in North Hanover Township. This village, together with another similar settlement some two or three miles distant, known as Jacobstown, contains the homes of practically all of the township's population of 731, excepting those living on farms. The proposed premises are approximately three-quarters of a mile from Cookstown on the road to New Egypt and about one-half mile from that settlement. The area surrounding the proposed premises, except for two or three houses on the road and a "Gypsy Camp", consists of brushwood and farm land.

The testimony discloses that two of the three licenses issued by respondent have been customarily located in Cookstown while the third has been issued to a hotel near Jacobstown.

There is no evidence of, nor does the inspection of the premises disclose that any public convenience or necessity would be served by the transfer of the license. Appellant apparently depends for the success of his appeal on his effort to establish that the members of the local issuing authority were biased and acted in a discriminatory manner in their denial of the transfer. The evidence is insufficient to establish bias or discrimination against appellant.

A liquor license does not carry with it any inherent right of transfer. Casablanca v. Wildwood, Bulletin 572, Item 13; Hotel Macon, Inc. v. Wildwood, Bulletin 573, Item 6. While the privilege of transfer may not be arbitrarily denied, nevertheless, where a refusal to transfer is based upon reasonable grounds it will be sustained on appeal. Willner's v. Camden, Bulletin 669, Item 14.

It is also well settled that my function on appeals of this type is not to substitute my personal opinion for that of the issuing authority, but merely to determine whether reasonable cause exists for the opinion, and, if so, to affirm, irrespective of my personal view on the subject. New Jersey Tavern Ass'n et al. v. Keansburg et al., Bulletin 695, Item 4; Rafalowski v. Trenton, Bulletin 155, Item 8; Petti v. Bayonne, Bulletin 564, Item 7.

I find no evidence that the public need and convenience will be served by the transfer.

One other aspect of this case deserves attention. The Hearer reports that the proposed premises appear to be equipped for the sale of gasoline. Two gasoline pumps stand in front of the building, between the building and the road. Conducting another mercantile business on premises licensed and operated as a tavern is prohibited (with some exception not here germane) by the law. R. S. 33:1-12(1). The sale of gasoline to the passing motorist has been held to be within the interdiction of the statute. Re Stanley, Bulletin 33, Item 7; cf. Dunn v. Allentown, Bulletin 38, Item 8; Re Millville, Bulletin 35, Item 15.

While appellant, in his application, states that he will conduct no business other than the "sale of alcoholic beverages and restaurant", the fact that two gasoline pumps have, from all appearances, been recently installed indicates that the premises are not in their present state suitable for the location of a plenary retail consumption license.

I must affirm the action of respondent Township Committee in denying the transfer for the reason that such transfer will not serve any public need or convenience.

Accordingly, it is, on this 12th day of March, 1946,

ORDERED, that the petition of appeal be and the same is hereby dismissed.

ALFRED E. DRISCOLL  
Commissioner.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against  
 JOHN PALAZZO  
 T/a VICTORY CAFE  
 1301 Decatur Street  
 Camden, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-199, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

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

BY THE COMMISSIONER:

The defendant has pleaded non vult to a charge alleging that on January 10, 1946 he possessed a bottle of "Canadian Club Blended Canadian Whisky", which contained an alcoholic beverage not genuine as labeled, in violation of R. S. 33:1-50.

The explanation, even if true, that the contents of a broken bottle of a different brand were poured into the bottle in question by an employee, presents no defense. Re Military Park Cafe, Inc., Bulletin 321, Item 4; Re Novack, Bulletin 406, Item 11; Re Lotcpeich, Bulletin 443, Item 11.

In view that there is no previous record, the license will be suspended for a period of fifteen days. Re Rudolph, Bulletin 680, Item 1.

Accordingly, it is, on this 12th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-199, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to John Palazzo, t/a Victory Cafe, for premises 1301 Decatur Street, Camden, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. March 18, 1946, and terminating at 2:00 a.m. April 2, 1946.

ALFRED E. DRISCOLL  
 Commissioner.

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES TO A MINOR, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20 - PREVIOUS RECORD - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

CLUB RENDEZVOUS, INC. )  
58 Church Street )  
Paterson 1, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-287, issued by the Board of Alcoholic Beverage Control of the City of Paterson. )

Defendant-licensee, by William Arnold, President, Pro Se. Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant, through William Arnold, its President and holder of 89% of the corporate stock, has pleaded guilty to charges alleging the sale, service and delivery of alcoholic beverages to a minor, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

On January 18, 1946 the defendant's bartender served an eighteen-year-old minor with a glass of whiskey and a glass of beer.

William Arnold, who individually holds a consumption license for premises in Paramus, New Jersey, suffered a twenty-day suspension of that license in May 1945 upon his non vult plea to a charge alleging that he possessed several bottles of refilled liquor. See Bulletin 669, Item 4. The instant penalty will, therefore, be fixed at fifteen days, less five days for the plea, leaving a net suspension of ten days. Cf. C. I. Tarlow, Inc., Bulletin 436, Item 1; Re Sidwell, Inc., Bulletin 686, Item 9; Re Kauder, Bulletin 694, Item 3.

Accordingly, it is, on this 12th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-287, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Club Rendezvous, Inc., for premises 58 Church Street, Paterson, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. March 18, 1946, and terminating at 3:00 a.m. March 28, 1946.

ALFRED E. DRISCOLL  
Commissioner.

10. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against )

STANLEY ZBIKOWSKI )  
T/a STANLEY'S CAFE )  
1199 Chase Street )  
Camden, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-151, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden. )

Bruce A. Wallace, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensee pleads non vult to a charge alleging that, on January 16, 1946, he possessed a 4/5 quart bottle labeled "Four Roses A Blend of Straight Whiskies", which bottle contained an alcoholic beverage not genuine as labeled, in violation of R.S. 33:1-50.

Analysis by the Department chemist of the bottle in question disclosed variations in proof, solid content, acids and color when compared with an analysis of a genuine sample.

Defendant disclaims any knowledge of the fact that the bottle had been refilled. Even though personally innocent of the violation, a licensee is nonetheless strictly responsible for any "refills" discovered in his stock of liquor. Re Kurian, Bulletin 517, Item 2.

Defendant, with the exception of the instant violation, has an unblemished record. Therefore, a minimum suspension of his license for a period of fifteen days will be imposed. Re Rudolph, Bulletin 680, Item 1.

Accordingly, it is, on this 13th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-151, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Stanley Zbikowski, t/a Stanley's Cafe, for premises 1199 Chase Street, Camden, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. March 18, 1946, and terminating at 2:00 a.m. April 2, 1946.

ALFRED E. DRISCOLL  
Commissioner.

11. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PREVIOUS RECORD -  
LICENSE SUSPENDED FOR A PERIOD OF 60 DAYS.

In the Matter of Disciplinary )  
Proceedings against )  
JOSEPH WARDACH )  
T/a WARDACH'S CAFE )  
1448 Rose Street )  
Camden, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-162, issued by the )  
Municipal Board of Alcoholic )  
Beverage Control of the City of )  
Camden. )  
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Bruce A. Wallace, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

Defendant pleaded non vult to a charge alleging that he pos-  
sessed five bottles, to wit, a 4/5 quart bottle of "Canadian Club  
Blended Canadian Whisky", two 4/5 quart bottles of "Carstairs White  
Seal Blended Whiskey", and two 4/5 quart bottles of "Calvert Special  
Blended Whiskey", all of which contained alcoholic beverages not  
genuine as labeled, in violation of R. S. 33:1-50.

On December 28, 1945, a Federal ATU agent tested twenty-eight  
open bottles of liquor in the defendant's premises and seized the  
five bottles mentioned above. All five bottles were analyzed by  
the Federal Chemist and found to vary substantially in acid and  
solid content from genuine samples of the same products.

The licensee denies that he personally tampered with any of  
the doctored bottles and is unable to explain how the violation  
occurred. Although he personally did not participate in refilling  
any of the bottles in question, he nevertheless must assume complete  
responsibility for the condition of his liquor stock. Re Kurian,  
Bulletin 517, Item 2.

The number of bottles involved warrants a stern penalty for  
the instant violation. In addition, the defendant has heretofore  
suffered two suspensions of his license. In December 1938 he was  
penalized ten days for a Fair Trade infraction. See Bulletin 308,  
Item 11. In March 1942 the local issuing authority suspended his  
license for three days for sales during prohibited hours. Since  
neither of the prior offenses was aggravated and both are dissimilar  
in nature from the instant violation, the defendant will escape  
a revocation of his present license. Instead, a penalty of sixty  
days will be imposed, with a warning that a subsequent offense may  
well result in a total deprivation of his license privileges.

Accordingly, it is, on this 13th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-162, issued  
by the Municipal Board of Alcoholic Beverage Control of the City

of Camden to Joseph Wardach, t/a Wardach's Cafe, for premises 1448 Rose Street, Camden, be and the same is hereby suspended for a period of sixty (60) days, commencing at 2:00 a.m. March 18, 1946, and terminating at 2:00 a.m. May 17, 1946.

ALFRED E. DRISCOLL  
Commissioner.

12. APPELLATE DECISIONS - SUSSMAN v. BELLEVILLE AND REZZOLO - DISCONTINUED.

LOUIS SUSSMAN, )  
 )  
 Appellant, )  
 )  
 -vs- )  
 )  
 BOARD OF COMMISSIONERS OF THE )  
 TOWN OF BELLEVILLE, and )  
 SAVERIO FRANK RIZZOLO, )  
 )  
 Respondents )

ON APPEAL  
ORDER OF DISCONTINUANCE

Robert C. Gruhin, Esq., Attorney for Appellant.  
Lawrence E. Keenan, Esq., Attorney for Respondent,  
Board of Commissioners.  
Edward J. Abromson, Esq. and David Bernheim, Esq., Attorneys  
for Respondent, Saverio Frank Rizzolo.

BY THE COMMISSIONER:

This is an appeal from the issuance of a plenary retail consumption license to the respondent, Saverio Frank Rizzolo, for premises 382 Union Avenue, Belleville.

Subsequent to the filing of the appeal, the respondent Board issued a plenary retail consumption license to the respondent-licensee for premises 558 Washington Avenue, Belleville, upon condition that the license for premises 382 Union Avenue, Belleville, be surrendered.

Since the appeal has now become moot, the parties, through their respective attorneys, have agreed by formal stipulation that the appeal be withdrawn. No cause appearing to the contrary,

It is, on this 13th day of March, 1946,

ORDERED, that the within appeal be and the same is hereby discontinued.

ALFRED E. DRISCOLL  
Commissioner.

13. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 20 DAYS.

In the Matter of Disciplinary Proceedings against )

ALFRED and DOROTHY CHAPMAN )  
T/a AL CHAPMAN'S CAFE )  
1445 Haddon Avenue )  
Camden, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-68, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden. )  
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Bruce A. Wallace, Esq., Attorney for Defendant-licensees.  
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendants have pleaded non vult to a charge that they possessed illicit alcoholic beverages at their licensed premises in violation of R. S. 33:1-50.

On January 16, 1946 an inspector of the State Department of Alcoholic Beverage Control seized a 4/5 quart bottle labeled "Seagram's V. O. Canadian Whisky", a 4/5 quart bottle labeled "Gallagher & Burton's Black Label Blended Whiskey", and a 4/5 quart bottle labeled "Corby's Reserve Blended Whiskey", when his field test disclosed that the contents of said bottles were not genuine as labeled.

Subsequent analysis by the chemist employed by the Department of Alcoholic Beverage Control verified the findings of the inspector.

Alfred Chapman admits that he refilled the Seagram's V. O. Canadian Whisky bottle with Harwood Canadian Whisky. Both licensees declare that they cannot account for the other "refills."

As I have repeatedly pointed out, a customer is entitled to receive exactly what he orders. Re Leda, Inc., Bulletin 678, Item 1. No substitutions are permitted, even if the substitute is of a more expensive type of beverage. Licensees are, moreover, strictly responsible for all "refills" found in their stock of liquor. Re Kurian, Bulletin 517, Item 2.

This is a "three-bottle" case, the minimum suspension for which is twenty days. Licensees have no previously adjudicated record. I shall suspend their license for the minimum period of twenty days. Re Zeidner & Cohen, Bulletin 680, Item 2.

Accordingly, it is, on this 14th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-68, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Alfred and Dorothy Chapman, t/a Al Chapman's Cafe, for premises 1445 Haddon Avenue, Camden, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. March 20, 1946, and terminating at 2:00 a.m. April 9, 1946.

New Jersey State Library *Alfred E. Discol*  
Commissioner.