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

BULLETIN 757

APRIL 8, 1947.

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

BULLETIN 757

APRIL 8, 1947.

1. DISCIPLINARY PROCEEDINGS - PERMITTING LEWDNESS AND IMMORAL ACTIVITIES ON LICENSED PREMISES - SALE DURING PROHIBITED HOURS - NUISANCE - LICENSE REVOKED.

In the Matter of Disciplinary Proceedings against )

MICHAEL GRASSOT and ANTHONY OVECKA )  
T/a HOTEL 29 )  
Route 29 )  
Mountainside, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Mountainside. )  
----- )

Anthony A. Calandra, Esq., Attorney for Defendant-licensees.  
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

The defendants were served with the following charges:

"1. On Thursday night and early Friday morning, October 3 and 4, 1946, and on Saturday night, October 5, 1946, and on early Wednesday morning, October 9, 1946, you allowed, permitted and suffered lewdness and immoral activities in and upon your licensed premises, in violation of Rule 5 of State Regulations No. 20.

"2. On all the above mentioned occasions you allowed, permitted and suffered the licensed premises and the licensed place of business to be used in furtherance or aid of, or in connection with illegal activity, in violation of Rule 4 of State Regulations No. 20.

"3. On Wednesday morning, October 3, 1946, between 2:10 a.m. and 2:30 a.m., you sold, served and delivered, and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages on your licensed premises, in violation of Section 5 of an Ordinance adopted by the Mayor and Council of the Borough of Mountainside on June 12, 1945 which prohibits any such activity after 2:00 a.m.

"4. On all the above mentioned occasions, and continuously throughout, you allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in that you allowed, permitted and suffered all the foregoing violations to occur, and conducted the licensed place of business in a manner offensive to common decency and public morals, in violation of Rule 5 of State Regulations No. 20."

The defendants pleaded not guilty to charges (1), (2) and (4) and non vult to charge (3).

The licensed premises comprise an L-shaped building with bar, sitting room and lobby located along one side, and eight sleeping rooms available for hire to members of the general public along the other side.

Two ABC agents visited the licensed premises on Thursday, October 3, 1946. A sign in the barroom offered rooms for rent and advised prospective guests to "See your waiter, bartender, or Clara." One of the agents, in conversation with a waiter, inquired whether it was possible to hire a room, to which the waiter replied, "No, not until two a.m." When the agents then asked about a room for Saturday, adding that "We have a couple of girls coming up", the waiter said, "If it is hit-and-run, it's okay. You can have a room any time." The waiter also told the agents that it was not necessary to bring any baggage when renting a room.

Returning to the licensed premises on Saturday, October 5, 1946, the agents engaged Anthony Ovecko, one of the licensees, in conversation. They told him that they had "a couple of waitresses" whom they could see on Wednesday morning after 2:00 a.m., and that "we would like to know if we could get a room and bring them up for a couple of hours. We won't be long. We have to get them home before their husbands return home." Ovecko, although stating it was satisfactory, referred them to his partner, Michael Grassot, who "controls that". Ovecko then spoke with Grassot, who approached the agents. After repeating their previous conversation had with Ovecko, Grassot told the agents, "I will give you room three."

At the appointed time the agents returned to the licensed premises, arriving there shortly after 2:00 a.m. Entering the lobby, they observed Clara Grassot, wife of Michael Grassot, sitting at the desk. Introducing themselves as the persons who had spoken to her husband about a room, Clara responded, "Oh, yes, Room 3." The agents followed Clara to the room, which contained two double beds separated by a curtain suspended from the ceiling. When the agents objected, indicating that they desired separate rooms, Clara replied, "We call this adjoining rooms. That is all we have." The agents then took the room, one of them remarking, "I guess it will be all right. The girls aren't too particular." The agents then explained to Clara that they were expecting two waitresses, and asked her to direct them to the room when they arrived. Clara laughed and replied, "I hope they don't stand you up." The agents then broached the subject of registering for the room and Clara indicated that was not necessary but, if they did register, not to use "Smith or Brown. Everybody uses those names." One agent then signed his name, added "and companion", and gave his address as "Ohio", and the other signed "Mr. and Mrs. ---", using his name, with address "Newark". They then paid her \$8.00, representing \$2.00 for each of four persons, as rental for her room. Although it was now about eighteen minutes past two o'clock, the hour beyond which sales of alcoholic beverages are prohibited by local regulation, Clara served each of the agents with a drink of whiskey and also took their order for four more drinks, the agents explaining that the waitresses were expected momentarily. As Clara was departing to fill their order, one of the agents asked her if any "safeties" (contraceptives) were available, to which she responded, "I think there is some around. I will look."

Seconds later, additional investigators, accompanied by local police, entered the premises. One of the rooms was found to be occupied by an unmarried couple.

Written statements obtained from both Ovecko and Clara Grassot, and received in evidence, substantially corroborate the facts above outlined.

The proofs are plenary and persuasive that the licensees and their agent, Clara, knew of the ostensibly unlawful purpose for which the room was hired by the agents and, in renting the room with such knowledge, the licensees were guilty of permitting immoral activities on the licensed premises. The fact that no unlawful sexual intercourse followed the violation is immaterial on the question of the licensees' guilt. The offense under the first charge, as well as under charge (2), was complete when the room was rented with knowledge of the illicit purpose for which the room was to be used. Cf. State v. Berman, 120 N.J.L. 381 (Sup. Ct. 1938), where such evidence was considered pertinent in a criminal proceeding for keeping a disorderly house.

The term "immoral" is defined as "Not moral; inconsistent with rectitude, purity or good morals; contrary to conscience or moral law." It is synonymous with "indecent". See Webster's New International Dictionary, Second Edition, Unabridged. It is clear that the overt act of renting a room for illicit purposes is "immoral" within any of these definitions and constitutes immoral, and also illegal, activity within the intendment of the regulations in question. Indeed, such conduct involves the very commission of the immoral and illegal activity and, a fortiori, constitutes "allowing, permitting or suffering", the offenses embraced in the first two charges.

The circumstances surrounding these violations bear a marked similarity to those found in Re King, Bulletin 725, Item 9, although, perhaps, not on so large a scale. The outright revocation in that case was bottomed upon the principle that a licensee who deliberately encourages the practices and conditions analogous to those described herein is not worthy of retaining the privileges of a liquor license. The same result must follow in this case.

The foregoing determination renders it unnecessary to rule on the issue of whether the evidence sufficiently proves a violation of the "nuisance" regulation involved in charge (4) although I may say that it would be a fair inference that the licensed premises was one "where illegal practices are habitually carried on". Cf. State v. Berman, supra.

Accordingly, it is, on this 25th day of March, 1947,

ORDERED that Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Mountainside to Michael Grassot and Anthony Ovecko, t/a Hotel 29, for premises on Route 29, Mountainside, be and the same is hereby revoked, effective immediately.

ERWIN B. HOCK  
Deputy Commissioner.

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

2. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1ST 1946 TO MARCH 31ST 1947  
 AS REPORTED TO THE COMMISSIONER OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19.

C L A S S I F I C A T I O N O F L I C E N S E S

County	Plenary Retail Consumption		Plenary Retail Distribution		Club No. Issued	Fees Paid	Limited Retail Distribution		Seasonal Retail Consumption		Number Suren- dered Expired	Number Licen- ses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid			No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	487	\$192,848.39	64	\$1,756.00	12	\$1,126.78						563	\$215,731.23
Bergen	817	233,625.82	237	70,044.44	49	4,980.08	34	\$1,422.27	5	\$1,022.27	4	1188	361,104.88
Burlington	183	64,994.69	27	6,129.43	34	4,101.45	1	25.00			1	244	75,250.57
Camden	454	215,325.00	74	27,009.70	61	5,795.95			5	1,107.49	4	590	249,238.14
Cape May	131	62,427.37	11	3,505.00	12	1,200.00						154	67,132.37
Cumberland	81	30,936.57	12	3,100.00	28	3,648.56						121	37,685.13
Essex	1377	732,208.02	349	174,402.79	88	11,272.48	28	1,311.63				1842	919,201.92
Gloucester	107	30,700.00	13	2,484.40	11	741.52						131	33,925.92
Hudson	1565	678,321.49	290	113,317.80	63	7,527.72	59	2,300.94			1	1976	801,967.95
Hunterdon	80	21,182.07	3	558.08	4	500.00			1	100.00	1	87	22,340.15
Mercer	425	181,994.07	47	12,400.02	40	5,221.10			1	101.06	1	512	199,716.25
Middlesex	634	245,996.79	67	16,627.52	44	2,920.02	4	157.19				749	265,713.52
Monmouth	541	240,049.99	100	32,461.10	27	3,110.78	7	261.16	24	8,567.97	25	674	284,451.00
Morris	347	108,970.92	83	24,144.52	32	3,195.55	1	25.00	7	1,165.41	7	463	137,501.40
Ocean	183	90,911.77	40	15,476.00	10	937.26						233	107,325.03
Passaic	888	342,432.69	161	44,710.74	32	3,978.25	12	500.00			2	1091	391,621.68
Salem	49	16,300.00	5	700.00	9	775.00						63	17,775.00
Somerset	188	66,637.00	34	7,633.30	15	1,245.83						237	75,516.13
Sussex	168	39,058.69	12	1,915.00	4	210.00			1	180.01	1	184	41,563.70
Union	544	277,028.75	139	53,751.20	54	6,325.00	16	800.00	2	750.00	2	753	338,654.95
Warren	145	39,623.79	16	3,057.50	23	2,392.81	1	200.00	2	188.32	2	185	45,462.42
Totals	9394	\$3,961,575.88	1834	\$635,684.60	652	\$71,223.14	163	\$7,013.19	48	\$13,182.53	51	12,040	\$4,688,679.34

Respectfully submitted,

Erwin B. Hock, Deputy Commissioner.

Edward K. Leuzarder, Adm. Inspector.

3. DISCIPLINARY PROCEEDINGS - PERMITTING BRAWLS ON LICENSED PREMISES - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary Proceedings against )

HOWARD S. WENTZELL )  
T/a NEW DEAL CAFE )  
700 Mt. Vernon Street )  
Camden, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-165, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden. )  
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Anthony F. Marino, Esq., Attorney for Defendant-licensee.  
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

The defendant pleaded non vult to a charge alleging that, on November 22, 1946, he permitted a brawl upon his licensed premises, in violation of Rule 5 of State Regulations No. 20.

As is usually the case in this type of violation, the stories told by the participants and other witnesses are conflicting and it is extremely difficult to ascertain the true facts. The defendant claims to have been the victim of several holdups during recent years and contends that the patron, who received four bullet wounds from a revolver fired by the defendant, gave him cause for believing that he had intended to rob him. The record before me does not support the defendant's contention.

Whatever the provocation for the shooting, however, it is clear that the defendant lost complete control of his senses. Assuming, but not deciding, that a necessity existed for brandishing a revolver, no reasonable explanation is offered for firing four bullets at the patron who, fortunately, was not killed. The only conclusion that may be reached under the reported facts is that the defendant went berserk and, in his frenzied rage, forcibly exhibited an utter lack of his responsibilities as the proprietor of a privileged business. He is presently under indictment for assault with intent to kill.

In view of the foregoing, I was surprised to learn, upon examining the files, that the defendant has an otherwise clear record ever since he first became a liquor licensee with the advent of Repeal. Were it not for this fact, I would unhesitatingly direct an outright revocation of the license. Giving due weight, however, to the defendant's unblemished record over the past thirteen years, I shall suspend the license for the balance of the licensing year and permit the local issuing authority to determine, in the event that application therefor is made, whether he is worthy of receiving a renewal of his license privileges.

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

ORDERED that Plenary Retail Consumption License C-165, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Howard S. Wentzell, t/a New Deal Cafe, for premises at 700 Mt. Vernon Street, Camden, be and the same is hereby suspended for the balance of its term, effective immediately.

ERWIN B. HOCK  
Deputy Commissioner.

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

In the Matter of Disciplinary Proceedings against

ANGELO MONDELLI  
T/a ANDY'S CAFE  
101 W. Clements Bridge Rd.  
Runnemede, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-4, issued by the Mayor and Council of the Borough of Runnemede.

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

Defendant pleads 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 February 19, 1947, an ABC investigator seized a 4/5 quart bottle labeled "Liqueur Blended Scotch Whisky Vat 69" after a preliminary test of the contents of the bottle indicated that it was not genuine as labeled. Subsequent analysis by the Department Chemist disclosed differences in characteristics between the whisky described on the label and that contained in the bottle.

Defendant denies any knowledge relative to the violation. However, a licensee is responsible for any "refills" found in his stock of liquor. Re Kurian, Bulletin 517, Item 2.

Defendant has no prior adjudicated record. I shall, therefore, suspend his license for a period of fifteen days, less five days' remission for the plea entered herein, or a net suspension of ten days. Re Bressler, Bulletin 752, Item 12.

Accordingly, it is, on this 27th day of March, 1947,

ORDERED that Plenary Retail Consumption License C-4, issued by the Mayor and Council of the Borough of Runnemede to Angelo Mondelli, t/a Andy's Cafe, for premises 101 W. Clements Bridge Rd., Runnemede, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. April 7, 1947, and terminating at 2:00 a.m. April 17, 1947.

ERWIN B. HOCK  
Deputy Commissioner.

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

In the Matter of Disciplinary Proceedings against )

PETER V. SACCO )  
T/a LONG BRANCH INN )  
Morris and Third Avenues )  
Long Branch, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-30, issued by the Board of Commissioners of the City of Long Branch. )  
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Thomas D. Nary, Esq., Attorney for Defendant-licensee.  
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

Defendant pleaded non vult to a charge alleging that, on July 23, 1946, he possessed an illicit alcoholic beverage, to wit, a 4/5 quart bottle of "White Label Blended Scotch Whisky", which was not genuine as labeled, in violation of R. S. 33:1-50.

The defendant has no prior record. The usual fifteen-day penalty, with five days remitted for the plea, leaving a net penalty of ten days, will be imposed. Re Cable, Bulletin 754, Item 6.

Accordingly, it is, on this 27th day of March, 1947,

ORDERED that Plenary Retail Consumption License C-30, issued by the Board of Commissioners of the City of Long Branch to Peter V. Sacco, t/a Long Branch Inn, for premises at Morris and Third Avenues, Long Branch, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. April 1, 1947, and terminating at 2:00 a.m. April 11, 1947.

ERWIN B. HOCK  
Deputy Commissioner.

6. DISCIPLINARY PROCEEDINGS - PERMITTING THE CONSUMPTION OF ALCOHOLIC BEVERAGES BY A MINOR IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against )

S. J. ALDARELLI, INC. )  
T/a FREDA'S )  
612 Ridge Avenue )  
Asbury Park, N. J., )

CONCLUSIONS AND ORDER.

Holder of Plenary Retail Consumption License C-42, issued by the City Council of the City of Asbury Park. )

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Anshelewitz & Barr, Esqs., by Max M. Barr, Esq., Attorneys for Defendant-licenses.  
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

Defendant, through its attorney, pleaded not guilty to charges alleging that on Friday night, November 1, 1946, and early Saturday morning, November 2, 1946, it (1) sold alcoholic beverages upon the licensed premises to Seaman l/c William E. \_\_\_\_\_, a minor, in violation of R. S. 33:1-77, and (2) that it sold, served and delivered to, and allowed, permitted and suffered the consumption of alcoholic beverages by Seaman l/c William E. \_\_\_\_\_, a minor, on its licensed premises, in violation of Rule 1 of State Regulations No. 20.

Seaman l/c William E. \_\_\_\_\_ testified that he visited defendant's licensed premises in the company of two companions between 11:00 p.m. and 11:30 p.m. on Friday, November 1, 1946, and that they occupied a booth in the restaurant section thereof; that a waitress placed a glass of water on the table in front of each of the group, at which time his male companion ordered a pitcher of beer; that subsequently the waitress placed a pitcher of beer on the table and that he drank two or three glasses of beer poured from said pitcher. He further testified that he was not questioned by anyone concerning his age.

The minor's testimony, especially with regard to consuming beer on defendant's premises at the time in question, was corroborated by the testimony of Joseph Turtora, his male companion aforementioned.

The waitress who served the pitcher of beer testified that she recalled the occasion hereinabove referred to and admitted that she believed Seaman William E. \_\_\_\_\_ to be under the age of twenty-one years. She stated, however, that she did not see him consume any beer during that evening. This waitress further testified that Turtora had given her the order for the beer and that, as she placed the pitcher of beer in front of him, Turtora said, "This is for me."

I am satisfied from the evidence presented that Seaman l/c William E. \_\_\_\_\_ consumed beer on the licensed premises at the time alleged. Although the aforementioned employee of defendant did not serve beer directly to the minor, her action in placing the pitcher of beer on the table under the circumstances hereinabove related made it possible for said minor to obtain the beer for his own use. As in Re Essex Holding Co., Bulletin 727, Item 3, the method here employed in serving the beer made it available to all persons seated at the table, including the minor, without proper safeguards against the consumption thereof by said minor.

The evidence does not warrant a finding of guilt on charge (1) in that it fails to disclose a sale, technical or otherwise, of alcoholic beverages by defendant to the minor, and said charge is hereby dismissed. See R. S. 33:1-1(w) and Re Essex Holding Co., supra. However, I find defendant guilty of charge (2) in so far as said charge alleges that defendant allowed, permitted and suffered the consumption of alcoholic beverages by the minor on its licensed premises at the time in question, in violation of Rule 1 of State Regulations No. 20. Inasmuch as no aggravating circumstances appear in the instant case, and furthermore since defendant has no previous adjudicated record, I shall suspend defendant's license for a period of ten days.

Accordingly, it is, on this 27th day of March, 1947,

ORDERED that Plenary Retail Consumption License C-42, issued by the City Council of the City of Asbury Park to S. J. Aldarelli, Inc., t/a Freda's, for premises at 612 Ridge Avenue, Asbury Park, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. April 7, 1947, and terminating at 2:00 a.m. April 17, 1947.

ERWIN B. HOCK  
Deputy Commissioner.

7. APPELLATE DECISIONS - MARTIN v. HOBOKEN.

WILLIAM MARTIN, trading as )  
BILL MARTIN'S INN, )  
Appellant, )  
-vs- )  
BOARD OF COMMISSIONERS OF THE )  
CITY OF HOBOKEN, )  
Respondent )

ON APPEAL  
ORDER OF DISCONTINUANCE

I. Charles Lifland, Esq., Attorney for Appellant.  
John J. Fallon, Esq., Attorney for Respondent.

This is an appeal from the revocation of the plenary retail consumption license issued to the appellant for the current licensing year for premises 94 Clinton Street, Hoboken, N. J.

On January 31, 1947, upon the filing of the Notice and Petition of Appeal, an order was entered providing that the revocation of the license shall not be stayed pending the appeal. See R.S. 33:1-31.

Prior to hearing, the appellant has requested that he be permitted to withdraw the appeal, and the respondent has signified that it has no objection thereto. Since no reason appears to the contrary,

It is, on this 27th day of March, 1947,

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

ERWIN B. HOCK  
Deputy Commissioner.

8. SEIZURE - FORFEITURE PROCEEDINGS - STOCK OF ALCOHOLIC AND OTHER BEVERAGES, FIXTURES AND FURNISHINGS IN FORMER TAVERN ORDERED FORFEITED BECAUSE OF UNLAWFUL SALE OF ALCOHOLIC BEVERAGES THEREIN - EQUIPMENT ADAPTABLE FOR BUT NOT ACTUALLY USED IN SPEAKEASY ACTIVITIES NOT EXEMPT FROM FORFEITURE - OWNER'S APPLICATION FOR RETURN OF LIQUOR AND EQUIPMENT DENIED.

In the Matter of a Seizure on	)	Case No. 7066
November 1, 1946, of a quantity	)	
of alcoholic beverages, fixtures	)	
and furnishings and other personal	)	
property, at premises occupied by	)	ON HEARING
Joseph and Anna Balsamo, located	)	CONCLUSIONS AND ORDER
on Park Avenue, in Belford, Middletown	)	
Township, County of Monmouth and State	)	
of New Jersey.	)	

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Haydn Proctor, Esq., Attorney for Anna Balsamo.  
 Harry Castelbaum, Esq., appearing for the Department of Alcoholic Beverage Control.

This matter has been heard pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes, to determine whether a quantity of alcoholic beverages and fixtures, furnishings and other personal property, described in a schedule attached hereto, seized on November 1, 1946 at premises occupied by Joseph and Anna Balsamo, located on Park Avenue, in Belford, Middletown Township, New Jersey, constitute unlawful property and should be forfeited.

It appears that Anna Balsamo conducted a tavern at the premises from 1939 until June 30, 1944, when the municipality refused to renew her license.

The tavern was on the first floor of a converted farm house with one bar in a front room and another in a rear room. Between the bar rooms there was a service room, with tables and chairs. The Balsamos resided on the upper floors of the building, although they had a kitchen on the first floor. The rooms and the equipment therein remained unchanged after Mrs. Balsamo's license expired except that she used one room on the first floor as a bedroom.

The Department received a specific complaint that alcoholic beverages were being sold at the premises, despite the fact that it was no longer licensed. Accordingly, on October 31, 1946, at about 7:30 p.m., an ABC agent entered the premises with a companion, took seats in the service room and there purchased a number of drinks of whiskey and a bottle of wine from Joseph Balsamo. The agent and his companion returned to the premises about 10:00 p.m. on the same day and this time the agent bought drinks of whiskey for himself, his companion and another patron who was there. The agent left without disclosing his identity.

On November 1, 1946 this agent, and two companions, entered the premises, took seats in the service room, and purchased from Joseph Balsamo two drinks of whiskey and a glass of wine, and then ordered another round of drinks consisting of two drinks of rum and a bottle of Ballantine beer. From where the agent was seated, he observed Balsamo go through a small room and approach a closet but was unable to observe definitely where Balsamo obtained the alcoholic beverages which he served to the agent. Shortly afterward, by prearrangement, other ABC men entered the place and arrested Balsamo on charge of selling alcoholic beverages unlawfully.

The agents seized 69 bottles of various types of alcoholic beverages and a case of Ballantine beer in a closet underneath a stairway

leading from the first floor to the upper floors. About 84 cases of alcoholic beverages (each case having 12 - 4/5 quart bottles) and a quantity of "Guinness Stout" were seized in a locked closet in the attic. In addition, the agents seized a considerable quantity of "Royal Crown Cola" and some other soda, and a large number of empty soda bottles, in the rear barroom, and the fixtures, furnishings and equipment in the front and back barrooms and service room.

When the matter came on for hearing pursuant to R.S. 33:1-66, Anna Balsamo appeared with counsel and sought return of all of the seized property except the alcoholic beverages found in the closet on the first floor.

It is frankly admitted by Mrs. Balsamo that her husband sold alcoholic beverages to the ABC agent on the occasions in question. Her contention is that her property should not be forfeited (1) because the alcoholic beverages in the attic were her stock of liquor when her license expired, stored in the attic in the hope that some day she would obtain a license and be able to sell the beverages; that they were not for her personal consumption; that she is not the owner of the beverages found in the closet on the first floor, did not know or have any reason to suspect they were there or that her husband was selling alcoholic beverages and (2) that, in any event, neither the alcoholic beverages in the attic nor the equipment in the barrooms were used in any manner whatsoever in connection with the unlawful sales of alcoholic beverages in the service room by her husband.

The facts amply warrant the conclusion that at least the alcoholic beverages found in the first floor closet were intended to be sold unlawfully at the premises. Hence, such alcoholic beverages are illicit (R.S. 33:1-1(i)) and, together with all other alcoholic beverages and the furniture, furnishings and other personal property seized therewith in the building, constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66. It should be noted that the alcoholic beverages in the attic, intended for ultimate resale by Mrs. Balsamo, likewise are technically illicit by reason of an independent violation of the law, in that they were stored there without any license or permit from the State Department of Alcoholic Beverage Control.

Under R. S. 33:1-66(e) and (f), I have the discretionary authority to return property subject to forfeiture to a person who has established to my satisfaction that he acted in good faith and (1) unknowingly violated the law or (2) had no knowledge of the unlawful use to which the property was put or of such facts as would have led a person of ordinary prudence to discover such use.

It is difficult to accept Mrs. Balsamo's claim that she was unaware of her husband's illegal liquor activities in her home. Her husband formerly tended bar at her tavern. The logical implication is that they continued to sell alcoholic beverages after she lost her license. It is well nigh impossible to believe her story that, although they were on the friendly terms natural between husband and wife, when she discussed the matter with her husband after his arrest, he, in her words, "just did not give me any satisfactory answer. He didn't answer me -- he just walked away". She says that she has since not been able to get a satisfactory answer from her husband as to why he sold liquor there. Mrs. Balsamo did not call her husband to testify in her behalf at the hearing.

On the other hand, Mrs. Balsamo's admission that she kept her stock of liquor in the first floor closet when operating the tavern, and that she was in the place on November 1st and observed the agent

and his companions in the service room tends strongly to indicate that she knew what was going on. Her claim that she did not know whether the agent was drinking and assumed that the strangers were there to use the telephone is too pat to carry conviction.

There has been no convincing evidence presented to overcome the presumption referred to in Seizure Case 6390, Bulletin 731, Item 5, that, as between husband and wife, each knows of the other's misdeeds, especially those taking place in the home. Cf. Seizure Case 7003, Bulletin 731, Item 5.

Consequently, so far as forfeiture is concerned, it is as if Mrs. Balsamo personally made the unlawful sales of alcoholic beverages. Mrs. Balsamo then urges, in effect, that if this is so, it is unduly oppressive to forfeit such of her property as was not actually in use in the unlawful enterprise.

It is perfectly clear that equipment which is part and parcel of a speakeasy is to be forfeited under R.S. 33:1-66. Cf. Seizure Case 6898, Bulletin 687, Item 1. This includes all equipment within the four walls of a speakeasy. Mrs. Balsamo seeks to have me make a distinction between the equipment in the room in which alcoholic beverages are unlawfully sold, concededly subject to forfeiture, and other equipment, adaptable for use in the unlawful enterprise, which she urges should not be forfeited because it was in the adjacent rooms or upstairs and allegedly not actually used in furtherance of such illegal enterprise.

This is a refinement which would fritter away effective enforcement of the forfeiture provisions of the law. It is speculative, difficult to determine, and not material to decision in the case whether any specific item subject to forfeiture, especially items commonly used in dispensing liquor, were or were not actually used for that purpose. A contention similar in principle was rejected in Seizure Case 7003, supra.

The practical difficulty of any such determination is illustrated by the instant case. I only have Mrs. Balsamo's word that the liquor in the attic was not intended for sale in the speakeasy, yet the natural temptation would be to sell it there. She says that it was stored in her attic since June 1944, yet she did not, at any time, demonstrate her good faith by reporting it to the State Tax Department, Beverage Tax Division, as stock on hand left over from the tavern, or by applying to this Department for a permit authorizing its storage there.

I am not impressed with Mrs. Balsamo's claim that the equipment in the barrooms was to be used by her in a lunchroom which she intended to open in the premises. There is no reasonable explanation as to why she did not carry out that intention since the tavern was closed in 1944. Similarly, it is open to doubt whether the barroom equipment had never been used since 1944 in the speakeasy activities. If not, in fact, used for that purpose up to the time of seizure, it was readily available for use in any expansion of the speakeasy activities.

Although it is not a factor in the case, the loss of the liquor, which has considerable value, and the barroom equipment, of lesser value, while a substantial financial penalty, will not impoverish Mrs. Balsamo inasmuch as she testified that her husband has been steadily employed since 1944 as a longshoreman earning from \$50.00 to \$270.00 a week. Loss of such property is well deserved when a former licensee continues to sell alcoholic beverages after the license has expired.

Careful consideration of all of the evidence in the case compels me to conclude that Mrs. Balsamo did not act in good faith in that either she knowingly violated the law, or knew or should have known, that her husband was violating the law. Consequently, her application for return of the seized property is denied.

Accordingly, it is DETERMINED and ORDERED that the seized property more fully 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 such forfeited property be sold, in whole or in part, at public sale for use of the State, subject to the rules and regulations governing such sale, or be destroyed or retained for the use of hospitals and State, county or municipal institutions, whichever the State Commissioner of Alcoholic Beverage Control may hereafter determine to be for the best interest of the State.

ERWIN B. HOCK  
Deputy Commissioner.

Dated: March 27, 1947.

SCHEDULE "A"

- 50 cases (12 - 4/5 qts. ea.) of various brands of alcoholic beverages
- 421 - bottles of various brands of alcoholic beverages
- 194 - bottles of beer
- 12 - 1/2 pts. of bitters
- 2 - jugs wine
- 35 - bottles soda
- 40 - chairs and stools
- 16 - tables
- 1 - frigidaire and freezing unit
- 2 - bars
- 1 - microphone
- 1 - clock
- 1 - piano
- 1 - National Cash Register, Serial No. A336-S-25952
- 1 - electric fan
- 1 - H-B Dishwasher
- 4 - stainless steel sinks
- 1 - magic flo beer dispensing unit
- 2 - electric compressors
- 2 - stainless steel coolers
- 1 - ice tray container
- 1 - Kramer Coolmaster
- 1 - Little American electric slicer
- 2 - loud speakers
- 1 - air compressor
- 11 - cartons empty glasses
- 794 - empty soda bottles

9. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

BERSON'S INC. )  
369 West Market Street )  
Newark 7, N. J., )

CONCLUSIONS AND ORDER

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

Berson's Inc., Defendant-licensee, by Saul Berson, Secretary. Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant pleads non vult to a charge alleging that it sold a 4/5 quart bottle of Park & Tilford Reserve Blended Whiskey below the established Fair Trade price, in violation of Rule 6 of State Regulations No. 30.

On March 14, 1947, an employee of defendant corporate licensee sold the product in question to an ABC agent for the sum of \$3.40, whereas the minimum retail price of said item, as established in Bulletin 751, effective March 3, 1947, was \$3.50.

Defendant has no previous adjudicated record. Inasmuch as the violation herein does not appear to be an aggravated one, I shall suspend defendant's license for a minimum period of ten days, less five days for the plea, or a net suspension of five days. Re Mack Drug Co., Inc., Bulletin 695, Item 9.

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

ORDERED that Plenary Retail Distribution License D-20, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Berson's Inc., 369 West Market Street, Newark, be and the same is hereby suspended for a period of five (5) days, commencing at 9:00 a.m. April 7, 1947, and terminating at 9:00 a.m. April 12, 1947.

ERWIN B. HOCK  
Deputy Commissioner.

10. ACTIVITY REPORT FOR MARCH, 1947

ARRESTS:

Licensees and employees - - - - - 3 Bootleggers - - - - - 11  
 Total number of persons arrested - - - - - 14

SEIZURES:

Still - Over 50 gallons - - - - - 1  
 Brewed malt beverages - gallons - - - - - 85.35  
 Distilled alcoholic beverages - gallons - - - - - 4.26  
 Illicit alcohol - gallons - - - - - 123.12  
 Wine - gallons - - - - - 209.60  
 Mash - gallons - - - - - 464.02

RETAIL LICENSEES:

Total number of premises inspected - - - - - 920  
 Total number of premises where alcoholic beverages were gauged - - - - - 679  
 Total number of bottles gauged - - - - - 10,788  
 Total number of premises where violations were found - - - - - 55  
 Total number of violations found - - - - - 87  
 Type of violations found:  
 Unqualified employees - - - - - 22 Disposal permit necessary - - - - - 6  
 Illicit liquor - bottles - - - - - 16 Prohibited signs - - - - - 3  
 Gambling devices - - - - - 15 Probable fronts - - - - - 2  
 Regulations 38 sign not posted - - - - - 10 Other violations - - - - - 4  
 Other mercantile business - - - - - 9

STATE LICENSEES:

Premises inspected - - - - - 11  
 License applications investigated - - - - - 14

COMPLAINTS:

Complaints assigned for investigation - - - - - 287  
 Complaints investigated, reviewed and closed - - - - - 316  
 Investigations completed - not closed administratively - - - - - 12  
 Investigations assigned, not yet completed - - - - - 185

LABORATORY:

Analyses made - - - - - 120  
 "Shake-up" cases (alcohol, water and artificial color) - bottles - - - - - 10  
 Liquor found to be not genuine as labeled - bottles - - - - - 18

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made - - - - - 17  
 Persons fingerprinted for non-criminal purposes - - - - - 201  
 Identification contacts made with other enforcement agencies - - - - - 178  
 Motor vehicle identifications via N.J. State Police Teletype - - - - - 6

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - - 14  
 Violations involved:  
 Sale during prohibited hours - - - - - 7 Permitting gambling on premises - - - - - 1  
 Sale to minors - - - - - 5 Sale outside scope of license - - - - - 1  
 Sale to non-members by clubs - - - - - 2 Sale to intoxicated persons - - - - - 1  
 Cases instituted at Department - - - - - 23  
 Violations involved:  
 Possessing illicit liquor - - - - - 9 Hindering investigation - - - - - 1  
 Sale under Fair Trade price - - - - - 7 Permitting gambling on premises - - - - - 1  
 Sale during prohibited hours - - - - - 4 Possessing chilled beer (CL licensee) - - - - - 1  
 Fraud and front - - - - - 2 Purchase from improper source - - - - - 1  
 Premises connected with illegal activity (slot machines) - - - - - 2 Sale outside scope of license - - - - - 1  
 Failure to afford view of premises - - - - - 1 Sale to non-members by clubs - - - - - 1  
 During curfew - - - - - 1  
 Cases brought by municipalities on own initiative and reported to Department - - - - - 10  
 Violations involved:  
 Sale to minors - - - - - 6 Licensee working while drunk - - - - - 1  
 Sale during prohibited hours - - - - - 3 Permitting gambling on premises - - - - - 1

HEARINGS HELD AT DEPARTMENT:

Total number of hearings held - - - - - 49  
 Appeals - - - - - 8 Seizures - - - - - 5  
 Disciplinary proceedings - - - - - 22 Applications for license - - - - - 5  
 Eligibility - - - - - 7 Tax revocations - - - - - 2

PERMITS ISSUED:

Total number of permits issued - - - - - 854  
 Employment - - - - - 128  
 Solicitors - - - - - 168  
 Social affairs - - - - - 262  
 Disposal of alcoholic beverages - - - - - 184  
 Special wine - - - - - 2  
 Miscellaneous permits - - - - - 110

ERWIN B. HOCK  
 Commissioner

## 11. STATE LICENSE - NEW APPLICATION FILED.

Meseck Steamboat Co., Inc.

SS John A. Meseck

Pier B, foot of Grand St., Jersey City, N. J.

Application for Plenary Retail Transit License filed  
April 7, 1947.

ERWIN B. HOCK  
Commissioner.

## 12. WHOLESALE PRICES - RULING WHICH FREEZES WHOLESALE PRICES UNTIL JUNE 1, 1947 MODIFIED TO PERMIT SUPPLEMENTAL INFORMAL FILINGS TO BECOME EFFECTIVE MAY 1, 1947.

## TO MANUFACTURERS AND WHOLESALERS:

In a further study of market conditions, it has been revealed that the Department's ruling of March 24th, wherein all wholesalers' prices now on file were frozen until publication of the complete wholesale price pamphlet effective June 1, 1947, may possibly impose hardships on both wholesalers and retailers in those cases where the wholesalers wish to file price reductions or increases or list new items to be effective during the month of May.

Accordingly, the ruling is herewith modified to permit wholesalers to submit an informal filing by letter not later than April 10, 1947 of any supplemental price reductions or increases on any brand or to list new items, which listings may become effective on May 1, 1947.

The modification of the ruling in no way affects the requirement for filing complete new price and discount statements on or before April 15th to be published in the complete wholesale price pamphlet effective June 1, 1947.

Dated: April 2, 1947.

*Erwin B. Hock*  
Commissioner.