

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

BULLETIN 328

JULY 3, 1939.

1. SEIZURES - CONFISCATION PROCEEDINGS - PADLOCK ORDERED.

In the Matter of the Seizure of )  
a still at 1814 Baltic Avenue, ) On Hearing  
in the City of Atlantic City, )  
County of Atlantic and State ) CONCLUSIONS AND ORDER  
of New Jersey. )  
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No Appearances.

Investigators of this Department seized an unregistered alcohol distillery being operated by Barney Loffland in an apartment on the second floor of a dwelling at 1814 Baltic Avenue in Atlantic City. The still equipment, seventeen fifty-gallon barrels of mash, fifty-five gallons of illicit alcohol, and paraphernalia appurtenant to the still (described in Schedule "A" annexed hereto) were seized as unlawful property under the provisions of R.S. Title 33, Chapter 2.

At a hearing duly held to determine whether the seized articles should be confiscated and the premises padlocked, no one appeared to contest the proceedings.

Under the statute, an unregistered still and articles used or adaptable for use in connection therewith are subject to confiscation, and, in addition, a padlocking penalty may be imposed upon the premises in or upon which such still is found. No cause was shown at the hearing why confiscation and padlocking should not result in the instant case.

However, after the hearing, a firm of accountants advised this Department that Charles I. Burkhardt, the owner of the realty, desired to avoid padlocking of the premises. They were advised that the Commissioner would accept Mr. Burkhardt's verified petition setting forth certain facts pertinent to the determination as to whether the premises should be padlocked.

Instead of submitting a verified petition, the accountants submitted their letter in which they set forth various alleged facts which were patently hearsay and, in addition, were not sworn to. The accountants were advised that their letter could not be accepted and were instructed to have Mr. Burkhardt submit either his affidavit or that of his real estate agent.

Thereafter, the accountants forwarded Mr. Burkhardt's affidavit in which he stated, in effect, that B. C. Lynch, Inc. has sole charge of the property; and also forwarded a letter from B.C.Lynch, Inc. to Charles I. Burkhardt, which letter is signed "B. C. Lynch, Inc." and is purportedly sworn to before a Notary Public.

It is thus evident that Mr. Burkhardt has made no personal effort to avoid padlocking despite repeated opportunities afforded to him. The correspondence has been entirely with his accountants, who cannot properly represent him in these proceedings, and no sworn statement of the pertinent facts, made by the person having knowledge thereof, has been submitted.

Moreover, even from the facts appearing informally from the correspondence, the premises should be padlocked. When Barney Loffland, the occupant of the premises at the time of the seizure, was arrested, he stated that he had operated the still on the premises in question since about November 1, 1938.

The letter signed "B. C. Lynch, Inc." sets forth in part that it accepted a deposit for the apartment in the first part of December 1938, and was to have collected the balance on January 15, 1939; that the premises were visited thereafter on several occasions, but no one was found therein, and assumed that the place was vacant.

In a previous letter from the accountants, they stated that one Annie Smith was the tenant who took possession on December 1, 1938, and vacated on January 15, 1939, two weeks before the seizure.

These contradictory statements indicate an uncertainty as to what really had occurred. Even if the real estate agency's version is accepted, it discloses its culpable lack of supervision over the premises if, as it claims, it was unaware that a still was being operated therein for about three months, despite the fact that another tenant resides in the first floor apartment.

In view of the foregoing, the owner of the realty has not shown any cause why the padlocking penalty should not be imposed.

Accordingly, it is the Commissioner's determination and order that the seized property constitutes unlawful property, is forfeited in accordance with the provisions of R. S. Sec. 33:2-5, and shall be retained for the use of hospitals, and State, County and municipal institutions, or may be destroyed in whole or in part, at the direction of the Commissioner.

It is the Commissioner's further order that the dwelling located at 1814 Baltic Avenue, in the City of Atlantic, County of Atlantic and State of New Jersey, being the building in which the still was found, shall not be used or occupied for any purpose whatsoever, for a period of six months, commencing the 30th day of June, 1939, and terminating the 30th day of December, 1939.

D. FREDERICK BURNETT,  
Commissioner.

Dated: June 24, 1939.

2. SEIZURES - CONFISCATION PROCEEDINGS - PADLOCK WAIVED.

In the Matter of the Seizure )  
of a still and a quantity of alco- )  
holic beverages at 408-25th Street, )  
in the City of Union City, County )  
of Hudson and State of New Jersey. )  
- - - - -

On Hearing  
CONCLUSIONS AND ORDER

Appearances:

Samuel Moskowitz, Esq., Attorney for George Bakalian.

Police officers of Union City discovered an unregistered still and a quantity of illicit alcohol (described in Schedule "A" annexed hereto), in George Bakalian's home at 408 - 25th Street, Union City. They seized the still and alcohol as unlawful property under the provisions of R. S. Title 33, Chapter 1, and turned them over to this Department.

At a hearing duly held to determine whether the still and alcohol should be confiscated, and the premises padlocked, no one appeared to contest the proceedings.

Under the statute, an unregistered still and illicit alcohol are subject to confiscation and, in addition, a padlocking penalty may be imposed upon the premises in or upon which such still is found. No cause was shown at the hearing why confiscation and padlocking should not result in the instant case.

Subsequent to the hearing, George Bakalian, the owner of the realty, sought to avoid padlocking of the premises. In his verified petition submitted by his counsel, he sets forth that he has owned the premises for the past ten years; occupies one of the apartments with his family; and conducts a small pastry business in the basement; that he is in straitened financial circumstances and if he is evicted it will be detrimental to his business and impair his means of earning a livelihood as well as deprive him of his home; that previously he has never been connected with or involved in any violation of the liquor law; and that he manufactured a small quantity of liquor for his own use, unaware that it was illegal to do so.

It therefore appears that George Bakalian's present eviction would result in undue hardship, and, in view of the other penalties provided for by law, the interests of society would seem to be best served by permitting him to remain in the premises.

Accordingly, it is the Commissioner's determination and order that the seized property constitutes unlawful property, is forfeited in accordance with the provisions of R. S. Sec. 33:2-5, and shall be retained for the use of hospitals and State, County and municipal institutions, or may be destroyed in whole or in part, at the direction of the Commissioner.

D. FREDERICK BURNETT,  
Commissioner.

Dated: June 24, 1939.

3. DISCIPLINARY PROCEEDINGS - NEWARK LICENSEES - SALES AFTER HOURS.

In the Matter of Disciplinary Proceedings against )

HORSE KLEIN, INC., )  
275 Halsey Street, )  
Newark, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-815, issued by the )  
Municipal Board of Alcoholic Beverage Control of the City of )  
Newark. )

----- )

Horse Klein, Inc., by Samuel Klein, President.  
Samuel B. Helfand, Esq., Attorney for the Department of  
Alcoholic Beverage Control.

BY THE COMMISSIONER:

Licensee has pleaded guilty to charges of selling and serving alcoholic beverages at its licensed premises, and also of having its licensed premises open, on Saturday, June 3, 1939, between the hours of three o'clock A.M. and seven o'clock A.M. (Daylight Saving Time), both contrary to Section 1 of Ordinance #3930, adopted December 21, 1938 by the Board of Commissioners of the City of Newark.

The usual penalty for each violation is five days, or a total of ten days.

By entering this plea in ample time before the day fixed for hearing, the Department has been saved the time and expense of proving its case. The license will, therefore, be suspended for five days instead of ten days.

Accordingly, it is, on this 26th day of June, 1939,

ORDERED, that Plenary Retail Consumption License C-815, heretofore issued to Horse Klein, Inc. by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended until the end of its term, effective June 29, 1939, at midnight (Daylight Saving Time); and it is

FURTHER ORDERED, that no further license be issued to it or for said premises prior to July 5, 1939.

D. FREDERICK BURNETT,  
Commissioner.

4. SPECIAL PERMITS - IN RESPECT TO RENEWAL LICENSES WHERE LICENSE ISSUING AUTHORITY HAS NEITHER GRANTED NOR DENIED APPLICATION FOR RENEWAL - HEREIN OF CAMP NORDLAND.

In the Matter of )  
AUGUST KLAPPROTT, )  
T/a Camp Nordland )  
- - - - - )

On Petition for Special Permit

CONCLUSIONS

BY THE COMMISSIONER:

It appears from the petition that Klapprott now holds a plenary retail consumption license issued by the Township Committee of Andover for premises known as Camp Nordland, which is owned and used by the German-American Bund Auxiliary; that application was filed for the renewal of his license with the Township Committee on June 10th, accompanied by payment of the full annual fee and evidence of the Federal special tax stamp; that notice of the application was published on June 15th and June 22nd; that on appearing before the Township Committee on June 24th he was informed that objections had been filed to the issuance of the license and that the Township Committee had set June 29th for hearing on the objections; that the hearing commenced at 10:00 A.M. on June 29th and was adjourned at 6:00 P.M. until July 3rd; that at the time of adjournment but a small portion of the objectors' testimony had been taken; that petitioner believes that the objectors' testimony will consume at least two or three more days and that petitioner's testimony will require at least seven days; that petitioner has conducted his business for a period of two years in a lawful manner and has never committed a violation of the law or rules or municipal regulations; that he has a large restaurant and has owned large stocks of alcoholic beverages to meet his anticipated trade, which at times approximates 5,000 persons per day, and that he has invested large sums of money to establish the good will of the business.

Petitioner therefore requests a special permit to authorize continuance of the business until the matter can be adjudicated.

The request is reasonable and the facts alleged warrant the relief as prayed.

Klapprott is entitled to his full day in court, whatever kind of a place he ran or purposes to conduct. The practice of convicting a man before he is tried is a dangerous business in a democracy.

D. FREDERICK BURNETT,  
Commissioner.

Dated: June 30, 1939.

5. PENDING LEGISLATION - PROHIBITION OF TRANSFERS UNLESS TRANSFERORS' DEBTS ARE PAID - REPORT AND RECOMMENDATIONS RE ASSEMBLY 530.

April 24, 1939

Hon. S. Emlen Stokes, Chairman,  
Assembly Alcoholic Beverage Control Committee,  
Moorestown, N. J.

My dear Dr. Stokes:

Re: Assembly 530

Herewith report pursuant to your request for opinion:

This bill seeks to prohibit transfers unless the transferor's debts are paid or are assumed by the transferee with the approval of two-thirds of the creditors who are manufacturers and wholesalers of alcoholic beverages.

When the Control Act was originally enacted, no transfers were allowed. This absolute restriction was deemed unfair to retail licensees and consequently the act was amended to allow transfers upon compliance with the statutory requirements. During the past few years manufacturers and wholesalers have made many complaints to the effect that retailers have transferred their licensed businesses to others without paying their debts or making satisfactory arrangements for their payment. They have advanced the contention that permitting such action is unfair to them, particularly since, unlike creditors in other businesses, they are prohibited by law from obtaining security by way of chattel mortgages, etc. on the goods of the retailers. The proposed bill is designed, therefore, to afford to them a substitutionary measure of protection. I do not believe that the tied house or any other substantial control consideration is in reality involved. The primary question would appear to be whether, as a matter of legislative policy, the special protection sought by the manufacturers and wholesalers in the collection of their civil claims should be afforded to them.

I do not recommend this bill but have no objection to its enactment.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

May 23, 1939

Neil F. Deighan, President,  
New Jersey Licensed Beverage Association,  
Palmyra, N. J.

Dear Mr. Deighan:

Re: Assembly 530

I have your suggested amendment of the 19th.

The bill as written provides that no application for transfer from person to person shall be granted unless all of the licensee's debts to manufacturers and wholesalers of alcoholic beverages have been fully paid, or, in the alternative, that the applicant has entered into an agreement, accepted by two-thirds in number and amount of such creditors, to pay all such debts if the application is granted.

That is class legislation. It protects only manufacturers and wholesalers. Therefore, I could not recommend it.

However, unlike creditors in other lines of business, manufacturers and wholesalers of alcoholic beverages are prohibited by law from taking security from their debtors — for instance, they cannot take a chattel mortgage on the goods of retailers either to secure past indebtedness or future advances of credit. That presents a meritorious case. I therefore declared I had no objection if the Legislature should decide to give this particular class of creditors a special protection in substitution for the common law remedy of which they have been deprived.

Your suggestion that the bill be amended to prevent transfer unless and until all debts are paid eliminates the aforesaid discriminatory feature so that the bill no longer would be class legislation, but it brings to the surface other highly objectionable features which would make it my duty to disapprove the bill entirely.

Here is the point:— The moment the bill is broadened to include all debts, a veritable flood of contention may arise on any application for transfer which has nothing whatsoever to do with alcoholic beverages. Let us take the very illustrations you make — rent, light, ice and food products. If rent is due, the landlord must be paid. But suppose question arises as to just how much rent is due, or, if that is admitted, then suppose the tenant counter-claims for breach of the landlord's obligations to heat or light or repair and seeks to set that off in deduction. So as to electric light or ice furnished:— Suppose there is a dispute as to the reading of the meter or the quantity delivered, or a question of payment or lack of authority in placing the order. As to the food products, think of the thousand and one questions that can arise: goods not delivered on time or not according to sample or specification or not appropriate for the purpose for which bought or defective in any way.

So also as to determining the validity and amount of guaranties or indirect obligations, acceleration of maturity, the disposition and realization upon collateral, or the determination of priorities as between judgment and execution creditors as against simple contract creditors or whether alimony is due the tavern-keeper's wife, and if so, how much.

And what about a case where a retailer cannot raise the cash to pay his debts in full? What is his status if insolvent? And what about bonds secured by a mortgage past due?

Further illustrations are unnecessary for it is evident that all these questions, and a thousand more, which commonly arise in the courts day in and day out and with which they are congested, would have to be decided by the license issuing authorities. None of these questions have anything to do with alcoholic beverage control. They may not even pertain in any way to beverages. Yet all this labor would necessarily be burdened on the backs of the license issuing authorities only for the sake of determining if a debt is owed and if so the amount of the debt.

Such decisions are wholly inappropriate to license issuing authorities. The amendment would draw to them matters which are none of their concern and which properly pertain to the civil courts. On an application for transfer of a license it is quite possible that there might be five, ten or any number of civil cases growing out of it, the merits of which have nothing to do with alcoholic beverages, let alone the control thereof and the decision of which may involve litigation running into months and even years.

The suggested amendment is therefore wholly impracticable and I disapprove it unqualifiedly.

The objection applies in kind to the original bill but the amendment magnifies the degree to the point where the plan becomes wholly unworkable. It is one thing to pass on a retailer's debts for alcoholic beverages furnished. Contest might even there arise as to the validity or amount of such a bill although experience shows that these questions have been seldom raised in litigation over the purchase price of alcoholic beverages. But when this comparatively narrow field is amplified to include debts of every nature whatsoever and which experience shows are fertile grounds of contention and litigation, it is clear that it is time to draw the line.

It may well be that the considerations above pointed out are good grounds for the defeat of the original bill, but if the Legislature wants to try it out as an experiment, I have no objection although I do not recommend it. Experience may show that even such limited field will provoke questions which are wholly inappropriate for license issuing authorities. If so, its impracticability would be demonstrated.

As regards the proposed amendment, the objections are so self-evident that it would be ill advised even to try it.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

May 27, 1939

Hon. Jacob S. Glickenhous,  
c/o Assembly Alcoholic Beverage Control Committee,  
Newark, N. J.

Dear Mr. Glickenhous:

Re: Assembly 530

The proposed Committee Substitute is disapproved for the reasons set forth in my letter to Mr. Deighan of May 23rd.

The proposed substitute makes an effort to relieve license issuing authorities from the burden of determining the validity of disputed debts by providing for reference of the matter in dispute to a Supreme Court Commissioner or Special Master in Chancery, provided that the creditor and applicant for transfer agree. But even if they do agree, suppose the Supreme Court Commissioner or Special Master refused to accept the reference as, of course, they will if a case is dragged along for many days at the paltry rate of \$15.00 a day for their services. There is no provision for the taking of testimony which is exceedingly expensive.

These criticisms merely scratch the surface. The proposed substitute is so full of holes that it is hard to know where to begin, or, if begun, where to end.

After all, why should the landlord, the butcher and baker and candlestick maker have any preferred claim against the holder of a liquor license any more than against any other debtor? The only reason manufacturers and wholesalers should have preference is because they are deprived by law of taking any security from such a debtor. But that reason doesn't apply to the other creditors at all.

I wholly disapprove the proposed substitute.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

6. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary )  
 Proceedings against )  
 ISIDOR BERKELHAMMER, )  
 223 N. Clinton Avenue, )  
 Trenton, New Jersey, )  
 Holder of Plenary Retail Consump- )  
 tion License C-25, issued by the )  
 City Council of the City of )  
 Trenton. )  
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CONCLUSIONS  
AND ORDER

Ellamarye H. Failor, Esq., Attorney for the Department of  
 Alcoholic Beverage Control.  
 Isidor Berkelhammer, Pro Se.

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of selling liquor at his licensed premises on May 9, 1939 in violation of Rule 6 of State Regulations No. 30.

In conformity with the practice established in Re Polonsky and Kiewe, Bulletin 308, Item 9, the license will be suspended for five (5) days instead of the usual ten (10).

Accordingly, it is, on this 30th day of June, 1939, ORDERED, that Plenary Retail Consumption License C-25, heretofore issued to Isidor Berkelhammer by the City Council of the City of Trenton, and any renewal thereof, be and the same is hereby suspended for a period of five (5) days. Pursuant to notice of December 17, 1938, Bulletin 289, Item 1, the effective date of such suspension is reserved for future determination.

D. FREDERICK BURNETT,  
Commissioner.

7. APPELLATE DECISIONS - PERONI v. HOPEWELL TOWNSHIP.

OTTAVIO PERONI, )  
 Appellant, )  
 -vs- )  
 TOWNSHIP COMMITTEE OF THE )  
 TOWNSHIP OF HOPEWELL )  
 (Mercer County), )  
 Respondent )  
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ON APPEAL  
CONCLUSIONS

Felcone & Felcone, Esqs., by Joseph J. Felcone, Esq., Attorneys  
 for Appellant.  
 Cassel R. Ruhlman, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This appeal is from the denial of a plenary retail distribution license for appellant's grocery and meat store at Canal Bridge, Washington Crossing, Hopewell Township.

Respondent contends that the license was properly denied because issuance "would aggravate an already dangerous" traffic condition.

Appellant's store stands at the intersection of two well-traveled roads, viz., State Highway 29 and Mercer County Highway 4-A, there being no traffic light or officer at the crossing.

The County road, about 80 feet before reaching appellant's corner, traverses a small bridge over the Delaware and Raritan Canal. Leaving the bridge, the road is about 22 feet in width, until it broadens out at the intersection. The State Highway is about 33 feet in width except for similar broadening at the intersection.

Appellant's corner is the only one that is occupied. Alongside the store, on the County road toward the bridge, there is a gas pump which is operated by appellant. Alongside the store, on the State Highway, there is a tavern - with an adjoining parking lot for the tavern's patrons - which has been in existence since March 1934, antedating the offices of the present Township Committeemen.

On November 5, 1930, the then existing Committee adopted an ordinance forbidding parking within 200 feet of the crossing save for five minutes at a store within that area.

Appellant, who has been operating his store for thirteen years, testified that a daily average of sixty or eighty customers, or half his patronage, come to the store by car; that no customer has ever complained to him about traffic difficulty; that ten or twelve cars can park in front of his store along his property at the intersection and on the County road; that he has never known any accident to occur at the intersection while he has been located there.

One of respondent's committeemen, on behalf of all, testified, in effect, that the intersection is already considered dangerous; that no more than five cars could park at appellant's available parking space (at the intersection or just off it on the County road); that such parking causes danger to traffic because cars coming over the bridge along the County road must "swing out" into the middle of that comparatively narrow road and, further, because it blocks visibility at the intersection over appellant's corner; that granting appellant's license would aggravate the already perilous condition at the crossing by tending to attract a still greater trade via automobile to appellant's store and hence increasing the parking. He further testified that the present Committee has granted a license to the tavern next to appellant's store because that tavern has a parking yard and because its license is a renewal.

A witness testified, on behalf of respondent, that, October last, he saw two automobiles collide at the crossing.

A local issuing authority may validly deny a license because of a reasonable apprehension of aggravated traffic peril. Zakarew v. South Bound Brook, Bulletin 216, Item 4. Cf. Reed v. Way, Bulletin 78, Item 2; Welstead v. Matawan, Bulletin 133, Item 2. Such an apprehension, however, to be reasonable, must be based upon substantial evidence and not merely upon an unwarranted fear. See McDonald v. Clayton, Bulletin 161, Item 5; Conway v. Haddon, Bulletin 251, Item 3; Bialoglow v. Independence, Bulletin 254, Item 7.

In the present case, the traffic peril at the intersection, though persons might perhaps differ as to its extent, is scarcely fanciful. The intersection is a crossing of two well-traveled roads, one comparatively narrow, where there is perhaps already too much dangerous parking. The State Highway Department's Engineer for that part of the State confirms respondent's conclusion that the crossing is none too safe.

The photographs admitted in evidence confirm respondent's contention. A single glance brings an instant sense of inherent danger to a (we'll say) seasoned driver. Liquor is not such a commodity that it must be made available at any risk of broken bones or "sudden death".

The fact that the present Township Committee inherited a tavern near the intersection (which, even with its parking yard, apparently contributes to the danger at the crossing) is no reason why it should further aggravate conditions there by now granting a new license for a package store.

The action of respondent is affirmed.

D. FREDERICK BURNETT,  
Commissioner.

Dated: June 30, 1939.

8. APPEALS - ORDER OF EXTENSION PENDING DETERMINATION OF MERITS - INADVERTENT DESTRUCTION OF THE SUBJECT MATTER OF APPEAL BY ACCEPTING A RETURN OF MONEY DEPOSITED FOR LICENSE MAY BE RECTIFIED WHERE THE PETITIONER ACTS EFFECTIVELY AND PROMPTLY IN GOOD FAITH - HEREIN OF EQUITY ADJUSTED TO THE SPECIFIC FACTS.

CARL VAN ALTEN and MARGARET )  
VAN ALTEN, )

Appellants, )

-vs- )

BOARD OF COMMISSIONERS OF THE )  
CITY OF HOBOKEN, )

Respondent )

On Appeal  
On Petition for Interim Relief  
CONCLUSIONS AND ORDER

E. Norman Wilson, Esq., Attorney for Appellants.

BY THE COMMISSIONER:

It appears that appellants' application for renewal license has been denied by respondent; that an appeal has been duly perfected, and that on June 29, 1939 I issued an order to show cause in the usual form, directed to the respondent, returnable July 17, 1939, why the term of appellants' license should not be extended pending the determination of the appeal and ordering in the meantime that it be extended pending the return of the order.

It also appears that the appeal has been set down for hearing on the same day as the return day of the order to show cause.

It now appears from a supplemental petition this day filed that Carl Van Alten, one of the petitioners, was advised to call at the office of the City Clerk of Hoboken to receive a refund of the

deposit of his license fee of \$365.00, for which he called this morning, having been advised that the same had to be returned since his application for a license had been denied; that he received a check from the City Clerk in the sum of \$328.50, the City retaining the balance of \$36.50, being 10% of the deposit, apparently as an investigation fee; that at 2:35 P.M. this afternoon he tendered to the City Clerk's office a Cashier's check of the Trust Company of New Jersey in the sum of \$328.50, payable to the order of the City of Hoboken or D. Frederick Burnett, which tender was refused by the office of the said City Clerk.

The petitioner prays that the State Commissioner receive the said check and hold the same as a deposit for the issuance of such consumption license as is prayed for in the original appeal.

It thus appears that the appellant, Carl Van Alten, inadvertently destroyed the subject matter of his appeal by accepting a return of the money which he deposited with the City for a license; that on the same day, upon discovering the misadvice and his mistake, he attempted in good faith to return the money to the City, to be held by it pending the determination of the merits of his appeal, but that the tender was refused by the City Clerk.

The technicality above set forth does not go to the merits of the real issue between the parties, which is whether the appellants are worthy of a renewal license. The petitioner, Carl Van Alten, has shown his good faith by his prompt attempt to return the money inadvertently accepted under the belief that this was the proper procedure.

The prayer of the supplemental petition will therefore be granted and, in order to do equity, I will assume the burden of receiving the check and hold it in trust for the parties as interest may appear and be subsequently determined by me.

The above mentioned order to show cause dated June 29, 1939 is therefore confirmed and will remain in full force and effect.

D. FREDERICK BURNETT,  
Commissioner.

Dated: June 30, 1939.

9. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against  
MAX HOROWITZ,  
T/a Max's Delicatessen,  
6223 Monmouth Avenue,  
Ventnor City, N. J.,  
Holder of Plenary Retail Distribution License D-8, issued by the Common Council of the City of Ventnor City.

CONCLUSIONS  
AND ORDER

Ellamarye H. Failor, Esq., Attorney for the Department of Alcoholic Beverage Control.

Max Horowitz, Pro Se.

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of selling liquor at his licensed premises on May 10, 1939, in violation of Rule 6 of State Regulations No. 30.

In conformity with the practice established in Re Polonsky and Kiewe, Bulletin 308, Item 9, the license will be suspended for five (5) days instead of the usual ten (10).

Accordingly, it is, on this 30th day of June, 1939, ORDERED, that Plenary Retail Distribution License D-8, heretofore issued to Max Horowitz, T/a Max's Delicatessen, by the Common Council of the City of Ventnor City, and any renewal thereof, be and the same is hereby suspended for a period of five (5) days. Pursuant to notice of December 17, 1938, Bulletin 289, Item 1, the effective date of such suspension is reserved for future determination.

D. FREDERICK BURNETT,  
Commissioner.

10. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against  
ISRAEL WEINSTEIN,  
123 Wanaque Avenue,  
Pompton Lakes, N. J.,  
Holder of Plenary Retail Distribution License D-4, issued by the Borough Council of the Borough of Pompton Lakes  
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CONCLUSIONS  
AND ORDER

Ellamarye H. Failor, Esq., Attorney for the Department of Alcoholic Beverage Control.  
Israel Weinstein, Pro Se.

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of selling liquor at his licensed premises on May 9, 1939, in violation of Rule 6 of State Regulations No. 30.

In conformity with the practice established in Re Polonsky and Kiewe, Bulletin 308, Item 9, the license will be suspended for five (5) days instead of the usual ten (10).

Accordingly, it is, on this 30th day of June, 1939, ORDERED, that Plenary Retail Distribution License D-4, heretofore issued to Israel Weinstein by the Borough Council of the Borough of Pompton Lakes, and any renewal thereof, be and the same is hereby suspended for a period of five (5) days. Pursuant to notice of December 17, 1938, Bulletin 289, Item 1, the effective date of such suspension is reserved for future determination.

D. FREDERICK BURNETT,  
Commissioner.

11. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against )

THEODORE K. JANULIS, )  
486 Orange Street, )  
Newark, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-59, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )  
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Ellamarye H. Failor, Esq., Attorney for the Department of Alcoholic Beverage Control.  
Theodore K. Janulis, Pro Se.

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of selling liquor at his licensed premises on May 20, 1939 in violation of Rule 6 of State Regulations No. 30.

In conformity with the practice established in Re Polonsky and Kiewe, Bulletin 308, Item 9, the license will be suspended for five (5) days instead of the usual ten (10).

Accordingly, it is, on this 30th day of June, 1939, ORDERED, that Plenary Retail Distribution License D-59, heretofore issued to Theodore K. Janulis by the Municipal Board of Alcoholic Beverage Control of the City of Newark, and any renewal thereof, be and the same is hereby suspended for a period of five (5) days. Pursuant to notice of December 17, 1938, Bulletin 289, Item 1, the effective date of such suspension is reserved for future determination.

D. FREDERICK BURNETT,  
Commissioner.

12. LICENSEES - INSPECTION OF LIQUOR - ATTITUDE OF PREVIOUSLY SUSPENDED LICENSEE COMMENDED.

Commissioner D. Frederick Burnett:

Before I reopen my taproom, "The Seidel", located at 121 East Main Street, Maple Shade, N. J., I would like to have an ABC agent come to "The Seidel" to test the liquor.

On July 1st, I will have finished serving a 24-day license suspension on charges of having sold illicit liquor. I have fired my bartender because he was the one responsible for the charges, and I would like to know whether or not any of my stock is illicit as I have no way of finding out myself. I want to conduct my business in a legal and proper manner.

Will you grant me this favor, so that I can feel sure that I am not breaking the law?

Yours very truly,  
(Mrs.) Thresa Shaw

June 29, 1939

Mrs. Thresa Shaw,  
"The Seidel",  
Maple Shade, N. J.

Dear Mrs. Shaw:

I have your request of the 27th, and am right glad to honor your very reasonable request.

You are going about resumption of your business in a way that commands respect. We are here for just the purpose of helping licensees comply with the law. Whenever you feel the urge, do not hesitate to write me.

With every good wish, I am

Sincerely yours,  
D. FREDERICK BURNETT,  
Commissioner.

13. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary Proceedings against )

JOHN GAKOS,  
5 Park Place,  
Morristown, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distribution License D-2, issued by the Municipal Board of Alcoholic Beverage Control of the Town of Morristown )

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Ellamarye H. Failor, Esq., Attorney for the Department of Alcoholic Beverage Control.

John Gakos, Pro Se.

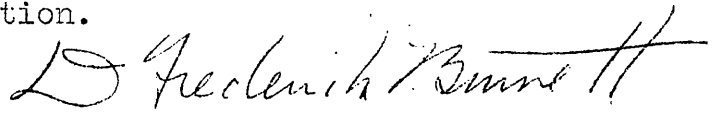
BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of selling liquor at his licensed premises on May 15, 1939 in violation of Rule 6 of State Regulations No. 30.

In conformity with the practice established in Re Polonsjy and Kiewe, Bulletin 308, Item 9, the license will be suspended for five (5) days instead of the usual ten (10).

Accordingly, it is, on this 30th day of June, 1939, ORDERED, that Plenary Retail Distribution License D-2, heretofore issued to John Gakos by the Municipal Board of

Alcoholic Beverage Control of the Town of Morristown, and any renewal thereof, be and the same is hereby suspended for a period of five (5) days. Pursuant to notice of December 17, 1938, Bulletin 289, Item 1, the effective date of such suspension is reserved for future determination.



Commissioner