

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

BULLETIN 377

JANUARY 18, 1940.

1. DISCIPLINARY PROCEEDINGS - IMMORAL ACTIVITIES - REVOCATION INDICATED
AND EFFECTED WITH NO CREDIT FOR PLEA OF GUILT.

In the Matter of Disciplinary)
Proceedings against)

LOU'S, INC.,)
758 Bergen St.,)
Newark, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-38 issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark.)

Richard E. Silberman, Esq., Attorney for the Department of
Alcoholic Beverage Control.
Michael Breitkopf, Esq., Attorney for Licensee.

BY THE COMMISSIONER:

The licensee has entered a plea of nolle contendere to
the following charges:

"1. On or about December 5, 1939 you allowed,
permitted and suffered known prostitutes in and upon
your licensed premises, in violation of Rule 4 of State
Regulations No. 20.

"2. On or about the date aforesaid you allowed,
permitted and suffered immoral activity in and upon
your licensed premises in that you procured females for
the purpose of prostitution, in violation of Rule 5 of
State Regulations No. 20.

"3. On or about the date aforesaid you allowed,
permitted and suffered the distribution of a contracep-
tive device, in violation of Rule 9 of State Regulations
No. 20."

In connection with its plea, the licensee, by its Presi-
dent, stipulated that the facts disclosed in the Departmental file
are "sufficient for a guilty verdict" and that the Commissioner may
resort to that file in order to determine the facts.

The plea, coupled with the stipulation, is tantamount to
a plea of guilt.

I have examined the files and find that this tavern could
not operate on the legitimate sale of liquor due to its small num-
ber of customers. It appears that the place exists only to accom-
modate patrons who go there for sexual intercourse with girls who

come to the tavern when summoned by the proprietor over telephone for that purpose.

The license will be revoked forthwith.

The licensee will get no credit for his plea of guilt in advance of the date set for hearing, for in cases of this kind the State is not interested in the saving of time and expense of conducting a trial but rather in cleaning up the mess whatever the cost.

Accordingly, it is, on the 15th day of January, 1940,

ORDERED, that Plenary Retail Consumption License C-38, heretofore issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby revoked, effective immediately.

D. FREDERICK BURNETT,
Commissioner.

2. ADVERTISING - OFFENSIVE - CEASE AND DESIST ORDER ISSUED.

January 13, 1940

"T" Bar and Grill,
Newark, N. J.

Gentlemen:

I have before me the official boxing program of Laurel Gardens, of January 8th, which contains your ad reading, in part:

"When I'm Full, Take Me Home

Name _____

Address _____

Ring the Bell, and Run Like Hell

Whiskey 10¢ ----- Beer 5¢"

There is no formal rule against advertising of this type. Probably the most that can be said is that it is a clumsy attempt at humor and everything is meant in good fun. The implication, however, of getting "full" on ten cent whiskey and of having to be taken home, is not in good taste.

Grow up and be yourself.

Cease and desist forthwith.

Very truly yours,
D. FREDERICK BURNETT,
Commissioner.

3. REPORT ON APPEAL CASES FROM JULY 1, 1939 to DECEMBER 31, 1939

To: D. Frederick Burnett, Commissioner
From: Edward J. Dorton

January 11, 1940

Cases undecided June 30, 1939 - - - - -	-30	
Cases filed July 1, 1939 to December 31, 1939- -	-70	
		100

DISPOSITION

Affirmances - - - - -	37	
Affirmances on condition- - - - -	1	
Condition imposed by issuing authority modified- - - - -	2	
Dismissed - - - - -	1	
Ordinance modified- - - - -	1	
Reversed- - - - -	4	
Reversed on condition - - - - -	2	
Withdrawn - - - - -	6	
Not decided - - - - -	46	100

Edward J. Dorton,
Deputy Commissioner
and Counsel.

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

In the Matter of Disciplinary Proceedings against
 NATHAN SIEGELMAN,
 332 Jackson Avenue,
 Jersey City, N. J.,
 Holder of Plenary Retail Distribution License D-41, issued by the Board of Commissioners of the City of Jersey City.

CONCLUSIONS
AND ORDER

Nathan Siegelman, Pro Se.
Charles Basile, Esq., Attorney for the State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of selling liquor at less than the Fair Trade price at the licensed premises on December 14, 1939, in violation of Rule 6 of State Regulations No. 30.

The usual penalty for this violation is 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 (5) days instead of ten (10) days.

Accordingly, it is, on this 13th day of January, 1940,

ORDERED, that Plenary Retail Distribution License D-41, heretofore issued to Nathan Siegelman by the Board of Commissioners of the City of Jersey City, be and the same is hereby suspended for a period of five (5) days, effective January 18, 1940, at 2:00 A. M.

D. FREDERICK BURNETT,
Commissioner.

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

In the Matter of Disciplinary Proceedings against
BUTTER & BUCHAL, INC.,
26 Broadway,
Passaic, New Jersey,
Holder of Plenary Retail Distribution License D-3, issued by the Board of Commissioners of the City of Passaic

CONCLUSIONS
AND ORDER

Butter & Buchal, Inc., by Ewald F. Buchal, President.
Charles Basile, Esq., Attorney for the State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of selling liquor at less than the Fair Trade price at the licensed premises on December 12, 1939, in violation of Rule 6 of State Regulations No. 30.

The usual penalty for this violation is 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 (5) days instead of ten (10) days.

Accordingly, it is, on this 13th day of January, 1940,

ORDERED, that Plenary Retail Distribution License D-3, heretofore issued to Butter & Buchal, Inc. by the Board of Commissioners of the City of Passaic, be and the same is hereby suspended for a period of five (5) days, effective January 18, 1940, at 3:00 A. M.

D. FREDERICK BURNETT,
Commissioner.

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

In the Matter of Disciplinary Proceedings against)

THE LIQUOR MART, INC.,
736 Broad Street,
Newark, New Jersey,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-5, issued by the)
Municipal Board of Alcoholic Beverage Control of the City of)
Newark.)

-----)

The Liquor Mart, Inc., by Herbert Heftler, President.
Charles Basile, Esq., Attorney for the State Department of
Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of selling liquor at less than the Fair Trade price at the licensed premises on December 30, 1939, in violation of Rule 6 of State Regulations No. 30.

The usual penalty for this violation is 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 (5) days instead of ten (10) days.

Accordingly, it is, on this 13th day of January, 1940,

ORDERED, that Plenary Retail Distribution License D-5, heretofore issued to The Liquor Mart, Inc. by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of five (5) days, effective January 18, 1940, at 3:00 A. M.

D. FREDERICK BURNETT,
Commissioner.

7. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - 10 DAYS.

In the Matter of Disciplinary Proceedings against)
)
 JOSEPHINE GAHR,)
 677 Bergen Street,)
 Newark, N. J.,)
)
 Holder of Plenary Retail Consumption License C-21, issued by)
 the Municipal Board of Alcoholic Beverage Control of the City of)
 Newark.)
 -----)

CONCLUSIONS AND ORDER

Stanton J. MacIntosh, Esq., Attorney for the State Department of Alcoholic Beverage Control.
 Sidney Simandl, Esq., Attorney for the Licensee, Josephine Gahr.

BY THE COMMISSIONER:

Charges served upon the licensee allege that:

1. On or about July 19, 1939, you sold alcoholic beverages to Alice _____, a minor, in violation of R. S. 33:1-77.
2. On or about July 19, 1939, you sold, served, delivered or allowed, permitted or suffered the service or delivery of alcoholic beverages to Alice _____, a person under twenty-one (21) years of age, in violation of Rule 1 of State Regulations No. 20.

On the night of July 19, 1939, Alice _____, aged eighteen, visited the licensed premises with William Walsh, of full age. Alice testified that Walsh ordered two rounds of drinks, each round consisting of a beer for him and a Tom Collins for her, both of which were served to them by the bartender while they were seated at the bar.

The bartender, John Bischoff, denied that he served or delivered any drinks to Alice, who, he says, was playing shuffleboard in the licensed premises. He testified that Walsh, alone, came to the bar and ordered a beer and a Tom Collins, which he carried to the shuffleboard; that, later, Walsh alone returned to the bar and ordered another beer and Tom Collins, which he also carried away. He said that he did not see the girl consume the first drink but he admitted that he knew the second drink was intended for her.

Alice _____ is a disinterested witness and, despite some evidence that she was later unable to identify the bartender at Police Headquarters, I believe her story. However, even if the bartender's story be true, the licensee is guilty as charged. It is immaterial whether the service and delivery were effected directly by the bartender himself or indirectly by means of the minor's companion. The case is analogous to Re Morganstern and Oliner, Bulletin 292, Item 9, which involved service and delivery, to an empty place at a table, of beer which was intended for a minor. As I said therein:

"The service of the beer to Hazel, although not a sale in the ordinary sense, nevertheless constitutes a sale as well as service of the beer to her for the purpose of the Alcoholic Beverage Control Law. R. S. 33:1-1(w); Control Act, Sec. 1(v)."

Licensee argues that it is necessary herein to prove her guilt beyond a reasonable doubt. That is not so. Disciplinary proceedings are civil and not criminal in nature and it is sufficient that the guilt of the licensee be proved by a preponderance of the evidence. In any event, the evidence herein is sufficient to establish the guilt of the licensee beyond a reasonable doubt. Hence, I find the licensee guilty as charged.

As to the penalty: Licensee alleges in mitigation that the girl appeared to be over the age of twenty-one years. She was, in fact, only eighteen. The Hearer reports that she did not appear to be of full age. Licensees and their agents may not resolve their doubts in favor of the cash register. I do not find any mitigating circumstances in this case.

This is the first offense against the licensee and I shall suspend her license for ten (10) days.

Accordingly, it is, on this 13th day of January, 1940,

ORDERED that plenary retail consumption license C-21, heretofore issued to Josephine Gahr by the Municipal Board of Alcoholic Beverage Control of the City of Newark, for premises located at 677 Bergen Street, Newark, be and the same is hereby suspended for a period of ten (10) days, effective January 18, 1940, at 3:00 A. M.

D. FREDERICK BURNETT,
Commissioner.

8. DISCIPLINARY PROCEEDINGS - VIOLATION OF FAIR TRADE AND ALSO ADVERTISING REGULATIONS - 8 DAYS.

In the Matter of Disciplinary Proceedings against
HEILIG'S RESTAURANT CO.,
1003 Boardwalk,
Atlantic City, N. J.,
Holder of Plenary Retail Consumption License C-122, issued by the Board of Commissioners of Atlantic City

CONCLUSIONS
AND ORDER

Ellamarye H. Failor, Attorney for the Department of Alcoholic Beverage Control.
James J. Quinn, Esq., Attorney for Licensee.

BY THE COMMISSIONER:

The licensee has pleaded guilty to charges of selling liquor at less than the Fair Trade price at its licensed premises on September 5, 1939, in violation of Rule 6 of State Regulations No. 30, and advertising the price of an alcoholic

beverage in the show window at the licensed premises, by placard exceeding 1½ by 1½ inches, in violation of Rule 3 of State Regulations No. 21.

The usual penalties for these violations are ten (10) days and five (5) days, respectively.

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 (5) days instead of the usual ten (10) for the Fair Trade violation, and for three (3) days instead of the usual five (5) for the violation of Rule 3 of State Regulations No. 21.

Accordingly, it is, on this 13th day of January, 1940,

ORDERED, that Plenary Retail Consumption License C-122, heretofore issued to Heilig's Restaurant Co. by the Board of Commissioners of Atlantic City, be and the same is hereby suspended for a period of eight (8) days, commencing January 18, 1940 at 12:01 A. M.

D. FREDERICK BURNETT,
Commissioner.

9. SEIZURES - CONFISCATION PROCEEDINGS - AUTOMOBILE RELEASED AND OTHER PROPERTY FORFEITED - PADLOCK DENIED.

In the Matter of the Seizure on)	
October 10, 1939 of Elijah)	
Olive's Buick Sedan and two)	Case 5596
1-gallon glass jugs of alcoholic)	On Hearing
beverages found therein, in the)	CONCLUSIONS AND ORDER
vicinity of 171 Spruce Street, and)	
a number of still parts found at)	
38 Beacon Street, both in the City)	
of Newark, County of Essex and)	
State of New Jersey.)	
-----)	

Randall F. Sawyer, Special Collection Manager of General Motors Acceptance Corporation, for General Motors Acceptance Corporation.

Benjamin P. Potoker, Esq., Attorney for Helena Potoker.

Harry Castelbaum, Esq., Attorney for the Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

On October 10, 1939, police officers of the City of Newark discovered two 1-gallon glass jugs of alcoholic beverages in a Buick sedan owned and driven by Elijah Olive. The jugs bore no Federal tax stamps and the motor vehicle was not licensed to transport alcoholic beverages. Hence, the police officers seized the alcoholic beverages and the motor vehicle in which they were being transported as unlawful property.

Olive admitted to the police that he had been operating a still at 38 Beacon Street, Newark. In the attic at that

address the police officers found an unregistered 10-gallon copper cooker and a 5-gallon galvanized cooler and copper coil, which they also seized as unlawful property. Thereafter, the seizure was turned over to this Department.

At the hearing herein no one appeared to contest the forfeiture of the seized property. It is determined, therefore, that the automobile, alcoholic beverages and still parts constitute unlawful property and are subject to forfeiture.

R.S. 33:1-66(c); R.S. 33:2-5.

As to the motor vehicle: General Motors Acceptance Corporation requested recognition of its lien upon the Buick sedan under the provisions of R.S. 33:1-66(f). It presented proof that the sum of \$96.49 remains due on a conditional sales contract made by Elijah Olive covering the Buick sedan; that its investigation of Olive made prior to the date of its transaction with him disclosed that he had been steadily employed by a contractor for six years prior thereto, earning \$22.00 to \$25.00 per week; that he roomed at the address he gave and that the investigation did not reveal any information of a detrimental character against him. Elijah Olive had no previous criminal record.

Under the circumstances, I am satisfied that General Motors Acceptance Corporation acted in good faith and made an adequate investigation. Its lien will be recognized and, since the Commissioner of Finance of the State of New Jersey has notified me that the State cannot use this vehicle in the event that the lien claim is allowed, I shall return the Buick sedan to General Motors Acceptance Corporation upon payment by it of the costs of seizure and storage of the vehicle.

As to padlocking: Benjamin Potoker, son of Helena Potoker, the owner of the premises, testified that he has been in charge of the property at 38 Beacon Street because of the advanced age and ill health of his mother; that the second floor and attic of said house had been occupied for the past seven years by one Jack Wynn, who has been a model tenant; that Olive, who apparently occupied the attic under some arrangement with Wynn, has since been ejected from the premises. Benjamin Potoker further testified that he had no knowledge that anyone was engaged in manufacturing alcohol in the attic of the house. The case is close to the border line, but in view that the owner's agent appears to have dealt only with Wynn and that Olive has since been removed from the premises, I shall give the owner the benefit of the doubt and shall not padlock the premises.

Accordingly, it is ORDERED that the Buick sedan be delivered to General Motors Acceptance Corporation, provided that, on or before February 14, 1940, it pays the costs involved in the seizure and storage of the automobile; and it is further

ORDERED that the other seized property, more fully described in Schedule "A" annexed hereto, be and the same is hereby forfeited in accordance with the provisions of R.S. 33:1-66 and R.S. 33:2-5, and that it be retained for the use of hospitals, and State, county and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner.

D. FREDERICK BURNETT,
Commissioner.

Dated: January 14, 1940.

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

In the Matter of Disciplinary
Proceedings against

THE TIGER FOOD CO., INC.,
302 - 16th Avenue,
Newark, N. J.

Holder of Plenary Retail Distribu-
tion License D-167 for the fiscal
year 1938-1939, issued by Municipal
Board of Alcoholic Beverage Control
of the City of Newark.

CONCLUSIONS
AND
ORDER

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

BY THE COMMISSIONER:

Licensee pleads guilty with an explanation to a charge alleging that on May 17, 1939 it sold one-half gallon bottle of Nalco Sweet Wine below the minimum retail price contrary to State Regulations No. 30. The sale of the article in question was made by a representative of the licensee corporation to Investigators Carlin and DiPietro for seventy-nine cents, although the minimum price, as fixed in Bulletin #306, which was then in effect, was eighty-five cents.

The president of licensee corporation testified that three or four days previous to the date of sale, a salesman from G. Loewus & Co. had advised an employee of the licensee that said wine was coming down to seventy-nine cents. Louis Penn, the employee, testified that he had received this information about May 14, 1939 and immediately changed the price. The salesman employed by G. Loewus & Co. testified that he had given the above information to Mr. Penn on either May 12th or May 14th and that Mr. Penn had immediately changed the price from eighty-five cents to seventy-nine cents. The salesman further testified that he had known that the price change was already filed with this Department and that he had not mentioned to Mr. Penn the date upon which the change in price was to become effective. As a matter of fact, the price of said item was reduced to seventy-nine cents in Bulletin #320 issued on May 31, 1939, but the reduced price did not become effective until June 2, 1939.

I am satisfied that the information given by the salesman for the wholesaler misled the licensee's employee. There is no evidence of a deliberate attempt to "chisel" because the price of seventy-nine cents was marked upon the one-half gallon bottles. Licensees, however, must learn to make their changes in accordance with the prices published in the official bulletins regardless of information received from salesmen or other sources. Under all the circumstances I shall suspend the license for a period of five (5) days instead of the usual ten (10) days.

Subsequent to the institution of these proceedings, the license then held by the licensee corporation expired and has been renewed by the issuance of plenary retail distribution license D-133 for the present fiscal year.

Accordingly, it is, on this 15th day of January, 1940,

ORDERED that plenary retail distribution license D-133 for the present fiscal year, heretofore issued to The Tiger Food Co Inc. by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for a period of five (5) days, effective January 19, 1940, at 3:00 A.M.

D. FREDERICK BURNETT,
Commissioner.

12. APPELLATE DECISIONS - MEVES v. CAMDEN.

EVERETT R. MEVES, et als.,	:	
	:	
Appellants,	:	
	:	ON APPEAL
vs.	:	
	:	CONCLUSIONS
MUNICIPAL BOARD OF ALCOHOLIC	:	
BEVERAGE CONTROL OF THE CITY	:	
OF CAMDEN and TENTH WARD	:	
REPUBLICAN CLUB,	:	
	:	
Respondents.	:	

Edward V. Martino, Esq., for the Respondent, Camden Municipal Board of Alcoholic Beverage Control. Tenth Ward Republican Club, by Howard Baird, President, pro se.

BY THE COMMISSIONER:

Everett R. Meves and twenty-one others filed notice and petition of appeal from the granting of a club license by the Camden Municipal Board of Alcoholic Beverage Control to the Tenth Ward Republican Club for premises 433 Pearl Street, alleging that during the term of the prior license there had occurred on the licensed premises "general misconduct, excessive noise and disorder, intoxication, illegal and unlicensed sales of alcoholic beverages, and illegal use of slot machines."

The respondents were present prepared to testify at 10:00 a.m. on November 9, 1939, the time scheduled for hearing. At 11:00 a.m. no one had appeared on behalf of the appellants.

Respondents' motion to dismiss the appeal for lack of prosecution is therefore granted and the appeal dismissed.

D. FREDERICK BURNETT,
Commissioner.

Dated: January 14, 1940.

13. DISCIPLINARY PROCEEDINGS - GAMBLING - BLOTTO - CATCHPENNY GAMBLING DEVICES ARE OUT OF PLACE ON LICENSED PREMISES.

January 13, 1940.

Frank A. Priest,
Hamilton Township Clerk,
Trenton, N. J.

My dear Mr. Priest:

I have before me staff report and your letter of January 10th re disciplinary proceedings conducted by the Township Committee against Carl Belza, 687 Klockner Road, charged with

permitting gambling on the licensed premises, and note that on confession of guilt the license was suspended for three days.

Please express to the members of the Township Committee my appreciation for their conduct of these proceedings and the penalty imposed.

I understand that the licensee had a "Blotto" machine in which pennies are dropped, coming to rest in one of several slots at the bottom; that during their downward course, they are deflected by an arrangement of nails or pegs; that the player who is lucky enough to have his coin land in a certain slot is awarded a drink.

Catchpenny gambling devices have no place on licensed premises.

Very truly yours,

D. FREDERICK BURNETT,
Commissioner.

14. ARTICLE - "THE SALE OF ALCOHOLIC BEVERAGES SUBJECT TO FAIR TRADE CONTRACTS IN THE STATE OF NEW JERSEY."

By George M. Stout, State Liquor
Administrator of California.*

Pursuant to authority of the Board, a study of Fair Trade contracts being administered by the Commissioner of Alcoholic Beverages in the State of New Jersey was made by me and the following report is respectfully submitted:

In May, 1938, the Legislature of the State of New Jersey enacted a resolution which provided that the State Commissioner of Alcoholic Beverage Control "may in his discretion, by rule and regulation, prohibit or regulate the sale of alcoholic beverages within the State in violation of any fair trade contract entered into pursuant to the legislative sanction afforded by Revised Statutes, Title 56, chapter four." This enactment did not delegate any price fixing powers to the Commissioner. It contemplated that the Commissioner should have, pursuant to explicit legislation, broad power to adopt regulations designed to insure observance by the entire liquor trade of resale prices fixed by any private fair trade contracts.

On August 25, 1938, after a public hearing, the Commissioner formally adopted Regulations No. 30, which provide for the filing with the Department of Alcoholic Beverages of fair trade contracts fixing minimum resale prices on alcoholic beverages bearing trade names and entered into by the retailers and manufacturers or distributors. The regulations also provide for the mailing of price lists to retail licensees and the publication thereof in official bulletins of the Alcoholic Beverage Control Department.

*Reprinted from California A. B. C. Bulletin, Nov. 1939 - Vol. 4, No. 11, page 37.

There are three main points of difference between the New Jersey regulation and California's Fair Trades Contract Regulation (Rule 42) adopted by the State Board of Equalization. First, the New Jersey regulation is permissive and not mandatory, whereas the California regulation requires that distillers, rectifiers, and wholesalers of distilled spirits must enter into fair trade contracts and file copies of the contracts and price schedules with the Board. Second, the New Jersey regulation applies to all alcoholic beverages and not merely to distilled spirits. Third, our Rule 42 provides that the distiller, wholesaler or rectifier must enter into fair trade contracts which stipulate all resale prices. The New Jersey regulation applies only to retail prices to consumers.

There are certain other points of comparison in the rules so far as administration is concerned which should be pointed out. The New Jersey rule, like the California rule, provides for the giving of notice of stipulated prices to all retail licensees who are engaged in the sale of any of the products included in price lists. This is handled by the Department of Alcoholic Beverage Control, which has the price lists published in its official bulletins and in catalog form. A substantial saving to the industry, estimated as high as 50% or better, is thus effected. The cost of this publication is then pro-rated among the manufacturers or wholesalers who have filed their fair trade contracts with the department. Until official notice of any change in price lists is published in a later bulletin issued by the Department, retail licensees are prohibited from selling the described products, except in accordance with the published price lists. This means, of course, that amendments to price lists cannot become effective until there is a new publishing by the Department, and they must appear justifiable to the Commissioner. The Commissioner has authorized a new publication of price revision approximately six times in the past year.

The California rule requires that the distillers, rectifiers or wholesalers must either publish the prices in a trade journal of general circulation among alcoholic beverage licensees in the State or mail copies of the price lists to all licensees affected. Another difference is that the California rule permits assortments with certain limitations for quantity discounts. The New Jersey rule does not permit the assortment of items for discount purposes, whether the assortment is made of the goods of a particular or several manufacturers.

The constitutionality and validity of the New Jersey regulation were recently upheld by the New Jersey Court of Errors and Appeals. During the first fourteen months since the adoption of Regulations No. 30, the Commissioner had imposed suspensions for violations of the regulations on 71 liquor store proprietors. The suspensions were postponed during the Court decision.

In the meting out of suspensions, the New Jersey Commissioner follows the uniform practice of giving a ten-day suspension to all first offenders, unless they admit the offense and do away with the necessity for a hearing, in which case a five-day suspension is given. For second offenders the Commissioner gives suspensions running from twenty days up.

I found general satisfaction with the operation of the Rule both in the industry and with the Administrator. In the first place, the industry in New Jersey asked for the Fair Trade regulations and then means were sought as to how it could be given them.

While filing of prices is permissible in New Jersey, and not mandatory, there is no resistance. That is taken care of by the industry itself, which heartily endorses the plan and strives to make it succeed.

In the eighteen months that Fair Trade regulation has been in force under Commissioner Burnett in New Jersey, it has been the outstanding example of what can be done in the orderly stabilization of prices and the destruction of chiseling and unfair methods of competition.

15. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED AND PADLOCK GRANTED.

In the Matter of the Seizure)	Case 5585
on October 2, 1939 of a still at)	
84 Monmouth Street, in the City)	ON HEARING
of Newark, County of Essex and)	CONCLUSIONS AND ORDER
State of New Jersey.)	
-----)		

Harry Castelbaum, Esq., Attorney for the State Department of Alcoholic Beverage Control.
Max Peinick, Pro Se.

BY THE COMMISSIONER:

On October 2, 1939, Newark police officers raided the second floor apartment at 84 Monmouth Street, seized a twenty-gallon still and equipment and arrested the occupant, Mrs. Louise Paris.

At the hearing held herein, no one appeared to contest the seizure or forfeiture of the still and equipment.

The still was not registered with this Department as required by R. S. 33:2-1, hence it and the equipment are unlawful property subject to forfeiture.

As to padlocking: Max Peinick testified that he has owned the premises in question for the past twenty-four years; that he rented the five-room second floor apartment to Mrs. Paris on June 2, 1939; that, although he visited the premises once or twice a week, he knew nothing of the still until the day after the raid; that he has permitted Mrs. Paris to remain in her apartment.

I note the size of the still which was set up in the bedroom and the large quantity of mash which was found in the kitchen. Landlords will not be permitted to close their eyes to conditions on their premises and then be heard to say that they knew nothing of the illegal activities. Max Peinick admits that, in June 1934, a fifty-gallon still owned by a former tenant was found in the garret of the premises at 84 Monmouth Street, Newark. He appears to be very careless in selecting his tenants. Under the circumstances, I shall padlock the apartment in which the still was found for a period of three months.

Accordingly, it is ORDERED that the seized property set forth in Schedule "A" annexed hereto be and hereby is forfeited and that it be retained for the use of hospitals and State, County and municipal institutions, or destroyed, in whole or in part, at the direction of the Commissioner; and it is further

ORDERED that the five-room second floor apartment at 84 Monmouth Street, Newark, being the premises in which the still was found, shall not be used or occupied for any purpose whatsoever for a period of three months, commencing the 2nd day of March, 1940.

D. FREDERICK BURNETT,
Commissioner.

Dated: January 16, 1940.

SCHEDULE "A"

- 1 - 20-gallon copper cooker
- 1 - 15-gallon galvanized cooler - copper coil
- 1 - 1-gallon glass jug of alcoholic beverages
- 2 - 50-gallon wooden barrels with mash.

16. DISCRIMINATORY PRICES AND DISCOUNTS - SPECIFIED DISCOUNTS TO ENCOURAGE PROMPT PAYMENT OF BILLS IS PERMISSIBLE.

January 16, 1940.

Moe A. Joseph, Esq.,
Vineland, N. J.

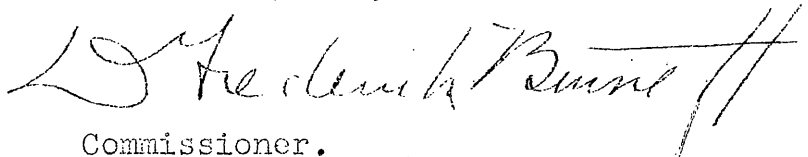
Dear Sir:

I have your letter of January 10, 1940, inquiring whether a holder of a State Beverage Distributor's license may "give a stipulated discount to retail licensees for payment of bills within a certain number of days."

The answer is in the affirmative. There is nothing in the Alcoholic Beverage Law or Regulations to prevent such a licensee, while acting in the capacity of a wholesaler, from giving specified discounts to retailers to encourage prompt payment of bills.

You may have in mind P. L. 1939, Ch. 87, which prohibits discrimination in price or discount between different retailers. This statute, however, expressly exempts sales of malt alcoholic beverages from its operation.

Very truly yours,


Commissioner.

New Jersey State Library