

BULLETIN 934

MAY 6, 1952.

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

BULLETIN 934

MAY 6, 1952.

1. STATE REGULATIONS NO. 34 - WHOLESALE PRICES AND MAXIMUM REBATES, FREE GOODS, ALLOWANCES AND OTHER INDUCEMENTS - REVISED RULES PROMULGATED.

TO ALL MANUFACTURERS AND WHOLESALERS PRIVILEGED TO SELL ALCOHOLIC BEVERAGES OTHER THAN MALT ALCOHOLIC BEVERAGES (V, VL, S, SL, R, W, WL AND WW LICENSES):

Re: State Regulations No. 34.

Experience has shown that proper enforcement of the law requires a revision of State Regulations No. 34.

Accordingly, pursuant to R. S. 33:1-39 and R. S. 33:1-93, revised Regulations No. 34 are hereby promulgated, effective immediately, except as to the provisions of Rule 1 concerning the sale of alcoholic beverages by a manufacturer or wholesaler to a wholesaler, which provisions shall become effective on May 20, 1952.

It should be noted that, under the revised Regulations, there is to be no change in the present system of filing and publishing complete Wholesale Price Lists for each quarter-annual period beginning January 1, April 1, July 1 and October 1. Wholesalers selling alcoholic beverages to retailers must file, not later than May 20, 1952, their price and discount listings to become effective July 1, 1952. The same procedure must be followed as to each subsequent quarter-annual period. Likewise, there is to be no change in the present system of filing and publishing Minimum Consumer Resale Prices pursuant to Regulations No. 30.

However, under the revised Regulations, manufacturers and wholesalers selling alcoholic beverages to wholesalers must file not later than May 20, 1952, their price and discount listings, which shall become effective May 20, 1952 but shall not be published in the quarter-annual Wholesale Price Lists. The same procedure must be followed as to each August 20, November 20, February 20 and May 20 thereafter.

Rule 7a contains new matter not previously found in Regulations No. 34.

Revised Regulations No. 34 are as follows:

STATE REGULATIONS NO. 34

WHOLESALE PRICES AND MAXIMUM REBATES, FREE GOODS,
ALLOWANCES AND OTHER INDUCEMENTS.

Rule 1. No manufacturer or wholesaler shall sell to any wholesaler any alcoholic beverages, other than malt alcoholic beverages, except at the price thereof, less discount, if any, filed with the Director of the Division of Alcoholic Beverage Control by said manufacturer or wholesaler. No manufacturer or wholesaler shall sell to any retailer and no retailer shall purchase from any manufacturer or wholesaler, any alcoholic beverages, other than malt alcoholic beverages, except at the price thereof, less discount, if any, listed by said manufacturer or wholesaler in the then currently effective quarter-annual Wholesale Price List published by the Director of the Division of Alcoholic Beverage Control, or, during any calendar month when his amended prices and discounts are effective, except at his amended price, less discount, if any, established pursuant to the provisions of Rule 7a hereof; provided, however, that nothing contained herein shall apply to sale of any branded alcoholic beverage sold by its manufacturer or wholesaler exclusively to one New Jersey retailer, if (1) such brand and the name of the retailer are registered with the Director and (2) the brand has not been assigned during a period of at least one year previously to another New Jersey retailer.

Rule 2. Manufacturers and wholesalers of alcoholic beverages other than malt alcoholic beverages intending to sell such alcoholic beverages to wholesalers or retailers, or both, shall individually file with the Director not later than the twentieth day of February, May, August and November of each year price and discount listings, containing as to each item listed (1) its correct brand or trade name, (2) its nature and type, (3) its age and proof or alcoholic content when stated on the label, (4) the number of unit containers per case, (5) the capacity of each unit container, and (6) the wholesale bottle and standard case prices and, at the option of the manufacturer or wholesaler, the one-half and one-quarter standard case prices, which prices shall be individual for each item and not in combination with any other item. Manufacturers and wholesalers selling to both wholesalers and retailers shall file separate listings of prices and discounts to wholesalers and retailers. Said listing may, in addition, contain a statement of any discount, not to exceed 2%, to be allowed uniformly for payment in cash at or before delivery or within five days thereafter, to be applicable to the total purchase price of a single complete delivery of an entire purchase order.

Rule 3. Wholesale Price Lists shall be published quarterly annually by the Director, to become successively effective on and after the first day of January, April, July and October of each year and shall list by manufacturer or wholesaler the complete schedule of wholesale prices (stated separately and not in combination with any other item) of all alcoholic beverages other than malt alcoholic beverages to be offered for sale and to be sold by each manufacturer and wholesaler to retailers as set forth in price and discount listings previously filed with the Director in accordance with Rule 2. Said Wholesale Price List shall not include price and discount listings filed with the Director by manufacturers and wholesalers intending to sell such alcoholic beverages to wholesalers.

Rule 4. No wholesaler shall include in his price and discount listing any brand of alcoholic beverages not acquired from the owner of the brand or its supplier authorized by the owner of the brand to supply New Jersey wholesalers, except pursuant to waiver of the provisions of this Rule granted by the Director upon petition setting forth the brand name, the quantity acquired, the source of supply, and such other information with respect thereto as the Director may deem necessary.

Rule 5. Price and discount listings filed with the Director and setting forth wholesale prices to retailers shall be available for inspection during regular business hours at the offices of the Division of Alcoholic Beverage Control by manufacturers and wholesalers until 4:00 p.m. of the third business day after the twentieth day of February, May, August and November. A manufacturer or wholesaler may amend his price and discount listing already filed for any quarter-annual period to meet a lower and competing price and discount listing filed and affecting prices to retailers by another manufacturer or wholesaler with respect to alcoholic beverages of the same brand or trade name and of like age, quality and unit container size; provided, however, that any such amended price and discount listing must be filed before 4:00 p.m. of the fourth business day after the twentieth day of February, May, August and November; and provided, further, that such amended listing does not set forth prices lower and discounts greater than those being met.

Rule 6. Wholesale Price Lists published by the Director shall be printed in pamphlet form and mailed to all retailers not later than three business days before the effective date of such price lists. All manufacturers and wholesalers who file price and discount

listings to retailers shall be chargeable with a proportionate cost of the printing and mailing of the pamphlet so published and mailed.

Rule 7. The Director may, upon adequate cause appearing therefor, suspend the foregoing provisions as to the time of filing price and discount listings, time of publication of Wholesale Price Lists, and time of mailing to retailers, to permit changes in prices and discounts to take effect upon such shorter notice as he may prescribe. Any Wholesale Price List then currently effective may be continued in effect for a period not to exceed thirty days after the scheduled publication date of the next succeeding Wholesale Price List, by announcement of the Director upon his finding that an emergency exists. When a manufacturer or wholesaler is closing out his stock of a particular brand or brands of alcoholic beverages for the purpose of permanently discontinuing any further sale thereof, the Director, upon petition therefor and upon such terms and conditions as he may deem appropriate, may waive the requirements of Rule 1 hereof as to such close-out sale.

Rule 7a. Any manufacturer or wholesaler may reduce, for the calendar month of February or March, the price and discount listing of any item theretofore filed by him for the quarter-annual period beginning the first day of January; for the calendar month of May or June, the price and discount listing of any item theretofore filed by him for the quarter-annual period beginning the first day of April; for the calendar month of August or September, the price and discount listing of any item theretofore filed by him for the quarter-annual period beginning the first day of July; for the calendar month of November or December, the price and discount listing of any item theretofore filed by him for the quarter-annual period beginning the first day of October; by complying with the following procedure:

By filing with the Director, on or before the twenty-third day of the month preceding the month in which the reduction is to be effective, in the form prescribed in Rule 2 hereof, an amended price and discount listing of any such item with a statement that the amended prices and discounts therein are to be effective only for the calendar month immediately following the date of filing thereof, and by filing with the Director, before the first day of said month, an affidavit that a copy of said amended price and discount listing and statement has been mailed to each wholesaler or retailer to whom he sold alcoholic beverages during the preceding three months.

Upon compliance with the provisions set forth herein, the listings in the currently effective quarter-annual Wholesale Price List shall be deemed amended for the calendar month only in which the amended prices and discounts are effective and shall otherwise remain in full force and effect.

Rule 8. No manufacturer or wholesaler of alcoholic beverages other than malt alcoholic beverages shall furnish directly or indirectly to any wholesaler or retailer, and no wholesaler or retailer shall accept directly or indirectly from any manufacturer or wholesaler, any gift, rebate, or allowance of money or any thing of value (whether by sale, loan, gift or otherwise) or other discount or inducement, including free goods, deals, combination sales, and similar merchandising devices, except permissible discounts as and if scheduled by the manufacturer or wholesaler in the manner aforesaid and as permitted by Rule 10 hereof and State Regulations No. 21; nor shall any such manufacturer or wholesaler sell or offer to sell to a retailer any particular brand or brands of alcoholic beverages tied in with, or contingent upon the retailer's purchase of, some other beverage, alcoholic or otherwise, or any other merchandise or service.

Rule 9. No manufacturer or wholesaler of alcoholic beverages other than malt alcoholic beverages shall accept from any retailer any return of alcoholic beverages for credit unless such alcoholic beverages were originally delivered to the retailer by the manufacturer or wholesaler not more than thirty days prior to such return, except pursuant to waiver of the provisions of this Rule granted by the Director upon petition setting forth good cause.

Rule 10. Manufacturers and wholesalers of alcoholic beverages other than malt alcoholic beverages shall not give samples of such alcoholic beverages to retailers except pursuant to and within the terms and conditions of a special permit first obtained from the Director, to be issued upon the basis of a petition submitted by such manufacturer or wholesaler.

Rule 11. No manufacturer or wholesaler of alcoholic beverages other than malt alcoholic beverages shall conduct or participate in any promotional contest in connection with the sale or distribution, or any contest promoting the sale or distribution, of alcoholic beverages other than malt alcoholic beverages, or allow, permit or suffer any employee to participate in such contest.

Rule 12. Nothing contained in these Regulations shall be deemed to prohibit manufacturers and wholesalers from purchasing tickets, subscriptions or admissions to dances, outings, picnics and dinners held by, and advertisements in the publications or periodicals of, retailers' bona fide trade associations and organizations only.

EDWARD J. DORTON
Acting Director.

Promulgated Wednesday, April 30, 1952.

Effective Wednesday, April 30, 1952.

Filed with the Secretary of State (N.J.) Wednesday, April 30, 1952.

2. MINIMUM CONSUMER RESALE PRICE PAMPHLET OF APRIL 1, 1952 - IMPORTANT NOTICE OF WITHDRAWAL OF A LISTING.

In response to my notice of January 31, 1952 that a new Minimum Consumer Resale Price publication would become effective on April 1st and that listings should be submitted not later than February 20th, a wholesaler filed prices on Colline Senese, an imported Chianti wine, without first obtaining authorization from the manufacturer of the brand or the authorized distributor, as required by Rule 1 of State Regulations No. 30.

It having been established to my satisfaction that the manufacturer of the brand does not wish to have the brand listed in the Minimum Consumer Resale Price Pamphlet and did not authorize the wholesaler to file, I am herewith specially ruling that prices for Colline Senese Chianti, appearing on page 82 of the Minimum Consumer Resale Price Pamphlet effective April 1, 1952, are withdrawn, effective immediately.

EDWARD J. DORTON
Acting Director.

Dated: May 2, 1952.

3. STATE LIMITATION LAW (CHAPTER 94 OF THE LAWS OF 1947) - HEREIN EXTREMELY IMPORTANT NOTICE.

NEW RETAIL CONSUMPTION OR RETAIL DISTRIBUTION LICENSES, AS DISTINGUISHED FROM RENEWALS, PROHIBITED IN MOST MUNICIPALITIES - LICENSE FOR 1952-1953 A NEW LICENSE AND NOT A RENEWAL UNLESS ISSUED TO THE SAME PERSON WHO HELD THE 1951-1952 LICENSE AND FOR THE SAME PREMISES.

LICENSED PREMISES - APPLICATION FOR PREMISES NOT YET CONSTRUCTED AND WHICH WILL NOT BE COMPLETED BY NEXT JUNE 30TH.

TO ALL MUNICIPAL ISSUING AUTHORITIES:

WARNING CONCERNING 1952-1953 "RENEWALS".

Our Alcoholic Beverage Law provides that a license is not a renewal but a new license if granted to a person other than the holder of the preceding year's license or if granted for premises other than those licensed at the end of the preceding license year. (Revised Statutes, 33:1-96.) In most New Jersey municipalities issuance of a new retail consumption or plenary retail distribution license is prohibited by the State Limitation Law or by local ordinance, or by both. A license issued in violation of the State Limitation Law or local ordinance is subject to cancellation. It is of the utmost importance, therefore, that the municipal issuing authorities take special care to see whether the applicant for the 1952-1953 license is the same person who held the 1951-1952 license. Where A holds a license on June 30, 1952, a 1952-1953 license issued to A and B, partners, would not be a renewal but a new license. (Of course, if the 1951-1952 license were duly transferred from A to A and B prior to June 30, 1952, a 1952-1953 license in the names of A and B, effective July 1, 1952, would be a renewal.) Where a corporation holds a license on June 30, 1952, the 1952-1953 license issued to a different corporation or to an individual or to partners would be a new license and not a renewal. Similarly, where an individual or a partnership holds a 1951-1952 license, the 1952-1953 license if issued to a corporation would be a new license. The State Limitation Law has been in effect since May, 1947 and, by this time, municipal issuing authorities should be well aware of the matter hereinabove stressed. If a municipal clerk has any questions regarding a particular application for a 1952-1953 license he should promptly get in touch with this Division.

UNCOMPLETED NEW PREMISES

The Alcoholic Beverage Law makes it the duty of municipal issuing authorities to investigate not only a license applicant's personal qualifications but also to investigate the premises sought to be licensed. (Revised Statutes, 33:1-24.) The State Commissioner's ruling is that where application is made for a building not yet constructed, or for a building in process of construction, the most the municipal issuing authority may do is to grant the application subject to the express condition (imposed in the authorizing resolution, pursuant to Revised Statutes, 33:1-32) that the premises as described in the plans and specifications prepared and submitted by the applicant and found acceptable by the issuing authority shall first be completed. (Re Harris, Bulletin 183, Item 11; Re Salter, Bulletin 184, Item 8; Re Murphy, Bulletin 389, Item 11.)

Unless a license has been actually issued and is in effect on June 30th, it may not legally be renewed for the new license year beginning July 1st. As already pointed out, a renewal must be not only to the holder of the expired or expiring license but also for the same licensed premises; otherwise it is a new license (Revised Statutes, 33:1-96) and issuance of a new license is prohibited in most municipalities by the State Limitation Law or by local ordinance, or by both.

There are circumstances in which a person (whose application for license, or for place-to-place transfer, shall have been granted subject to completion of premises) will be unable, despite good faith and full effort, to complete the premises by June 30th of the then license year. In that situation the municipal issuing authority may determine, in its discretion, to grant a renewal for the ensuing license year. It may not do so, however, unless it adopts a resolution amending the original resolution (or motion) and setting forth that such original resolution (or motion) dated _____, is amended to provide that the license is authorized to be issued (or the place-to-place transfer endorsed, as the case may be), effective immediately, for the sole purpose of permitting a renewal.

If the indicated amendatory resolution is passed, a certified copy should, of course, be forwarded at once to this Division by the municipal clerk.

Where such an amendatory resolution is passed and the license issued thereunder (or place-to-place transfer endorsed, as the case may be) and a renewal application for the ensuing year is duly filed, then, if the issuing authority determines to grant the application for renewal, its resolution granting such application must impose (or reimpose) a special condition reading in the following manner:

"...provided, however, that the license shall not be actually issued unless and until the premises as described in the plans and specifications prepared, submitted to, and found acceptable by this issuing authority, shall first be completed."

Thus the renewal certificate will not be issued and delivered to the applicant unless and until the premises are duly completed by June 30th of the licensing year for which the renewal was granted.

A copy of the resolution imposing (or reimposing) the indicated special condition must be forwarded to this Division for the State Director's approval required by Revised Statutes, 33:1-32.

Furthermore, the applicant's published Notices of Application for the renewal must contain a statement that: "Plans and specifications for premises to be constructed may be examined at the office of the Municipal Clerk." (Rule 2, State Regulations No. 2).

Where application has been granted for place-to-place transfer to premises which will not be duly completed by June 30th of the then license year, and where the applicant will continue to have possession of the old premises on and after July 1st, the applicant will probably wish to continue operation of the business without interruption. Under those circumstances it would appear the proper course to apply for a renewal for the old premises. If such renewal is granted, then, if and when (after July 1st) the new premises are completed, a new application may be filed for a place-to-place transfer to those premises.

I have here pointed out the possibility of granting relief in bona fide and hardship cases. Whether or not the indicated relief is to be granted in a specific case rests in the first instance, and subject to appeal to the State Director, in the sound discretion of the issuing authority.

Dated: May 1, 1952.

EDWARD J. DORTON
Acting Director.

4. MINIMUM CONSUMER RESALE PRICE PAMPHLET - NOTICE OF PUBLICATION.

NOTICE OF PUBLICATION OF MINIMUM CONSUMER RESALE PRICE PAMPHLET.

The next complete and official publication of minimum consumer resale prices pursuant to Regulations No. 30 will become effective on July 1, 1952. Prices to be listed must be filed with the office of this Division not later than 4:00 p.m. of May 20, 1952. It is extremely important to note the following:

1. A listing of minimum consumer resale prices covering every brand and item sold to retailers in this state must be made either by the manufacturer or wholesaler who owns the brands; or a wholesaler who sells the brands and has written authorization from the owner of the brands to file price listings; or by any wholesaler who sells a brand whose owner does not file or is unable to file a schedule or designate an agent for such purposes, provided my approval is obtained for such filing. Each schedule of minimum consumer resale prices submitted by a manufacturer or wholesaler not owning the designated brands must be accompanied by an affidavit certifying that the lister has been authorized to file prices for such designated brands. Note particularly that every wholesaler is not required to file minimum consumer prices.
2. Manufacturers or wholesalers are not required to file a schedule of minimum consumer resale prices for any brand sold exclusively to one New Jersey retailer.
3. Where listers of brands choose to publish a permissive case lot discount, the phrase "Discount of _____% permitted on case lot purchases" should be used.
4. True copies of labels or photostats of labels of brands to be listed in the Minimum Consumer Resale Price Pamphlet must be submitted with the schedule of price listings, if such labels have not been previously submitted. (A separate label for each type listed under a brand name and each label must be attached to a separate letterhead.)
5. Price listings may be submitted by letter in the same form as heretofore.

NOTE OF CAUTION AND WARNING: ANY BRAND OF ALCOHOLIC BEVERAGE NOT LISTED IN THE MINIMUM CONSUMER RESALE PRICE PAMPHLET TO BECOME EFFECTIVE JULY 1, 1952 MAY NOT BE SOLD TO A NEW JERSEY RETAILER BY ANY MANUFACTURER OR WHOLESALER ON AND AFTER JULY 1, 1952.

Notification of the proportionate share of aggregate expenses involved in the publication of the new complete Minimum Consumer Resale Price Pamphlet will be made to participating listers as soon as the pamphlet is mailed to all retail licensees.

Dated: May 2, 1952.

EDWARD J. DORTON
Acting Director.

5.

ACTIVITY REPORT FOR APRIL, 1952

ARRESTS:

Total number of persons arrested - - - - -	21
Licensees and employees - - - - -	8
Bootleggers - - - - -	13

SEIZURES:

Still - 50 gallons or under - - - - -	6
Mash - gallons - - - - -	606.00
Distilled alcoholic beverages - gallons - - - - -	20.11
Wine - gallons - - - - -	2.47
Brewed malt alcoholic beverages - gallons - - - - -	7.50

RETAIL LICENSEES:

Premises inspected - - - - -	1,072
Premises where alcoholic beverages were gauged - - - - -	1,003
Bottles gauged - - - - -	16,847
Premises where violations were found - - - - -	190
Violations found - - - - -	204

Type of violations found:

Unqualified employees - - - - -	25	Transportation insignia - - - - -	2
Storage off licensed premises - - - - -	16	Prohibited equipment - - - - -	2
Disposal permit necessary - - - - -	7	License not displayed - - - - -	1
Other mercantile business - - - - -	5	Probable fronts - - - - -	1
Reg. #38 sign not posted - - - - -	5	Prohibited signs - - - - -	1
Broad package privilege - - - - -	2	Other violations - - - - -	137

STATE LICENSEES:

Premises inspected - - - - -	20
License applications investigated - - - - -	13

COMPLAINTS:

Complaints assigned for investigation - - - - -	404
Investigations completed - - - - -	388
Investigations pending - - - - -	152

LABORATORY:

Analyses made - - - - -	120
Bottles from unlicensed premises - - - - -	9

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made - - - - -	19
Persons fingerprinted for non-criminal purposes - - - - -	198
Identification contacts made with other enforcement agencies - - - - -	195
Motor vehicle identifications via N. J. State Police Teletype - - - - -	2

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -	17
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Violations involved:

Sale during prohibited hours - - - - -	8	Permitting gambling (cards) on premises - - - - -	1
Sale to minors - - - - -	5	Permitting gambling (Numbers) on premises - - - - -	1
Permitting bookmaking on premises - - - - -	2	Permitting hostesses on premises - - - - -	1

Cases instituted at Division - - - - -	16
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Violations involved:

Sale to minors - - - - -	8	Sale to non-members by club - - - - -	1
Unauthorized transportation - - - - -	3	Possessing illicit liquor - - - - -	1
Delivery without bona fide invoice - - - - -	3	Sale during prohibited hours - - - - -	1
Permitting immoral activity on premises - - - - -	2	Permitting pin-ball machines on premises - - - - -	1
Permitting hostesses on premises - - - - -	1	Sale below minimum resale price - - - - -	1

Cases brought by municipalities on own initiative and reported to Division - - - - -	5
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Violations involved:

Sale to minors - - - - -	2	Permitting gambling on premises - - - - -	1
Permitting bookmaking on premises - - - - -	2	False statement in license application - - - - -	1

HEARINGS HELD AT DIVISION:

Total number of hearings held - - - - -	30		
Disciplinary proceedings - - - - -	17	Tax revocation - - - - -	4
Eligibility - - - - -	8	Applications for license - - - - -	1

PERMITS ISSUED:

Total number of permits issued - - - - -	710		
Employment - - - - -	152	Social affairs - - - - -	285
Solicitors' - - - - -	76	Miscellaneous - - - - -	117
Disposal of alcoholic beverages - - - - -	80		

Dated: May 1, 1952.

EDWARD J. DORTON
Acting Director.

6. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (RENTING ROOMS FOR IMMORAL PURPOSES) - SALE OF CONTRACEPTIVES - LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary Proceedings against)

BERTOWN REALTY CORP.)
T/a TABARIN)
Old Route No. 23)
Wayne Township, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Wayne.)

Paul N. Belmont, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

Defendant has pleaded non vult to the following charges:

"1. On February 26 and 27, 1952 and on divers days prior thereto, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the renting of rooms for the purpose of illicit sexual intercourse; in violation of Rule 5 of State Regulations No. 20.

"2. On February 27, 1952, you possessed, allowed, permitted and suffered the sale and distribution of prophylactics against venereal disease and contraceptives and contraceptive devices in and upon your licensed premises; in violation of Rule 9 of State Regulations No. 20."

On Tuesday, February 26, 1952, at about 1:45 p.m., ABC agents visited defendant's licensed premises and made arrangements with Beatrice Gosnell, the sole stockholder of defendant corporate licensee, to hire rooms to engage in illicit sexual intercourse. After being assured by Beatrice Gosnell that they might have the rooms for the purpose indicated the ABC agents left the premises. On Wednesday, February 27, 1952, at about 9:00 p.m., the ABC agents returned to the licensed premises and after speaking to Beatrice Gosnell, the latter directed a female employee to escort the ABC agents to two rooms located on the second floor. At the request of the ABC agents the employee of defendant licensee brought up four drinks of alcoholic beverages and two packages of rubber contraceptives. The ABC agents paid \$1.50 a package for the contraceptives. At this time the employee produced two cards and asked the agents to register, adding, "You can sign any name. It doesn't have to be your own."

Shortly thereafter other ABC agents with a police officer entered the premises and Beatrice Gosnell admitted that she had rented the rooms to the two ABC agents to engage in illicit sexual intercourse.

The renting of rooms for the ostensible purpose of their use for unlawful sexual intercourse is a violation of the Regulations (Rule 5 of State Regulations No. 20, supra). Cf. Re Schneider, Bulletin 892, Item 3; Re Hartman, Bulletin 904, Item 2; Re Molinaro, Bulletin 910, Item 1; cf. Re Schneider, 12 N. J. Super. 449. The mere fact that no unlawful sexual intercourse took place, or in fact was contemplated, does not exculpate the defendant from its unlawful action. Re Schneider, supra.

Considering all the circumstances herein, including the plea, I shall suspend the license for 180 days. Re McCarty, Bulletin 919, Item 3.

Accordingly, it is, on this 8th day of April, 1952,

ORDERED that Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Wayne to Bertown Realty Corp., t/a Tabarin, Old Route No. 23, Wayne Township, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. April 14, 1952; and it is further

ORDERED that if any license be issued to this licensee or any other person for the premises in question for the 1952-53 licensing year, such license shall be under suspension until 3:00 a. m. October 11, 1952.

EDWARD J. DORTON
Acting Director.

7. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (INDECENT STORIES AND DANCE) - CHARGES OF PERMITTING HOSTESSES, LOTTERY, AND EMPLOYMENT OF NON-RESIDENTS DISMISSED - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against)

THE MLC CORPORATION)
710-714 Paterson Plank Road)
Union City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-49, issued by the Board of Commissioners of the City of Union City.)
- - - - -)

John B. Graf, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

Defendant pleaded not guilty to charges alleging that it (1) allowed, permitted and suffered lewdness and immoral activity upon the licensed premises in that a female entertainer performed in a lewd, indecent and immoral manner and a male entertainer recited stories and made gestures and movements having lewd, lascivious, indecent, filthy, disgusting and suggestive import and meaning, in violation of Rule 5 of State Regulations No. 20; (2) allowed, permitted and suffered females employed on the licensed premises to accept beverages at the expense of or as a gift from customers and patrons, in violation of Rule 22 of State Regulations No. 20; (3) knowingly employed on the licensed premises non-residents without requisite permits, in violation of Rule 4 of State Regulations No. 13; and (4) allowed, permitted and suffered a lottery ("raffle" or "drawing") to be conducted upon the licensed premises, in violation of Rule 6 of State Regulations No. 20.

As to Charge 1: Two ABC investigators testified that they entered the licensed premises at 11:15 p.m. on the night of December 15, 1951; that they remained there for several hours and that, beginning at approximately 12:30 a.m. on the morning of December 16, 1951, there was a floor show consisting of a male master of ceremonies who told jokes and recited stories, several dance numbers performed by four girls, a female singer and a solo dance by one Gloria Marlowe. It was stipulated that Charge 1 refers only to the

performances of the master of ceremonies and the dance of Gloria Marlowe, the other acts being unobjectionable.

It is unnecessary to repeat here the jokes and stories told by the master of ceremonies. Suffice it to say that at least one had overtones of sexual perversion. Many of these jokes and stories were indecent and have no place on liquor licensed premises. Re Corma, Bulletin 913, Item 4; Re Bajewicz, Bulletin 902, Item 4.

The testimony of the agents and the defense witnesses is in accord with respect to certain aspects of Gloria Marlowe's dance. All testified that the lighting was dimmed when the dancer began her routine; that her body was practically fully covered when the dance began, and that during the course of her program she removed her outer garments. However, there is disagreement as to the exact nature of her state of undress at the conclusion of her dance and the nature and extent of her movements during the dance.

The agents testified that during her dance Gloria Marlowe removed a "halter" and a sash, thus revealing her entire body except for a light flesh-colored net brassiere studded with sequins, and panties of the same material similarly studded. One agent testified that "At one point during her dance the band stopped. The lights dimmed slightly, even more....To deeper blue, and she removed the sequined brassiere and the sequin panties" and that, from his position in the audience approximately twenty-five feet away, Gloria Marlowe "appeared naked". The other agent testified that "she moved herself around and did bumps and grinds and she moved her hands along her body" and that she was finally attired only in transparent net panties and brassiere without sequins; that "she appeared naked". Both agents testified that all of this action took place on a small dance floor, frequently within five or six feet of the nearest patrons, and that, as the dance continued and as the dancer removed parts of her costume and her movements became faster, the patrons "got noisier" and "started yelling to her".

Admittedly, Gloria Marlowe was not naked at any time during her dance. The agents testified that a plain net brassiere was worn by Gloria Marlowe under the sequin brassiere, and that she admitted that when her dance ended she was attired only in the plain net brassiere and a net G-string. The agents also testified that, when asked whether she did "bumps and grinds" (well known body movements commonly executed by burlesque strip-tease dancers), she retorted, "That's what I get paid to do."

The witnesses for the defendant, while admitting that Gloria Marlowe removed her outer garments, denied that she removed the sequin brassiere or sequin panties, and also denied that she did "bumps and grinds". They claimed instead that she was a high-priced artist who had appeared at many places throughout the country and described her dance as "exotic" and "interpretive".

I believe the testimony of the agents. Despite defendant's aforementioned characterization of Gloria Marlowe and her performance, the dance was basically a strip-tease accompanied by the "bumps and grinds" and the manual caressing of the thighs and breasts common to such performances, ending with the usual simulation of nudity. It has already been ruled that such performances and exhibitions are immoral and lewd and have no place on licensed premises. Re DiAngelo, Bulletin 753, Item 4; Neu v. Irvington, Bulletin 923, Item 3. See also Re Turner, Bulletin 214, Item 10, where the late Commissioner Burnett, in discussing the use of "so-called" net gauze over the dancer's skin, said:

"Whatever has the appearance of evil and is separated from it only by a 'so-called net gauze' is not fit for taverns."

It has also been held that "Nudity or the simulation thereof has no place in the liquor industry." Re DiAngelo, supra, and cases there cited.

In view of the foregoing I find defendant guilty as to Charge 1.

As to Charge 2: The agents testified that they saw several of the girls of the "chorus line" apparently drinking with male patrons at a bar, but there is no clear testimony as to who paid for these drinks. On behalf of defendant it was testified that the female entertainers are not permitted to drink with customers but are served, without charge, all of the coffee or soft drinks they desire. Other witnesses confirmed this "house rule". From all of the testimony I find that the prosecution has not established defendant's guilt on Charge 2 by the necessary preponderance of the evidence. Consequently I find defendant not guilty as to that charge.

As to Charge 3: I am satisfied from all of the evidence that defendant's premises constitute a bona fide restaurant and that, therefore, no employment permits were necessary. R. S. 33:1-26. I find defendant not guilty as to Charge 3.

As to Charge 4: It was admitted that there were a number of toy stuffed animals behind a bar. Although there was testimony that one of the bartenders told the agents that these stuffed animals were "raffled off" every Monday night, there is no evidence that any such "raffle" ever took place on the licensed premises. On the contrary, the defendant's witnesses denied that any "raffle" was ever held or contemplated. Defendant's President testified that the stuffed animals were intended as prizes for the winners of square dances and for the best costumes, such winners to be determined by applause. On the evidence presented I find defendant not guilty as to Charge 4.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of thirty days on Charge 1. Re Bajewicz, supra.

Accordingly, it is, on this 15th day of April, 1952,

ORDERED that Plenary Retail Consumption License C-49, issued by the Board of Commissioners of the City of Union City to The MLC Corporation, for premises 710-714 Paterson Plank Road, Union City, be and the same is hereby suspended for thirty (30) days, commencing at 3:00 a.m. April 28, 1952, and terminating at 3:00 a.m. May 28, 1952.

EDWARD J. DORTON
Acting Director.

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

In the Matter of Disciplinary Proceedings against)

CHRISTINE CRAWFORD)
T/a WILLIE'S BAR)
562 Avenue C)
Bayonne, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-168, issued by the Board of Commissioners of the City of Bayonne.)
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Joseph J. Loori, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

Defendant has pleaded non vult to charges alleging (1) that, in violation of R. S. 33:1-25, she made false statements in her application dated June 9, 1951, for the current licensing period, thereby concealing the true extent of the interest of one Abe (Abraham) Bressler; (2) that, in violation of R. S. 33:1-52, she knowingly aided and abetted the said Abe (Abraham) Bressler from June 29, 1949 until the present time to exercise the rights and privileges of her successive plenary retail consumption licenses; (3) that, in violation of R. S. 33:1-52, her predecessor in interest (Alfred Cummings) knowingly aided and abetted said Abe (Abraham) Bressler from October 5, 1948 until June 29, 1949 to exercise the rights and privileges of his plenary retail consumption license; and (4) that, in violation of R. S. 33:1-34, she failed to notify the Board of Commissioners of the City of Bayonne that on October 1, 1951 she changed her place of residence in New Jersey.

The file herein discloses that on June 29, 1949 the license in question, then held by Alfred Cummings, was transferred by the local issuing authority to defendant. It appears from an examination of the file that although Alfred Cummings and defendant, respectively, are named as the successive holders of the liquor license, Abraham Bressler is now and has always been the real and beneficial owner of the license and the business conducted thereunder. Records of the Bayonne Police Department indicate that a person named Abe Bressler was arrested in 1922 and 1926; that this person was fined \$25.00 after his first arrest and \$15.00 after his second arrest. However, the authentic court records are not obtainable at this time. Judging from the small fines imposed, it would not appear that either crime involved moral turpitude. Abe Bressler testified at a supplemental hearing held in connection herewith that he does not remember the occasions resulting in the alleged convictions.

Under the circumstances Abraham Bressler does not appear disqualified by statute from holding a liquor license in this state.

Defendant has no prior adjudicated record. Since it appears that the unlawful situation continues to exist, I have no alternative except to suspend the license for the balance of its term. I shall, however, entertain a petition to lift the suspension herein after a correction of the unlawful situation has been effected, but in no event will the suspension be lifted until the license has been under suspension for a period of twenty-five days from the effective date thereof. Cf. Re Mousaw, Bulletin 844, Item 5.

Accordingly, it is, on this 16th day of April, 1952,

ORDERED that Plenary Retail Consumption License C-168, issued by the Board of Commissioners of the City of Bayonne to Christine Crawford, t/a Willie's Bar, 562 Avenue C, Bayonne, be and the same is hereby suspended for the balance of its term expiring at midnight June 30, 1952, effective at 2:00 a.m. April 21, 1952; with leave to file, as aforesaid, a petition to lift said suspension.

EDWARD J. DORTON
Acting Director.

9. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN APPLICATION CONCEALING INTEREST OF CO-OWNER - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE PRIVILEGES OF LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against MILDRED CALANDRIELLO S/E Cor. Wayside and Pine Brook Road New Shrewsbury Borough RFD Eatontown, N. J., Holder of Plenary Retail Distribution License D-3, issued by the Mayor and Council of the Borough of New Shrewsbury, and transferred during the pendency of these proceedings to: MILDRED AND THOMAS B. CALANDRIELLO, for the same premises.
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CONCLUSIONS
AND
ORDER

Elvin R. Simmill, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

Defendant pleaded guilty to the following charges:

"1. In your application dated May 22, 1951, filed with the Mayor and Council of New Shrewsbury Borough, upon which you obtained your current plenary retail distribution license, you falsely stated 'No' in answer to Question 30, which asks: 'Has any individual...other than the applicant, any interest, directly or indirectly, in the license applied for or in the business to be conducted under said license?', whereas in truth and fact Thomas B. Calandriello had such an interest in that he was co-owner with you of the said business; said false statement being in violation of R. S. 33:1-25.

"2. From on or about July 1, 1949 until the present time, you knowingly aided and abetted Thomas B. Calandriello to exercise, contrary to R. S. 33:1-26, the rights and privileges of your successive plenary retail distribution licenses; thereby yourself violating R. S. 33:1-52."

The file herein discloses that, on May 22, 1951, defendant filed an application for renewal of her 1950-51 plenary retail distribution license. In said application she denied that any individual other than the applicant had any interest, directly or

indirectly, in the license or in the business to be conducted thereunder. In accordance with the application, the license was renewed to defendant on July 1, 1951. During the course of the investigation defendant admitted that during the entire time she had held the license (since July 1949), her husband, Thomas B. Calandriello, has been an undisclosed equal partner in the license and in the business conducted thereunder.

Defendant's husband explained that, for a number of years preceding July 1, 1949, he had held, first a plenary retail consumption license for other premises in what was then Shrewsbury Township and later a plenary retail distribution license for the premises covered by the present license. In July 1949, the latter license was transferred from him to defendant. As the result of an election held on July 18, 1950, the Borough of New Shrewsbury was formed from a portion of the Township of Shrewsbury, including within its limits the premises presently licensed to defendant. Defendant's husband further explained that, from 1945 to 1950 he had been a special police officer of Shrewsbury Township and was appointed a special police officer of New Shrewsbury Borough after the borough was created. Although he was not employed full time in that capacity, he had full police powers. He claims to have been informed that his said office was incompatible with his status as a liquor licensee and, hence, arranged to have the license transferred to his wife. This explanation was concurred in by defendant.

On April 3, 1952, the license in question was transferred from defendant individually to herself and her said husband so that the illegal situation has been corrected. As part of the correction it was represented to this Division that Thomas B. Calandriello would resign as special police officer of the Borough of New Shrewsbury and it is assumed that he no longer holds that office.

Defendant has no prior adjudicated record. Under the circumstances I shall suspend the license for a period of twenty days. Re De Angelo, Bulletin 613, Item 4.

Accordingly, it is, on this 10th day of April, 1952,

ORDERED that Plenary Retail Distribution License D-3, issued by the Mayor and Council of the Borough of New Shrewsbury to Mildred Calandriello, S/E Cor. Wayside and Pine Brook Road, New Shrewsbury Borough, and transferred during the pendency of these proceedings to Mildred and Thomas B. Calandriello, for the same premises, be and the same is hereby suspended for a period of twenty (20) days, commencing at 3:00 a.m. April 17, 1952, and terminating at 3:00 a.m. May 7, 1952.

EDWARD J. DORTON
Acting Director.

10. STATE LICENSES - NEW APPLICATIONS FILED.

St. Louis Terminal Warehouse Company
522-24-26 South Broadway, Gloucester City, N. J.
Application filed April 24, 1952 for Public Warehouse License.

Highway Express Co.
490 Green St., Cambridge, Mass.
Application filed April 29, 1952 for Transportation License.

New York Terminal Warehouse Co., Inc.
1429 Absecon Boulevard, Atlantic City, N. J.
Application filed May 2, 1952 for transfer of premises to new addition to building.

EDWARD J. DORTON
Acting Director.

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

In the Matter of Cancellation)
Proceedings against)

HENRY SCHMELZ)
1700 Bergenline Avenue)
Union City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Limited Retail Distri-)
bution License DL-17, issued by)
the Board of Commissioners of the)
City of Union City.)

Henry Schmelz, Licensee, Pro Se.
Anthony Meyer, Jr., Esq., appearing for Division of Alcoholic
Beverage Control.

Licensee was ordered to show cause why his limited retail dis-
tribution license should not be suspended, revoked or cancelled and
declared null and void for the following reason:

"Said license was improvidently issued in violation of R. S.
33:1-12(3)b (as amended by P. L. 1951, ch. 163), in that it
was issued for premises not operated and conducted by you as
a bona fide grocery store, meat market, meat and grocery
store, delicatessen, or other type of bona fide food store
at which groceries or other foodstuffs were sold at retail
and at which the sale of groceries or other foodstuffs was
the primary and principal business and the sale of alcoholic
beverages was merely incidental and subordinate thereto."

Licensee was the holder of a limited retail distribution license
for the 1950-51 licensing year. P.L. 1951, ch. 163, became effective
June 5, 1951. The Board of Commissioners of the City of Union City
granted application for a 1951-1952 renewal subject to the special
condition that the license "shall not become effective until the
renewal licensee conforms to Revised Statutes 33:1-12(3)b". An
investigation made by ABC agents after July 1, 1951, indicated that
the licensee was conducting a confectionery, cigar and stationery
store and that he sold only a few minor items of groceries and other
foodstuffs. Hence, the order to show cause herein was issued.

Prior to the return day of the order to show cause, licensee
advised the Division, in writing, that he "tried to comply with the
new law by adding an extra line of food but have been unable to sell
an adequate amount", and that he did not intend to appear on the
return day mentioned in the order to show cause.

Thus the special condition precedent is not complied with, and
I find as a fact that the type of business conducted by the licensee
prevents the renewal of his license. Under the circumstances, I
shall cancel the license.

Accordingly, it is, on this 28th day of April, 1952,

ORDERED that Limited Retail Distribution License DL-17, granted
by the Board of Commissioners of the City of Union City to Henry
Schmelz, for premises 1700 Bergenline Avenue, Union City, subject to
the special condition set forth above, be and the same is hereby
cancelled, effective immediately.

New Jersey State Library

Edward J. Dorton
Acting Director.