

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

BULLETIN 817

OCTOBER 6, 1948.

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

BULLETIN 817

OCTOBER 6, 1948.

1. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

BENJAMIN A. SELZER and)
MORRIS SCHEY)
T/a BEN-MOR WINES & LIQUORS)
120 Market Street)
Passaic, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-24, issued by the Board of Commissioners of the City of Passaic.)

Benjamin A. Selzer and Morris Schey, Defendant-licensees, Pro Se.
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendants have pleaded non vult to a charge alleging the sale of alcoholic beverages for a price below the minimum consumer price, in violation of Rule 6 of State Regulations No. 30.

On August 26, 1948, an inspector of the State Department of Alcoholic Beverage Control purchased at defendants' licensed premises a case of twenty-four 12-ounce cans of Schaefer Beer for the price of \$3.25. The minimum retail price of said item is \$3.50. Bulletin 805, effective June 1, 1948.

On February 27, 1948, defendants' license was suspended for ten days, less five for a plea, after a plea of non vult to a similar charge. Bulletin 796, Item 10. I therefore shall suspend the license for twenty days, less five days for the plea, leaving a net suspension of fifteen days. Re Maire, Bulletin 392, Item 4.

Accordingly, it is, on this 15th day of September, 1948,

ORDERED that Plenary Retail Distribution License D-24, issued by the Board of Commissioners of the City of Passaic to Benjamin A. Selzer and Morris Schey, t/a Ben-Mor Wines & Liquors, for premises 120 Market Street, Passaic, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 9:00 a.m. September 22, 1948, and terminating at 9:00 a.m. October 7, 1948.

ERWIN B. HOCK
Commissioner.

2. LIMITATION OF NUMBER OF RETAIL LICENSES - PETITION UNDER SECTION 6, CHAP. 94, P.L. 1947, FOR DETERMINATION THAT FAILURE TO APPLY FOR RENEWAL WAS DUE TO CIRCUMSTANCES BEYOND CONTROL OF LICENSEE - RELIEF GRANTED.

In the Matter of an Application by)

OCEAN DRIVE OPERATING CO., INC.)
Borough of Sea Bright, N. J.,)

ON PETITION
DETERMINATION AND ORDER

For Relief under the Provisions of)
Sec. 6 of Ch. 94 of the Laws of 1947.)
-----)

Parsons, Labrecque, Canzona & Combs, Esqs., by Robert E. Maida, Esc.,
Attorneys for Petitioner.

BY THE COMMISSIONER:

The petition herein recites that Ocean Drive Operating Co., Inc. was the holder of a plenary retail consumption license for more than seven years at 958 Ocean Avenue, Borough of Sea Bright, and that its license for the 1947-48 fiscal year expired by its terms at midnight June 30, 1948.

The petition further recites that its lease for said premises expired in October 1947 and that, when petitioner sought renewal of said license in April 1948 and May 1948, it was advised by the owner of said premises that the premises would not be leased to petitioner because the owner had made application for the transfer of another plenary retail consumption license to the owner and to said premises.

It further appears that on May 25, 1948, petitioner made application to the Mayor and Council of the Borough of Sea Bright for transfer of its plenary retail consumption license to 1145 Ocean Avenue, and that on June 8, 1948 the Mayor and Council denied said application on the ground that the premises to which petitioner sought to transfer the license were not suitable. On June 18, 1948 petitioner made a further application to the Mayor and Council for a transfer of its license to 1138 Ocean Avenue. This application was denied on June 28, 1948 on the ground that sufficient licensed premises existed in the vicinity. Petitioner thereupon appealed to the Commissioner of Alcoholic Beverage Control from the action of the Mayor and Council in denying both of said transfers and denying an application for renewal for the present fiscal year at 1138 Ocean Avenue. On July 29, 1948 the action of the Mayor and Council was affirmed and the appeal was dismissed. Ocean Drive Operating Co., Inc. v. Sea Bright, Bulletin 812, Item 12.

It further appears from the petition that on August 30, 1948, petitioner obtained a lease for premises known as The Charles Manor at 1038 Ocean Avenue. The petitioner has filed an application for a plenary retail consumption license for said premises. This application must be considered as an application for a new license but, since it has been filed within sixty days following the expiration of the license renewal period, petitioner seeks relief under the provisions of Sec. 6 of Ch. 94, P.L. 1947, because the number of plenary retail consumption licenses already in existence in the borough exceeds one for each 1,000 of the population.

Under all the circumstances, I hereby DETERMINE that the applicant's failure to apply for a renewal of the 1947-48 license was due to circumstances beyond its control. In view of this determination, the local issuing authority may, in its discretion, grant petitioner's pending application despite the limitation of licenses set forth in Sec. 2 of Ch. 94, P.L. 1947. The determination herein does not mean

4. APPELLATE DECISIONS - UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION v. ELIZABETH AND McGLYNN; TOMASKO; ALLEN; KUCHERA; MALONE; BROLLEY AND NEVINS; MILLER.

UNION COUNTY RETAIL LIQUOR STORES ASSOCIATION,)

Appellant,)

-vs-)

ON APPEAL
O R D E R

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF ELIZABETH, and JOHN & FRANK McGLYNN, t/a McGLYNN'S; ANDREW P. TOMASKO, t/a BUCKEYE TAVERN; JOHN A. ALLEN, t/a ALLEN'S BAR; ALBERT KUCHERA, t/a HAPPY MOON TAVERN; THOMAS T. MALONE; BROLLEY and NEVINS; and FREDERICK MILLER,)

Respondents.)

Julius R. Pollatschek, Esq., Attorney for Appellant.
Louis P. Longobardi, Esq., Attorney for Respondent Municipal Board.
Sidney Simandl, Esq., Attorney for Respondents John & Frank McGlynn; Andrew P. Tomasko; and Brolley and Nevins.
John L. McGuire, Esq., Attorney for Respondents John A. Allen, and Albert Kuchera.
Daniel J. O'Hara, Esq., Attorney for Respondent Thomas T. Malone.
Harry B. Kotler, Esq., Attorney for Respondent Frederick Miller.

BY THE COMMISSIONER:

In the above cases appellant appeals from the action of respondent Municipal Board in granting "broad package privileges", in accordance with C. 98, P.L. 1948, and Rule 4 of State Regulations No. 32, to the respondent-licensees herein mentioned.

Prior to the hearing of said appeals, appellant requested leave to withdraw each of the said appeals. No reason appearing to the contrary, leave to withdraw the appeals is granted.

Accordingly, it is, on this 22nd day of September, 1948,

ORDERED that the above appeals be and the same are hereby dismissed.

ERWIN B. HOCK
Commissioner.

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

In the Matter of Disciplinary Proceedings against)

HYMAN GAST)
53 Wilson Avenue)
Newark, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-714 for the 1947-48 and 1948-49 licensing periods, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)
-----)

Louis H. Hollander, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that, on June 8, 1948, he possessed an illicit alcoholic beverage at his licensed premises, to wit, a 4/5 quart bottle of "Canadian Club Blended Canadian Whisky", which was not genuine as labeled, in violation of R. S. 33:1-50.

The defendant has no previous record. The license will be suspended for a period of fifteen days, less five for the plea, leaving a net suspension of ten days. Cf. Re Ritter, Bulletin 813, Item 8.

Accordingly, it is, on this 27th day of September, 1948,

ORDERED that Plenary Retail Consumption License C-714, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Hyman Gast, 53 Wilson Avenue, Newark, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. October 4, 1948, and terminating at 2:00 a.m. October 14, 1948.

ERWIN B. HOCK
Commissioner.

6. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 SILVER SADDLE TAVERN, INC.
 2603 Paterson Plank Road
 North Bergen, N. J.,
 Holder of Plenary Retail Consumption License C-71, issued by the Board of Commissioners of the Township of North Bergen.

CONCLUSIONS AND ORDER

John R. Kelly, Esq., Attorney for Defendant-licensee.
 William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that it possessed illicit alcoholic beverages at its licensed premises, to wit, one 4/5 quart bottle of "Gallagher & Burton White Label Blended Whiskey", one 4/5 quart bottle of "PM DeLuxe Blended Whiskey", one 4/5 quart bottle of "Old Overholt Straight Rye Whiskey", and one 4/5 quart bottle of "Hunter First Over The Bar Fine Blended Whiskey", all of which were not genuine as labeled, in violation of R. S.33:1-50.

The four bottles in question were seized by an ABC agent on July 2, 1948, after testing thirty-four open bottles of liquor.

Since the defendant has no previous adjudicated record, I shall impose the usual twenty-day penalty, less five days for the plea, leaving a net suspension of fifteen days. Re Sweet, Bulletin 799, Item 7.

Accordingly, it is, on this 27th day of September, 1948,

ORDERED that Plenary Retail Consumption License C-71, issued by the Board of Commissioners of the Township of North Bergen to Silver Saddle Tavern, Inc., 2603 Paterson Plank Road, North Bergen, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. October 4, 1948, and terminating at 3:00 a.m. October 19, 1948.

ERWIN B. HOCK
 Commissioner.

7. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CHARLES J. RUSCIANO)
T/a CHARLIE'S PLEASANT INN)
.State Hwy. 35, near Lister Rd.)
Point Pleasant, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Point Pleasant.)

-----)
Charles J. Rusciano, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that he possessed eight bottles of alcoholic beverages, all of which bottles contained alcoholic beverages not genuine as labeled, in violation of R. S. 33:1-50.

The eight bottles in question were part of the defendant's open stock of 102 bottles tested by an ABC agent on September 3, 1948. The contents of all of these bottles, on being chemically analyzed, disclosed that they varied in substantial respects from genuine samples of the same products.

The licensee has a previous adjudicated record. Effective April 1, 1946, defendant's license was suspended for a period of five days as a result of being adjudged guilty by the State Commissioner of permitting service and consumption of alcoholic beverages and failure to close the licensed premises during prohibited hours. Re Rusciano, Bulletin 704, Item 3.

Under the circumstances, I shall suspend defendant's license for a period of thirty-five days, less five days for the plea entered herein, or a net suspension of thirty days.

Accordingly, it is, on this 30th day of September, 1948,

ORDERED that Plenary Retail Consumption License C-3, issued by the Mayor and Council of the Borough of Point Pleasant to Charles J. Rusciano, t/a Charlie's Pleasant Inn, for premises State Hwy. 35, near Lister Rd., Point Pleasant, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2:00 a.m. October 11, 1948, and terminating at 2:00 a.m. November 10, 1948.

ERWIN B. HOCK
Commissioner.

8. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ABRAHAM WEISS & HERMAN HOCHBERG T/a WEISS WINE & LIQUOR 81 Main Street Madison, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-2, issued by the Borough Council of the Borough of Madison.)

Abraham Weiss & Herman Hochberg, Defendant-licensees, by Herman Hochberg, Partner. Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-licensees pleaded non vult to a charge alleging that they sold a 4/5 quart bottle of Schenley Reserve Blended Whiskey below the established Fair Trade price, in violation of Rule 6 of State Regulations No. 30.

On September 18, 1948, an employee of the defendant-licensees sold the product in question to an ABC agent for the sum of \$3.75, whereas the minimum retail price of said item, as established in Bulletin 814, effective September 1, 1948, was \$4.04.

Defendants have a previous adjudicated record. Effective June 3, 1942, the defendants' license was suspended for ten days by the State Commissioner after said defendants pleaded guilty to a similar violation. Under all the circumstances, I shall suspend the defendants' license for a period of twenty days, less five days' remission for the plea entered herein, or a net suspension of fifteen days. Cf. Re Silver Rod Stores, Inc., Bulletin 676, Item 8.

Accordingly, it is, on this 30th day of September, 1948,

ORDERED that Plenary Retail Distribution License D-2, issued by the Borough Council of the Borough of Madison to Abraham Weiss & Herman Hochberg, t/a Weiss Wine & Liquor, for premises 81 Main Street, Madison, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 9:00 a.m. October 11, 1948, and terminating at 9:00 a.m. October 26, 1948.

ERWIN B. HOCK Commissioner.

9. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES - FEMALE IMPERSONATORS - HOSTESSES - PERMITTING PREMISES TO BE CONDUCTED AS NUISANCE - PRIOR RECORD - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against)

SAM MOSKOWITZ & FRANK T. BRIGLIDORE)
86 1/2 Market Street)
Paterson 1, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-176, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)

Saul C. Schutzman, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendants pleaded non vult to charges alleging that, on July 2, 3 and 8, 1948, they permitted (1) lewdness and immoral activities on their licensed premises, (2) females employed on their licensed premises to accept beverages at the expense of patrons, and (3) their licensed place of business to be conducted as a nuisance.

On the dates mentioned, several ABC agents observed one Fred --- on the defendants' licensed premises, acting as a Master of Ceremonies. He sang several songs, all of which were lewd and indecent, and accompanied his singing with suggestive gestures. The agents also saw several of the female entertainers sitting with male patrons and drinking alcoholic beverages at the latter's expense.

Fred --- is a female impersonator, who had come to the attention of this Department as a result of an investigation made at another tavern where he had performed in feminine makeup and attire. When it was learned that Fred --- was frequenting the defendants' tavern I caused a letter to be written to the defendants in May 1948, advising them of the capacity in which Fred --- had been employed at the other tavern and suggested that they "take whatever steps you deem necessary to avoid any similar occurrence on your licensed premises". Despite this admonition, Fred --- was permitted to perform on the defendants' premises. While it is true that feminine attire and makeup were not used by Fred --- at the defendants' tavern, his actions and mannerisms, in and of themselves, were such as to put the defendants on notice that he was not the "normal" entertainer.

The defendants' previous record includes a suspension imposed in November 1947 for possession of illicit liquor. See Bulletin 782, Item 7. A consideration of all the circumstances, including the plea, warrants the imposition of a sixty-day penalty. Such will be the order.

Accordingly, it is, on this 1st day of October, 1948,

ORDERED that Plenary Retail Consumption License C-176, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Sam Moskowitz & Frank T. Briglidore, for premises 86 1/2 Market Street, Paterson, be and the same is hereby suspended for a period of sixty (60) days, commencing at 3:00 a.m. October 7, 1948, and terminating at 3:00 a.m. December 6, 1948.

ERWIN B. HOCK
Commissioner.

10. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS BY HOLDER OF SPECIAL PERMIT - PERMIT SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN P. TEEVAN)
c/o NATIONAL GUARD ARMORY)
Sussex Ave. & Jay Street)
Newark 7, N. J.,)

CONCLUSIONS AND ORDER

Holder of Special Permit SM No. 4962, issued by the State Commissioner of Alcoholic Beverage Control.)

Herbert J. Dwyer, Esq., Attorney for Defendant-permittee.
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant-permittee pleaded non vult to a charge alleging that he sold and served alcoholic beverages before 12:00 o'clock noon contrary to a municipal ordinance, in violation of one of the express conditions of his special permit authorizing sale and service of alcoholic beverages at the National Guard Armory at Sussex Avenue and Jay Street, Newark, N. J.

It appears, from an examination of the file in the instant case, that on Sunday, July 25, 1948, between the hours of 9:00 a.m. and 10:15 a.m., an employee of defendant-permittee sold and served alcoholic beverages to members of the New Jersey National Guard. Sale and service of alcoholic beverages is prohibited between 2:00 a.m. and 12:00 o'clock on Sundays by Section 1 of Ordinance No. 1359, adopted by the Board of Commissioners of the City of Newark on December 18, 1945. The employee who actually permitted the sale and service of alcoholic beverages during the prohibited hours contended that he did so without the knowledge or permission of the defendant-permittee. Other evidence indicates, however, that defendant-permittee was aware that alcoholic beverages were to be sold and served at the time in question.

Special Permit No. SM-4962 specifically provides that no sale or service of alcoholic beverages should be made during the hours when retail consumption licensees are prohibited from making sales in the municipality in which the armory is located. A further express condition of the permit provides that the State Commissioner of Alcoholic Beverage Control may, in his discretion, cancel said permit without notice or assignment of reason or cause.

Under the circumstances presented in the instant case, indicating a deliberate violation of one of the conditions upon which the permit was issued, I shall suspend the permit for a period of fifteen days, less five for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 1st day of October, 1948,

ORDERED that Special Permit No. SM-4962, issued by the State Commissioner of Alcoholic Beverage Control to John P. Teevan to sell and serve alcoholic beverages at the National Guard Armory, Sussex Avenue and Jay Street, Newark, New Jersey, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. October 15, 1948, and terminating at 9:00 a.m. October 25, 1948.

ERWIN B. HOCK
Commissioner.

October 4, 1948

11. ACTIVITY REPORT FOR SEPTEMBER 1948

ARRESTS:

Total number of persons arrested - - - - - 7
 Bootleggers- - - - - 7

SEIZURES:

Motor vehicles - cars- - - - - 1
 Distilled alcoholic beverages - gallons- - - - - 10,40
 Wine - gallons - - - - - 1.80
 Brewed malt alcoholic beverages - gallons- - - - - 8.16

RETAIL LICENSEES:

Premises inspected - - - - - 572
 Premises where alcoholic beverages were gauged - - - - - 829
 Bottles gauged - - - - - 13,805
 Premises where violations were found - - - - - 43
 Violations found - - - - - 50
 Type of violations found:
 Unqualified employees- - - - - 15 Probable fronts- - - - - 4
 Other mercantile business- - - - - 14 Reg. #38 sign not posted - - - - 2
 Gambling devices - - - - - 7 Other violations - - - - - 3
 Improper beer taps - - - - - 5

STATE LICENSEES:

Premises inspected - - - - - 12
 License applications investigated- - - - - 14

COMPLAINTS:

Complaints assigned for investigation- - - - - 279
 Investigations completed - - - - - 360
 Investigations pending - - - - - 161

LABORATORY:

Analyses made- - - - - 115
 "Shake-up" cases (alcohol, water and artificial color) - bottles - - - - - 5
 Liquor found to be not genuine as labeled - bottles- - - - - 30

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made- - - - - 18
 Persons fingerprinted for non-criminal purposes- - - - - 225
 Identification contacts made with other enforcement agencies - - - - - 178
 Motor vehicle identifications via N. J. State Police Teletype- - - - - 10

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities- - - - - 13
 Violations involved:
 Sale during prohibited hours - - - - - 11 Sale to minors - - - - - 2
 Cases instituted at Department (*2 include cancellation proceedings) - - - - - 15
 Violations involved:
 Mislabeling beer taps- - - - - 4 Permitting pin ball machines on premises- - 1
 Fraud and front- - - - - 3* Transporting alcoholic beverages without accompanying invoice - - - 1
 Sale under Fair Trade price- - - - - 3 Sale outside scope of license- - - 1
 Hindering investigation- - - - - 1 Retailer bottling without license 1
 Possessing illicit liquor- - - - - 1
 Serving women at a bar - - - - - 1
 Cases brought by municipalities on own initiative and reported to Department - - - - - 5
 Violations involved:
 Sale to minors - - - - - 2 Conducting business as a nuisance- 1
 Permitting brawls on premises- - - - - 1 Sale during prohibited hours - - - 1

CANCELLATION PROCEEDINGS instituted at Department- - - - - 2

Violations involved:
 Issuance of license in excess of quota - 1
 Issuance of license to non-resident- - - 1

HEARINGS HELD AT DEPARTMENT:

Total number of hearings held- - - - - 41
 Appeals- - - - - 5
 Disciplinary proceedings - - - - - 17 Tax revocation - - - - - 1
 Eligibility- - - - - 11 Application for license- - - - - 2
 Seizures - - - - - 3 Hearing on petition- - - - - 2

PERMITS ISSUED:

Total number of permits issued - - - - - 1,052
 Employment - - - - - 165 Social affairs - - - - - 428
 Solicitors- - - - - 144 Special wine - - - - - 55
 Disposal of alcoholic beverages- - - - - 149 Miscellaneous- - - - - 111

Erwin B. Hock, Commissioner

12. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES AT BAR AND AT TABLES NOT IN CONJUNCTION WITH SERVICE OF MEAL, IN VIOLATION OF EXPRESS CONDITION IN LICENSE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 NORMANDY CORPORATION)
 T/a NORMANDY RESTAURANT)
 201 Cookman Avenue)
 Asbury Park, N. J.,)
 Holder of Plenary Retail Consumption License C-69, issued by the City Council of the City of Asbury Park.)

CONCLUSIONS AND ORDER

 Normandy Corporation, by John Gorka, President.
 Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

Defendant pleads non vult to charges alleging (1) operation of a bar other than a service bar in its licensed premises, and (2) service of alcoholic beverages to patrons at tables not in conjunction with service of meals; in violation of express conditions imposed upon the issuance of its license by the local issuing authority.

The license in question contains six express conditions imposed at the time of its issuance by the local issuing authority, among which are: Condition (1) There shall be no bar in the premises other than a service bar; Condition (3) Liquor shall be served only to patrons seated at tables and only in conjunction with the serving of meals to such patrons.

An examination of the file in the instant case discloses that, on August 18, 1948, ABC agents ordered and were served several bottles of beer while standing at the bar in defendant's licensed premises. The file also discloses that one of the agents sat at a table and ordered and was served a bottle of beer by a waiter, but did not order, nor was he requested to order a meal by the employee of defendant-licensee.

Defendant has no previous adjudicated record. Under the circumstances, I shall suspend defendant's license for a period of fifteen days, less five days' remission for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 4th day of October, 1948,

ORDERED that Plenary Retail Consumption License C-69, issued by the City Council of the City of Asbury Park to Normandy Corporation, t/a Normandy Restaurant, for premises 201 Cookman Avenue, Asbury Park, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. October 18, 1948, and terminating at 3:00 a.m. October 28, 1948.

ERWIN B. HOCK
Commissioner.

13. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

OCEAN MONTEREY CORPORATION)
6th & 7th Aves. bet. Ocean Ave.)
and Kingsley St.)
Asbury Park, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-71 issued by the)
City Council of the City of)
Asbury Park.)

-----)
Nicholas Martini, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that it possessed nine bottles of alcoholic beverages, all of which bottles contained alcoholic beverages not genuine as labeled, in violation of R. S. 53:1-50.

The nine bottles in question were part of the defendant's open stock of 74 bottles tested by an ABC agent on August 11, 1948. The contents of all of these bottles, on being analyzed, disclosed that they varied in substantial respects from genuine samples of the same products.

In mitigation defendant alleges that none of its officers had any knowledge regarding the contents of these opened bottles, and that its investigation failed to reveal any employee who had any knowledge as to the manner in which the change in contents occurred. Defendant alleges that the seized bottles were part of the stock of liquor purchased from a former licensee who conducted business on the licensed premises from April to June 1948. Nevertheless, a licensee, in taking over an open stock of liquor, necessarily assumes the risk if illicit liquor is subsequently found on his premises. Re Moritko, Bulletin 490, Item 4; Re Twin Rivers Inn, Bulletin 494, Item 9.

The licensee has no previous adjudicated record. I shall, therefore, suspend the license for a period of thirty-five days, which is the minimum period of suspension for violations involving nine bottles, and shall remit five days for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 4th day of October, 1948,

ORDERED that Plenary Retail Consumption License C-71, issued by the City Council of the City of Asbury Park to Ocean Monterey Corporation, for premises at 6th & 7th Aves. bet. Ocean Ave. and Kingsley St., Asbury Park, be and the same is hereby suspended for a period of thirty (30) days, commencing at 3:00 a.m. October 6, 1948, and terminating at 2:00 a.m. November 5, 1948.

ERWIN B. HOCK
Commissioner.

14. RETAIL LICENSEES - SLIDING SCALE FOR PRICE OF DRINKS DISAPPROVED AS PRACTICE DESIGNED UNDULY TO INCREASE CONSUMPTION - SIGN IN FRONT WINDOW ADVERTISING PRICE OF DRINKS PROHIBITED BY RULE 3 OF STATE REGULATIONS NO. 21.

October 1, 1948

Dear Sir:

You hold a plenary retail consumption license for your premises at the above address.

In your letter of September 28th you allege that "several bars" in Atlantic City have been starting a practice of selling a single drink of a certain brand for twenty-five cents with the second drink to cost only fifteen cents. You ask whether this practice is permissible.

I am opposed to any such practice of sliding scales for the price of drinks. It is calculated to incite patrons to continue beyond the first drink in order to get the "bargain" rates on the subsequent drinks. As such, it is unduly designed to increase the consumption of alcoholic beverages, and is hereby expressly disapproved (R. S. 33:1-39).

If you will advise me of the tavernkeepers who are allegedly engaging in the above practice, I shall do the necessary to put a prompt stop to it.

You also ask whether it is permissible to post the price of drinks in the front window of your tavern. The answer is, "No". Rule 3 of State Regulations No. 21 prohibits any reference to price or size of drinks of alcoholic beverages in the street window or anywhere visible from the exterior.

Very truly yours,
ERWIN B. HOCK
Commissioner.

15. STATE LICENSES - NEW APPLICATIONS FILED.

Smith and Solomon Trucking Company

219 French St., New Brunswick, N. J.

Application for Transportation License filed September 17, 1948.

United Distributors Co.

501 Cass St., Trenton, N. J.

Applications filed September 28, 1948 for transfer of Wine Wholesale License WW-23 and Limited Wholesale License WL-43 from United Distributors, Inc.

Union Beverages, Inc.

S.W. Cor. of Union Ave. & John St., Linden, N. J.

Application filed September 28, 1948 for transfer of State Beverage Distributor's License SBD-116 from Abe and Ruby Chernotsky, t/a Union Beverage Company.

Monte Carlo Wine Company, Inc.

327 and Rear of 329 Townsend St., New Brunswick, N. J.

Application for additional warehouse at Rear 337 Delavan Street, New Brunswick, N. J., filed September 23, 1948.

Lancaster Brewery, Inc.

123-143 Locust St., Lancaster, Pa.

Application for Transportation License filed October 1, 1948.

James W. Kelly, Jr., t/a Kelly Beverage Distributing Co.

2030 - 88th St., North Bergen, N. J.

Application for Limited Wholesale License filed October 4, 1948.

ERWIN B. HOCK
Commissioner.

16. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAP - LICENSE SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ROVA FARMS, INC.)
Cassville-Trenton Road)
Jackson Township)
P.O. Cassville, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Township Committee of Jackson Township.)

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

BY THE COMMISSIONER:

The defendant pleaded non vult to the following charges:

"1. On August 31, 1948, you possessed on your licensed premises, a barrel or other container from which a brewed malt alcoholic beverage was drawn to the dispensing apparatus of which the name or brand of the manufacturer of that product was not attached, in that Peoples beer was drawn through a tap labeled 'Krueger Ambassador'; in violation of Rule 1 of State Regulations No. 22.

"2. On August 31, 1948, you possessed on your licensed premises, a barrel or other container from which a brewed malt alcoholic beverage was drawn to the dispensing apparatus of which the name or brand of the manufacturer of that product was not attached, in that Krueger beer was drawn through a tap bearing no label; in violation of Rule 1 of State Regulations No. 22."

The fact that the violations were the result of inadvertence and neglect on the part of the defendant's employees does not excuse the violation. Re Sudol, Bulletin 501, Item 3.

The only adjudicated violation against the defendant's record is a five-day penalty imposed in September 1943 for selling alcoholic beverages to a minor. In view of the lapse of time, and the dissimilarity of the offenses, I shall not consider the prior suspension in fixing the penalty in the instant proceedings.

The license will be suspended for a period of three days, less one day for the plea, leaving a net suspension of two days. Cf. Re Sudol, supra.

Accordingly, it is, on this 5th day of October, 1948,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of Jackson Township to Rova Farms, Inc., for premises on Cassville-Trenton Road, Jackson Township, be and the same is hereby suspended for a period of two (2) days, commencing at 2:00 a.m. October 13, 1948, and terminating at 2:00 a.m. October 15, 1948.

ERWIN B. HOCK
Commissioner.

17. DISCIPLINARY PROCEEDINGS - PIN BALL MACHINE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

EMILIO FEDULLO)
T/a 14th Street No. Pier)
1400 E. Brigantine Avenue)
Brigantine, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the City of Brigantine.)
-----)

Emilio Fedullo, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that, on September 7, 1948, he possessed a pin ball machine on his licensed premises, in violation of Rule 7 of State Regulations No. 20.

In the absence, as here, of any previous record, the usual ten-day penalty will be imposed, less five days for the plea, leaving a net suspension of five days. Re Pasternak, Bulletin 796, Item 1.

Accordingly, it is, on this 6th day of October, 1948,

ORDERED that Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the City of Brigantine to Emilio Fedullo, t/a 14th Street No. Pier, for premises 1400 E. Brigantine Avenue, Brigantine, be and the same is hereby suspended for five (5) days, commencing at 7:00 a.m. October 18, 1948, and terminating at 7:00 a.m. October 23, 1948.

Erwin B. Hoch
Commissioner.