

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

BULLETIN 436

JANUARY 3, 1941.

1. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - FIRST OFFENSE BY CORPORATE LICENSEE CONTINUING, THROUGH THE SAME EMPLOYEES, THE REPREHENSIBLE PRACTICES OF ITS PREDECESSOR - LICENSE REVOKED - PREMISES DECLARED INELIGIBLE FOR TWO YEARS.

In the Matter of Disciplinary Proceedings against  
 C. I. TARLOW, INC.,  
 23 So. Union Avenue,  
 Cranford, N. J.  
 Holder of Plenary Retail Distribution License D-1, transferred to it by the Township Committee of the Township of Cranford.  
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CONCLUSIONS  
 AND ORDER

Daniel G. Kasen, Esq., Attorney for Licensee, C. I. Tarlow, Inc., and Charles I. Tarlow, owner of licensed premises.

Richard E. Silberman, Esq., Attorney for Department of Alcoholic Beverage Control.

The licensee was required to show cause why its license should not be suspended or revoked, pursuant to R. S. 33:1-31, because it sold, on October 7, 1940, 12 quarts of Golden Wedding Rye Whiskey at less than the minimum consumer price published in Bulletin 424 of this Department, in violation of Rule 6 of State Regulations No. 30, hereinafter called the Fair Trade Regulations.

Notice was also served, pursuant to R. S. 33:1-31, upon Charles I. Tarlow, the owner of the licensed premises, requiring him to show cause why, in the event of revocation of the license, the licensed premises should not be declared ineligible to become the subject of any further license during a period of two years.

At the hearing, the licensee pleaded guilty as charged. Its counsel earnestly contends that, since this is its first violation, it should be penalized only by the heretofore established minimum ten day suspension for a violation of this type, with the usual credit of five days off for the guilty plea. But in none of the cases in which such penalty was imposed were the facts aggravated as here present.

Records of this Department disclose that a liquor business has been conducted at the premises in question from 1933 until July 1, 1940. During that period, the licensee was Charles I. Tarlow. His license was twice suspended for sales in violation of Fair Trade Regulations. The first violation occurred on November 23, 1938, when the sale was made by Max Tarlow, the son of Charles. For this violation, the license was suspended for ten days. Re Tarlow, Bulletin 308, Item 12. The second violation occurred on December 14, 1938. For this violation, the license was suspended for 30 days. Re Tarlow, Bulletin 326, Item 15.

During part of the same period, Charles I. Tarlow also held a license in the Borough of Mountainside. At his licensed premises there, sales in violation of the Fair Trade Regulations occurred on December 16 and 22, 1939. On both of those occasions, Max Tarlow was present as an employee. The sale on December 16th was made by a Mr. Cohen, after consultation with a Mr. Roseman as to the price at which the liquor should be sold. For this violation, the license was revoked but the penalty was subsequently mitigated to suspension for the balance of the license term. Re Tarlow, Bulletin 375, Item 1; Bulletin 410, Item 6.

In the instant case, the sale was made by Roseman, previously mentioned. A buzzer system connects the present licensed premises with those adjoining where Charles I. Tarlow conducts a delicatessen and grocery store. When the investigators identified themselves, Roseman summoned Charles I. Tarlow by means of the buzzer, and when the latter appeared, he directed Roseman to make no statement. C. I. Tarlow, Inc. is composed of Max Tarlow, who holds 80% of the stock, Ida Tarlow, who holds 10% and Elizabeth Tarlow, who holds the remaining 10%. They are respectively the son, wife and daughter of Charles I. Tarlow. C. I. Tarlow, Inc. acquired its license by transfer from Charles I. Tarlow.

The licensee has not been actually charged with being a front for Charles I. Tarlow, nor is any such contention made. Whether the transfer of the business and license from Charles I. Tarlow to C. I. Tarlow, Inc. was or was not bona fide is not here in issue. But merely because C. I. Tarlow, Inc. may not be a front for Charles I. Tarlow is no reason why the true picture should be obscure. It is quite apparent that the instant licensee has continued the reprehensible practices of its predecessor, even to the extent of employing the same persons previously involved. I see here in this business a continuity of deliberate and flagrant disregard of this Department's Fair Trade Regulations by persons who, by past and present behavior, show what amounts almost to an avowed purpose to defeat those regulations.

Sound control dictates outright revocation as the only proper penalty in this case to instill throughout the trade a wholesome respect for those regulations.

Accordingly, it is, on this 24th day of December, 1940,

ORDERED that Plenary Retail Distribution License D-1, heretofore transferred to C. I. Tarlow, Inc. by the Cranford Township Committee, be, and the same is hereby revoked effective immediately.

R. S. 35:1-31 provides that "any revocation may, in the discretion of the Commissioner...render the licensed premises ineligible" for further liquor license for a period of two years.

In view of the flagrant and persistent type of violation here involved at the premises in question, that Charles I. Tarlow (the owner of such premises) was himself directly responsible for violations heretofore occurring in such premises; and that although the license is now no longer in his name, he permitted a buzzer system between those premises and his adjoining store and immediately came into the licensed premises after the instant violation was detected and refused to allow the employee who had made the sale to speak, I deem that such facts warrant disqualification of the premises. It is therefore

FURTHER ORDERED that premises at 23 South Union Avenue, Cranford, New Jersey, be and they are hereby declared ineligible for license for a period of two years commencing December 24, 1940.

E. W. GARRETT,  
Acting Commissioner.

2. SEIZURES - CONFISCATION PROCEEDINGS - UNLAWFUL TRANSPORTATION BY RETAIL LICENSEE OF ALCOHOLIC BEVERAGES PURCHASED IN NEW YORK - ALCOHOLIC BEVERAGES FORFEITED - VEHICLE RETURNED TO INNOCENT OWNER UPON PAYMENT OF COSTS.

In the Matter of the Seizure on )  
October 23, 1940, of an Oldsmobile )  
Sedan and nine 1/5th-gallon bottles )  
and eight quart bottles of assorted )  
alcoholic beverages found therein, )  
in the vicinity of Fourteenth and )  
Henderson Streets, in the City of )  
Jersey City, County of Hudson, and )  
State of New Jersey. )  
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Case No. 5888

ON HEARING  
CONCLUSIONS AND ORDER

Ezra L. Nolan, Esq., Attorney for Salvatore Squitiero, Lucy De-Crescenzi and Susan Barbero.  
Guy T. Cambria, Credit Manager for Englewood Auto Finance Company, for Englewood Auto Finance Company.  
Harry Castelbaum, Esq., Attorney for the State Department of Alcoholic Beverage Control.

On October 23, 1940, investigators of this Department observed that an unlicensed Oldsmobile Sedan was transporting a large quantity of liquor. They stopped the car at Fourteenth and Henderson Streets in Jersey City and discovered therein seventeen bottles of assorted tax-paid liquors. Lucy DeCrescenzi, the holder of a retail consumption license in Bayonne, who was riding in the car which was being driven by her son, stated that she had purchased the liquor in New York City for her sister and other members of her family. The investigators thereupon seized the liquor and the motor vehicle and arrested Lucy DeCrescenzi. At the hearing held in this matter, Lucy DeCrescenzi changed her story and claimed that the liquor had been purchased by her sister, Susan Barbero.

Susan Barbero testified that she borrowed the car from her brother, Salvatore Squitiero, to go shopping in New York; that she purchased the liquor for a party which was held on the Sunday following the seizure; that she did not know that it was illegal to purchase liquor in the amount that she did for importation into the State; that her sister Lucy did not assist her with the purchase; that after making her purchases she remained in New York to visit friends.

Lucy DeCrescenzi testified that she accompanied her sister to New York because she had urgent business to transact there with a lawyer; that when they arrived in New York she first went with her sister to a department store and there saw her buy some liquor; that she left her sister in the liquor department and saw her again at one of the store entrances where she was given purchase slips for liquor by Susan to transmit to Susan's husband; that she did not know there was liquor in the car until she came across to New Jersey; that the liquor is not hers and that she has no interest in it.

I see no reason why the investigators in this case would have invented out of thin air Lucy DeCrescenzi's statement, at

the time of the seizure, that the liquor was purchased by her. In her statement taken at the time of the seizure she described the number and size of the bottles and the price paid for them. Furthermore, it overtaxes my credulity to believe that Susan Barbero was running a party of such dimension that she had to have available seventeen bottles of liquor, sixteen being of different brands! The true story, I believe, is that Lucy DeCrescenzi had actually purchased the liquor for use in her licensed restaurant. Her bills show that her general liquor purchases are similar to the quantity and assortment of liquor here involved. The Alcoholic Beverage Law restricts the holder of a liquor license to purchase liquor only from a licensed wholesaler in the State. Lucy DeCrescenzi's violation, in purchasing liquor from another source, together with her unlawful transportation of the liquor in the unlicensed vehicle, renders the liquor unlawful property. I see no reason for not declaring the liquor forfeited.

As to the motor vehicle: Salvatore Squitiero, the owner, requested the return of his car. He stated that he is the brother of both Lucy DeCrescenzi and Susan Barbero; that at the request of his sister, Susan Barbero, he loaned the car to her upon her representation that she wanted it to go shopping in New York; that he did not know that the car was to be used to transport alcoholic beverages; that he is a carpenter, steadily employed, and has never been arrested.

I am satisfied that Squitiero is an innocent party in the entire transaction and was not connected with the unlawful transportation of the alcoholic beverages. The car will, therefore, be returned to him upon the payment, within ten days, of the costs involved in the seizure.

In view of the foregoing, it is not necessary to here decide the claim of the finance company, since it may take whatever action it deems necessary to enforce its claim when the car is returned to Squitiero. However, if Squitiero fails to pay the costs, I will act upon its application.

Accordingly, it is ORDERED that the seized property, except the Oldsmobile Sedan, 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 that it shall be retained for the use of hospitals and State, county and municipal institutions or be destroyed in whole or in part at the direction of the Commissioner.

Dated: December 21, 1940

E. W. GARRETT,  
Acting Commissioner.

SCHEDULE "A"

- 9 - 1/5-gallon bottles of alcoholic beverages
- 7 - 1-quart bottles of alcoholic beverages
- 1 - 30-ounce bottle of alcoholic beverages
- 1 - Oldsmobile Sedan, Serial No. L198423,  
Engine No. L312527, 1940 N.J. Registration  
No. HV851.

3. ALCOHOL PERMITS - FAILURE TO MAINTAIN REGISTER OF PURCHASES - PERMIT SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against

ALLENHURST PHARMACY, INC., t/a Hollywood Pharmacy, 321-323 Main Street, Allenhurst, N. J.

CONCLUSIONS AND ORDER

Holder of Special Permit AL-36 for the year 1939-40; Special Permit AL-202 for the year 1940-41, issued by the State Department of Alcoholic Beverage Control; Plenary Retail Distribution License D-3 for the year 1939-40 and Plenary Retail Distribution License D-3 for the year 1940-41, issued by the Board of Commissioners of the Borough of Allenhurst.

Martin D. Schultz, President of Allenhurst Pharmacy, Inc., for the permittee. Richard E. Silberman, Esq., Attorney for the State Department of Alcoholic Beverage Control.

The permittee is charged with:

- 1. Failure to maintain a register of purchases of alcohol, in violation of Rule 5(h) of State Regulations No. 31.
2. Failure to demand and receive from the purchaser, with respect to each purchase of alcohol, a certificate signed by purchaser that the alcohol was intended for non-beverage use, in violation of Rule 5(g) of State Regulations No. 31.

The permittee pleaded guilty to the first charge and not guilty to the second charge.

As to the second charge: Martin D. Schultz, the president of the corporation, testified that the alcohol, listed as being sold in its monthly tax report, was, in fact, returned to the wholesaler, from whom it was purchased; that the listing on the report was an error and that the alcohol had not been sold.

Check up by agents of this Department confirms the fact that the alcohol actually was returned to the wholesalers.

The second charge will be dismissed.

Since its president has testified that it now keeps a register of its sales on the premises, I shall suspend its alcohol permit for ten (10) days on the first charge. Its plenary retail distribution license will not be suspended.

This proceeding, although instituted during the last permit period which expired June 30, 1940, does not abate but remains effective against the defendant's renewal permit for the current term.

Accordingly, it is, on this 26th day of December, 1940,

ORDERED that Special Permit AL-202, heretofore issued to Allenhurst Pharmacy, Inc., for premises 321-323 Main Street, be and it hereby is suspended for a period of ten (10) days, effective January 2, 1941, at 1:00 A. M.

E. W. GARRETT,  
Acting Commissioner.

4. DISQUALIFICATION - APPLICATION TO LIFT - GOOD CONDUCT FOR FIVE YEARS AND NOT CONTRARY TO PUBLIC INTEREST - APPLICATION GRANTED.

In the Matter of an Application )  
to Remove Disqualification )  
because of a Conviction, Pursuant )  
to R. S. 33:1-31.2 (as amended by )  
Chapter 350, P.L. 1938). )

CONCLUSIONS  
AND ORDER

Case No. 123. )  
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In November 1935, petitioner was convicted in New York City for knowingly possessing, with intent to sell, forged tickets for a boat excursion, was given a suspended sentence and placed on probation for an indefinite term, being discharged from such probation in May 1938.

Thereafter, this Department ruled that, since such crime involved moral turpitude, petitioner's conviction thereof necessarily disqualified him (under R. S. 33:1-25,26) from obtaining a liquor license or working for a liquor licensee in this State. Re Case No. 319, Bulletin 398, Item 8.

Since full five years have elapsed from the conviction, petitioner, who claims that he has been leading an honest and law-abiding life during such period, now seeks (under R. S. 33:1-31.2 as amended) the removal of his said conviction.

The hearing on such petition discloses that petitioner, at and since the time of his conviction, has resided in New York City; that for a month after such conviction he worked as a switchboard operator and typist for a charitable organization; that thereafter, he worked steadily in a similar capacity on various W.P.A. projects until November 1939, since which time he has been working as a salesman for a retail radio and electrical concern.

Petitioner produced three character witnesses on his behalf - a New York lawyer (who represented petitioner in his above criminal case), a Post Office employee and a liquor salesman. These three witnesses, all of whom have apparently known petitioner quite intimately for at least fourteen years, testified that he has not been in any trouble since his conviction in November 1935 and that his reputation is good.

A report from the Chief Probation Officer who was in charge of petitioner during his probationary period after the criminal conviction is favorable to petitioner. Check on petitioner's fingerprint record shows that he has never been arrested or convicted on any other occasion. Further check with the New York Police Department shows that there have apparently been no complaints against petitioner since his conviction.

In view of the foregoing, I am satisfied that petitioner has been leading an honest and law-abiding life in the past five years warranting removal of his disqualification.

It is, therefore, on this 28th day of December, 1940,

ORDERED that petitioner's statutory disqualification resulting from the aforesaid conviction, which disqualification has been enunciated in Case No. 319, supra, be and the same is hereby lifted in accordance with the provisions of R. S. 33:1-31.2 (as amended by Chapter 350, P.L. 1938).

E. W. GARRETT,  
Acting Commissioner.

5. DISCIPLINARY PROCEEDINGS - DEVICE IN THE NATURE OF A SLOT MACHINE WITH MERCHANDISE DISTRIBUTING ATTACHMENT - "HIGH STAKES" - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against  
HAMBURG DEPARTMENT STORE, INC.,  
Route 31 and Route 23,  
Hamburg Borough, Sussex  
County, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distribution License D-1 issued by the Borough Council of the Borough of Hamburg.

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Seymour J. Solomon, Esq., Attorney for Defendant-Licensee.  
Richard E. Silberman, Esq., Attorney for the Department of Alcoholic Beverage Control.

The licensee has pleaded guilty to charges that on November 19, 1940 it possessed a device in the nature of a slot machine which was used for the purpose of playing for valuable things, a device designed for the purpose of gambling, and permitted gambling by redeeming in merchandise the winnings of persons playing said device, in violation of Rules 7 and 8 of State Regulations 20.

The Department file discloses that the licensee possessed a "High Stakes" pull-handle machine which is operated in the following manner: When a penny is inserted into the receiving slot, a lever is released. The player then pulls down the handle of this lever, causing five wheels to revolve. The rims of these wheels are visible to the player on the surface of the machine and contain symbols. The first wheel contains representations of the forequarters of a horse in various colors on different parts of the rim of the wheel. The second and third wheels respectively contain similar representations of the middle and hind quarters of a horse. The fourth wheel represents the odds and the last wheel represents whether the player is paid off for "win, place or show". If the wheels come to a stop so that the three segments of the horse are in the same color, the other two wheels indicate the player's odds.

In the instant case the investigators succeeded in getting the proper combination and were paid off in candy in an amount equal to the odds posted on the machine. In addition to the above, each time a penny is inserted in the receiving slot a ball of chewing gum is released and made available to the player. The machine is commonly known in the trade as a "counter game".

From its method of operation, the machine is similar to the Mills Jackpot slot machine described in Re Ukrainian National Home, Bulletin 433, Item 10, and the Keystone Jackpot slot machine described in Re Atlantic City Tuna Club, Bulletin 433, Item 11, except that there is no automatic cash, merchandise or ticket pay-off. The machine appears, therefore, to be either a device in the nature of a slot machine or a device designed for the purpose of gambling. It is unnecessary to decide which it is since both are prohibited on licensed premises.

The minimum penalty for possessing a slot machine is ten days. Re Morrissey & Walker Inc., Bulletin 423, Item 8. The minimum penalty for possessing a device in the nature of a slot machine is likewise ten days. Re Breslin, Bulletin 434, Item 10. The same penalty is warranted whether the present device be one in the nature of a slot machine or one designed for gambling purposes. Moreover, it was in fact used for gambling. The license will, therefore, be suspended for a period of ten days.

By entering a guilty plea in ample time before the date set for hearing, the licensee has saved the Department the time and expense of proving its case. Five days of the penalty will therefore be remitted.

Accordingly, it is, on this 31st day of December, 1940,

ORDERED, that Plenary Retail Distribution License D-1, heretofore issued to Hamburg Department Store, Inc. by the Borough Council of the Borough of Hamburg, be and the same is hereby suspended for a period of five (5) days, effective January 6, 1941, at 6:00 A.M.

E. W. GARRETT,  
Acting Commissioner.

6. DISCIPLINARY PROCEEDINGS - DEVICE IN THE NATURE OF A SLOT MACHINE - BALLY "GOLD CUP" - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against )

ROBERT W. KLEIN, )  
219 Ellison St., )  
Paterson, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-290 issued by the Board of Alcoholic Beverage Control of the City of Paterson. )

Robert W. Klein, Pro Se. )  
Richard E. Silberman, Esq., Attorney for the Department of Alcoholic Beverage Control. )

The licensee has pleaded guilty to charges that on November 7, 1940 he possessed a Bally "Gold Cup" five-ball one-shot machine, a device in the nature of a slot machine which was used for the purpose of playing for money, a device designed

for the purpose of gambling, and that he permitted gambling by redeeming in cash the winnings of persons playing said device, in violation of Rules 7 and 8 of State Regulations 20.

The Department file discloses that the Bally "Gold Cup" five-ball one-shot machine is operated in the following manner: When a nickel is inserted into the receiving slot, a symbol lights up on the backboard and a small number also lights up on the backboard indicating the odds to be paid. Available for play are five balls which the player propels with one shot by means of a plunger. The first four balls go completely off the face of the machine into a groove. When this groove is filled, a mechanical device goes into operation, permitting the fifth ball to go into play on the surface of the machine. If this ball goes into the receptacle on the playing surface of the machine bearing a symbol corresponding to that lighted on the backboard, a small number lights up on the backboard indicating the number of nickels won. No skill appears to be involved in the playing of the machine, the winner and odds being determined by chance so far as the player is concerned.

In the instant case, the investigators succeeded in making a "hit" and were paid off by the licensee in cash in an amount equal to the odds posted on the machine. The machine is commonly known in the trade as a "pay table".

From its method of operation, the machine is similar to the Bally "Stables" one-ball machine described in Re Aquaro, Bulletin 434, Item 11, and the Hawthorne one-ball machine described in Re Breslin, Bulletin 434, Item 10, except that there is no automatic cash, merchandise or ticket pay-off. The machine appears, therefore, to be either a device in the nature of a slot machine or a device designed for the purpose of gambling, which was in fact used for gambling. Cf. Re Hamburg Department Store, Inc., Bulletin 436, Item 5. The license will, therefore, be suspended for a period of ten days. Re Hamburg Department Store, Inc., supra.

By entering a guilty plea in ample time before the date set for hearing, the licensee has saved the Department the time and expense of proving its case. Five days of the penalty will therefore be remitted.

Accordingly, it is, on this 31st day of December, 1940,

ORDERED, that Plenary Retail Consumption License C-290, heretofore issued to Robert W. Klein by the Board of Alcoholic Beverage Control of the City of Paterson, be and the same is hereby suspended for a period of five (5) days, effective January 6, 1941, at 3:00 A.M.

E. W. GARRETT,  
Acting Commissioner.

7. DISCIPLINARY PROCEEDINGS - DEVICE IN THE NATURE OF A SLOT MACHINE - "TURF CHAMP" - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against  
 SIDNEY LITCHENSTEIN,  
 82 Straight St.,  
 Paterson, N. J.,  
 Holder of Plenary Retail Consumption License C-355 issued by the Board of Alcoholic Beverage Control of the City of Paterson.

CONCLUSIONS AND ORDER

Sidney Litchenstein, Pro Se.  
 Richard E. Silberman, Esq., Attorney for the Department of Alcoholic Beverage Control.

The licensee has pleaded guilty to charges that on November 7, 1940 he possessed a "Turf Champ" five-ball one-shot machine, a device in the nature of a slot machine which was used for the purpose of playing for money, a device designed for the purpose of gambling, and that he permitted gambling by redeeming in cash the winnings of persons playing said device, in violation of Rules 7 and 8 of State Regulations 20.

The Department file discloses that the "Turf Champ" five-ball one-shot machine is operated in the following manner: Before inserting a nickel in the receiving slot, the player may turn a hand on a dial located on the face of the machine. This dial contains numbers. When the nickel is inserted, a number lights up on the backboard of the machine corresponding to the number selected by the player on the dial. At the same time, numbers light up on the face of the machine, indicating the odds to be paid. Available for play are five balls which the player propels with one shot by means of a plunger. If any one of the balls goes into a receptacle on the playing surface of the machine bearing a number corresponding to that lighted on the backboard, which number was selected by the player, a small number lights up on the backboard indicating the number of nickels won. No skill appears to be involved in the playing of the machine, the winner and odds being determined by chance so far as the player is concerned.

In the instant case, the investigators succeeded in making a "hit" and were paid off by the licensee in cash in an amount equal to the odds posted on the machine. The machine is commonly known in the trade as a "pay table".

From its method of operation, the machine is substantially identical with the Bally "Gold Cup" five-ball one-shot machine described in Re Klein, Bulletin 436, Item 6, and gambling was in fact similarly permitted. The license will, therefore, be suspended for a like period of ten days. Re Klein, supra.

By entering a guilty plea in ample time before the date set for hearing, the licensee has saved the Department the time and expense of proving its case. Five days of the penalty will therefore be remitted.

Accordingly, it is, on this 31st day of December, 1940,

ORDERED, that Plenary Retail Consumption License C-355, heretofore issued to Sidney Litchenstein by the Board of Alcoholic Beverage Control of the City of Paterson, be and the same is hereby suspended for a period of five (5) days, effective January 6, 1941, at 3:00 A.M.

E. W. GARRETT,  
Acting Commissioner.

8. DISCIPLINARY PROCEEDINGS - DEVICE IN THE NATURE OF A SLOT MACHINE - "SPORT PAGE" - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against  
 JULIUS LAZICKI,  
 45 Bridge St.,  
 Paterson, N. J.,  
 Holder of Plenary Retail Consumption License C-89 issued by the Board of Alcoholic Beverage Control of the City of Paterson.

CONCLUSIONS  
AND ORDER

Julius Lazicki, Pro Se.  
 Richard E. Silberman, Esq., Attorney for the Department of Alcoholic Beverage Control.

The licensee has pleaded guilty to charges that on November 7, 1940 he possessed a Sport Page one-ball machine, a device in the nature of a slot machine which was used for the purpose of playing for money, a device designed for the purpose of gambling, and that he permitted gambling by redeeming in cash the winnings of persons playing said device, in violation of Rules 7 and 8 of State Regulations 20.

The Department file discloses that the method of operation of the Sport Page one-ball machine is substantially identical with that of the Hawthorne one-ball machine described in Re Breslin, Bulletin 434, Item 10, and the Bally "Stables" one-ball machine described in Re Aquaro, Bulletin 434, Item 11. In the instant case, however, the cash pay-off drawer was disconnected, but the investigators succeeded in making a "hit" and were paid off in cash by the bartender. The nature of the machine is not changed by the fact that the automatic pay-out device was not in working order. Re Lee v. Rahway, Bulletin 357, Item 1, wherein it was said:

".....The point is not whether the machine is in operation or needs tuning up, but whether - in the words of the rule - it 'may be used for the purpose of playing for money or other valuable thing.' An automobile does not cease to be such when the ignition is turned off. Nor a gun just because its safety catch is temporarily on. A machine that is set up for play, designed and equipped for automatic pay-off and capable of doing just that by the turn of a key in the lock when there are no strangers about, is a slot machine just the same."

From its method of operation, the machine is clearly a device in the nature of a slot machine. The license will, therefore, be suspended for a period of ten days.

By entering a guilty plea in ample time before the date set for hearing, the licensee has saved the Department the time and expense of proving its case, for which five days of the penalty will be remitted.

Accordingly, it is, on this 31st day of December, 1940,

ORDERED, that Plenary Retail Consumption License C-89, heretofore issued to Julius Lazicki by the Board of Alcoholic Beverage Control of the City of Paterson, be and the same is hereby suspended for a period of five (5) days, effective January 6, 1941, at 3:00 A.M.

E. W. GARRETT,  
Acting Commissioner.

9. DISCIPLINARY PROCEEDINGS - DEVICE IN THE NATURE OF A SLOT MACHINE - "HAWTHORNE ONE-BALL" - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against  
SAMUEL SILBERBERG,  
291 - 12th Ave.,  
Paterson, N. J.,  
Holder of Plenary Retail Consumption License C-27 issued by the Board of Aldermen of the City of Paterson.  
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CONCLUSIONS  
AND ORDER

Samuel Silberberg, Pro Se.  
Richard E. Silberman, Esq., Attorney for the Department of Alcoholic Beverage Control.

The licensee has pleaded guilty to charges that on November 7, 1940 he possessed a Hawthorne one-ball machine, a device in the nature of a slot machine which may be used for the purpose of playing for money or other valuable thing, a device designed for the purpose of gambling, in violation of Rules 7 and 8 of State Regulations 20.

The Department file discloses that the Hawthorne one-ball machine in the instant case is identical with that described in Re Breslin, Bulletin 434, Item 10. In the present case, however, the investigators did not play the machine. Whether or not the machine was actually used for gambling purposes is immaterial. Re Lee v. Rahway, Bulletin 359, Item 1; Re Lazicki, Bulletin 436, Item 8.

The license will, therefore, be suspended for a period of ten days.

By entering a guilty plea in ample time before the date set for hearing, the licensee has saved the Department the time and expense of proving its case, for which five days of the penalty will be remitted.

Accordingly, it is, on this 31st day of December, 1940,

ORDERED, that Plenary Retail Consumption License C-27, heretofore issued to Samuel Silberberg by the Board of Aldermen of the City of Paterson, be and the same is hereby suspended for a period of five (5) days, effective January 6, 1941, at 3:00 A.M.

E. W. GARRETT,  
Acting Commissioner.

10. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - 10 DAYS' SUSPENSION, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against )

EVA WIELOGURA, Executrix of the Estate of Lugi Wielogura, 523 Springfield Avenue, Newark, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-83, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )  
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Sara Gura, Attorney for the Defendant-Licensee.  
Robert R. Hendricks, Esq., Attorney for the State Department of Alcoholic Beverage Control.

The licensee has pleaded guilty to a charge of selling liquor at less than the Fair Trade price at the licensed premises on November 12, 1940, in violation of Rule 6 of State Regulations No. 30.

The minimum penalty for this violation is ten days.

By entering this plea, the licensee has saved the Department the time and expense of proving its case. The license, therefore, will be suspended for five days instead of ten days.

Accordingly, it is, on this 31st day of December, 1940,

ORDERED, that Plenary Retail Distribution License D-83, heretofore issued to Eva Wielogura, Executrix of the Estate of Lugi Wielogura, 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 6, 1941, at 3:00 A.M.

E. W. GARRETT,  
Acting Commissioner.

11. DISCIPLINARY PROCEEDINGS - OPEN DURING PROHIBITED HOURS - 5 DAYS' SUSPENSION - SALES OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS - 5 DAYS' SUSPENSION - TOTAL: 10 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against )

ALEX KRIGER, 529 Market St., Newark, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-980, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )

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David L. Lustig, Esq., Attorney for the Defendant-Licensee. Charles Basile, Esq., Attorney for the State Department of Alcoholic Beverage Control.

The licensee has pleaded guilty to charges that during prohibited hours on Sunday, December 8, 1940, his licensed premises were open, and also that he sold alcoholic beverages therein, in violation of Newark Ordinance No. 3950, adopted December 21, 1938.

The violations are the result of the sale of three bottles of wine by the bartender to a patron observed emerging from a hallway adjoining the tavern by police officers who found the wine in his possession. He told the police he had purchased the same from the bartender.

The licensee does not reside on the licensed premises and maintains that he knew nothing about the sale. He insists that the bartender was only on the premises for the purpose of washing glasses and tidying up the place and had been given strict orders not to permit any one to enter the premises or make any sales during prohibited hours.

The licensee is responsible for what goes on upon the licensed premises. The license is his. So is the business. He may not hide behind the cloak of his employees when apprehended for violation of the law. In Re Kneller, Bulletin 49, Item 4.

The usual penalty for each violation is five 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 31st day of December, 1940,

ORDERED, that Plenary Retail Consumption License C-980, heretofore issued to Alex Kriger 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 6, 1941, at 3:00 A.M.

E. W. GARRETT, Acting Commissioner.

12. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM - 10 DAYS' SUSPENSION - SALES DURING PROHIBITED HOURS - 5 DAYS' SUSPENSION - SALES OFF THE LICENSED PREMISES - 5 DAYS' SUSPENSION - TOTAL: 20 DAYS, LESS 5 FOR GUILTY PLEA.

In the Matter of Disciplinary Proceedings against

JOHN JOSEPH BUCZEK, T/a Rushmore Cafe, 381 Rushmore Avenue, Piscataway Township, P.O. Plainfield, R.F.D. 1,

CONCLUSIONS AND ORDER

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

John Joseph Buczek, Pro Se. Robert R. Hendricks, Esq., Attorney for the State Department of Alcoholic Beverage Control.

The defendant-licensee has pleaded guilty to charges of selling alcoholic beverages on October 20, 1940 (1) at less than the Fair Trade price, in violation of State Regulations No. 30, Rule 6, (2) during prohibited hours, in that such sales were made on Sunday between the hours of 3:00 A.M. and 1:00 P.M., in violation of Section 17 of an ordinance adopted on December 18, 1934 regulating the sale of alcoholic beverages in the Township of Piscataway, and (3) not pursuant to or within the terms of his plenary retail consumption license in that such sales were made to consumers off the licensed premises, contrary to R.S. 33:1-12(a), in violation of R. S. 33:1-2.

Reports of the Department agents, who took part in the investigation which led to the institution of the above charges, disclose that at about 11:00 A.M., Sunday, October 20, 1940, two investigators of this Department were admitted, by the mother and employee of the licensee, into the licensee's private living quarters, located in the rear of the same building that houses the licensed premises, and that while in said unlicensed living quarters the investigators were sold two pint-bottles of Wilson "That's All" Whiskey, for \$1.30 per bottle. The minimum consumer price at which pint bottles of this whiskey could be sold lawfully, at that time, was \$1.33. Bulletin 424.

The minimum penalty for sale below Fair Trade price is ten days; for sale during prohibited hours, five days; for sale off the licensed premises, five days; making a total of twenty days.

The instant offenses are the defendant-licensee's first violations of record. In view of this, I shall not order a suspension of the license in excess of the aggregate minimum for violations of this character. Because of the guilty plea, the Department has been saved the time and expense of proving its case. Five days of the total penalty will, therefore, be remitted.

Accordingly, it is, on this 30th day of December, 1940,

ORDERED, that Plenary Retail Consumption License C-10, heretofore issued to John Joseph Buczek, trading as Rushmore Cafe, by the Township Committee of the Township of Piscataway, be and the same is hereby suspended for a period of fifteen (15) days, effective January 2, 1941, at 6:00 A.M.

E.W. GARRETT,  
Acting Commissioner.

13. FAIR TRADE - NOTICE OF NEXT PUBLICATION.

January 2, 1941.

The next official publication of minimum resale prices, pursuant to the fair trade rules (Regulations No. 30), will be made on or about Monday, January 20, 1941. New items and changes in old items must be filed at the offices of this Department not later than Thursday, January 9, 1941.

Notification of the proportionate share of the aggregate expense involved will be made to participating companies as soon as the pamphlet price list is mailed to all retail licensees.

Very truly yours,

*E.W. Garrett*

Acting Commissioner.