

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

BULLETIN 705

APRIL 5, 1946.

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

BULLETIN 705

APRIL 5, 1946.

1. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PREVIOUS RECORD -  
LICENSE SUSPENDED FOR A PERIOD OF 60 DAYS.

In the Matter of Disciplinary Proceedings against  
EMIL MUCKENSTURM  
T/a KINGS WAY TAVERN  
Kings Highway  
Mt. Ephraim, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the Borough of Mt. Ephraim.

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Emil Muckensturm, Defendant-licensee, Pro Se.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant-licensee pleaded guilty to a charge that he possessed three 4/5 quart bottles labeled "Old Grand-Dad Kentucky Straight Bourbon Whiskey" and four 4/5 quart bottles labeled "Seagram's V. O. Canadian Whisky A Blend", all of which bottles contained alcoholic beverages not genuine as labeled, in violation of R. S. 33:1-50.

On February 7, 1946, an investigator of the Department of Alcoholic Beverage Control seized the liquor in question after preliminary tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by the Department chemist disclosed that the bottles had been refilled.

Defendant has a previous adjudicated record. In February, 1938, his license was suspended for three days by the local issuing authority for an "hours" violation. In January, 1939, defendant's license was again suspended for a period of ten days by the local issuing authority for a similar violation. A warning letter, dated June 4, 1940, was sent by the State Commissioner to defendant after agents of the Federal Alcohol Tax Unit reported that they had found in defendant's premises three bottles of alcoholic beverages which were off proof. Under all the circumstances, I shall suspend defendant's license for a period of sixty days.

Accordingly, it is, on this 21st day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the Borough of Mt. Ephraim to Emil Muckensturm, t/a Kings Way Tavern, for premises Kings Highway, Mt. Ephraim, be and the same is hereby suspended for a period of sixty (60) days, commencing at 3:00 a.m. April 1, 1946, and terminating at 3:00 a.m. May 31, 1946.

ERWIN B. HOCK  
Deputy Commissioner.

2. DISCIPLINARY PROCEEDINGS -- FRONT -- FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACT - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR A PERIOD OF 10 DAYS.

In the Matter of Disciplinary Proceedings against )

BILL BLOCH, INC. )  
615 Paterson Plank Road )  
Union City, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-139, issued by the Board of Commissioners of the City of Union City. )  
----- )

Bill Bloch, Inc., Defendant-licensee, by Helen Sexton King, Pres. Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant pleaded not guilty to a charge alleging that it falsely answered "No" to Question 23, "Has any corporation, partnership, association or individual other than the stockholders hereinbefore set forth any beneficial interest, directly or indirectly, in the stock held by said stockholders?", in its application for its current license, in violation of R. S. 33:1-25.

In June, 1944, the said corporation's license was suspended as a result of charges brought by the local issuing authority. Re Bloch v. Union City, Bulletin 624, Item 2. Shortly thereafter, Joseph Paolucci purchased all of the stock of the defendant corporation apparently with money and property derived from other joint business ventures conducted over a number of years by Paolucci and Mrs. Helen Sexton King. The stock was issued to certain relations of Mr. Paolucci, the registered holders being merely "dummies". This arrangement was never disclosed in the corporation's application for license, apparently for the purpose of concealing Joseph Paolucci's interest in the defendant corporation from his estranged wife and Mrs. King.

Thereafter, and during the course of the investigation conducted by the State Department of Alcoholic Beverage Control, a disagreement concerning their numerous business ventures arose between Joseph Paolucci and Mrs. King. In partial settlement of the differences between the parties, Mrs. King accepted an assignment of the stock of the defendant corporation in August, 1945 after application for the current license had been filed by defendant corporation. This stock was assigned to Mrs. King and her nominees not by Mr. Paolucci but by the "dummy" holders thereof.

On these facts the defendant corporation must be found guilty.

Mrs. King, who is now the beneficial owner of all of the stock of the licensed corporation, alleges that she should not be held liable for the fault of the former owner of the stock, Joseph Paolucci. She alleges also that she, as much as the issuing authority, was the victim of a fraud perpetrated by Paolucci. However, the corporate defendant is the entity with which we are dealing. The corporation had falsely answered questions in its application for license. Those who choose to adopt the "corporate fiction" or who deal in the stock of a corporate licensee do so at their peril. Cf. Re Star Cafe, Inc., Bulletin 588, Item 6, and cases cited.

In view of the fact that all the owners of the stock of this corporate defendant appear to have been at all times duly qualified

to hold such stock; that this violation was apparently fully corrected prior to January 1, 1946; and because there is now no evidence or suspicion that the present owners of stock of the corporate licensee are in any way connected with the owners at the time of the corporation's prior suspension, Re Block v. Union City, supra, I will not consider such prior record as an aggravating circumstance. I shall not impose the increased suspension for violations of this type, announced in Re Nicomini, Bulletin 686, Item 7, but shall suspend the license for ten days. Re Karbowski, Bulletin 676, Item 3.

Accordingly, it is, on this 25th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-159, issued by the Board of Commissioners of the City of Union City to Bill Bloch, Inc., for premises 615 Paterson Plank Road, Union City, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. April 1, 1946, and terminating at 3:00 a.m. April 11, 1946.

ERWIN B. HOCK  
Deputy Commissioner.

3. DISCIPLINARY PROCEEDINGS - CHARGE OF EMPLOYING A FEMALE BARTENDER, IN VIOLATION OF MUNICIPAL REGULATION, DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.

In the Matter of Disciplinary Proceedings against )  
ESTHER BRICK )  
207 Water Street )  
Paterson 4, N. J., )  
Holder of Plenary Retail Consumption License C-59, issued by the Board of Alcoholic Beverage Control of the City of Paterson, and transferred during the pendency of these proceedings to )  
ESTHER BRICK and MORRIS BRICK )  
for the same premises. )

CONCLUSIONS

AND ORDER

Frank W. Shershin, Esq., Attorney for Defendant-licensee.  
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

Defendant has pleaded not guilty to a charge alleging that on July 25, 1945 she employed a female bartender, in violation of a regulation of the City of Paterson.

A witness who was called to substantiate the above mentioned charge at the hearing failed to do so. The only evidence presented was that on July 25, 1945, one Jennie Moskowitz, a sister of the licensee, sold for off-premises consumption a bottle of wine which she took from a showcase located behind the bar. It is my belief that this evidence is insufficient to support the charge that the licensee employed a female bartender on July 25, 1945.

On the evidence presented I must find that the Department has failed to sustain the burden of proof necessary for a finding of guilt.

I shall dismiss the charge.

Accordingly, it is, on this 28th day of March, 1946,

ORDERED, that the charge herein be and the same is hereby dismissed.

ERWIN B. HOCK  
Deputy Commissioner.

4. DISCIPLINARY PROCEEDINGS -- ORDER ESTABLISHING SUSPENSION PERIOD.  
(SEE BULLETIN 682, ITEM 3).

In the Matter of Disciplinary Proceedings against )

RUTHERFORD R. BAKER )  
T/a LINCOLN BAR )  
308 E. Lincoln Avenue )  
Wildwood, N. J., )

O R D E R

Holder of Plenary Retail Consumption License C-18, issued by the Board of Commissioners of the City of Wildwood, and transferred during the pendency of these proceedings to )

W. HARRY STEELE, JR. )  
T/a HOTEL LINCOLN )

for the same premises. )  
- - - - - )

Harry Tenenbaum, Esc., Attorney for Defendant-licensee.

A plea of non vult was entered in this case to a charge alleging the possession of two 4/5 quart bottles of alcoholic beverages, the contents of which were not genuine as labeled. Because the licensed premises were then closed, the order of the State Commissioner, dated October 16, 1945, suspending the license for a period of fifteen days provided that the effective date of the suspension would be postponed until the premises were reopened for business. See Bulletin 682, Item 3.

It now appears that the defendant-transferee has resumed activity under the license at the present time.

Under the circumstances, the penalty of fifteen days will be reimposed, commencing Monday, April 1, 1946.

Accordingly, it is, on this 27th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-18, issued by the Board of Commissioners of the City of Wildwood to Rutherford R. Baker, t/a Lincoln Bar, for premises 308 E. Lincoln Avenue, Wildwood, and transferred during the pendency of these proceedings to W. Harry Steele, Jr., t/a Hotel Lincoln, for the same premises, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. April 1, 1946, and terminating at 2:00 a.m. April 16, 1946.

ERWIN B. HOCK  
Deputy Commissioner.

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against )  
 FRANK BARRALE )  
 T/a ROSENHAYN BAR )  
 N/E Corner Morton & Vineland Aves.)  
 Deerfield Township )  
 P. O. Rosenhayn, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of Deerfield. )  
 ----- )

Harry Adler, Esq., Attorney for Defendant-licensee.  
 Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant pleaded not guilty to a charge alleging that he possessed illicit alcoholic beverages on his licensed premises, in violation of R. S. 33:1-50.

On January 17, 1946, an inspector of the Federal Alcohol Tax Unit, Internal Revenue Service, seized on defendant's licensed premises one 4/5 quart bottle labeled "Seagram's V. O. Canadian Whisky", when his field test indicated that the contents thereof were not genuine as labeled. Subsequent analysis by a Federal chemist confirmed the findings of the inspector.

At the hearing herein, the defendant testified that, due to his illness, the premises had been in charge of a bartender. He admitted that this bartender stated to the inspector in Barrale's presence that he, the said bartender, had refilled the bottle with another Scotch whisky. The defendant immediately discharged the bartender. He insists that the "refill" was not made either with his knowledge or with his consent. I am convinced that defendant was not personally responsible for the violation.

It should be noted, however, that the charge herein alleges "possession" of illicit alcoholic beverages and it is clear that the alcoholic beverages seized on defendant's premises were, in fact, illicit. Hence defendant is guilty as charged. His evidence is material only on the question of the proper period of suspension.

Moreover, it is axiomatic that the licensee must be held responsible for violations committed by his employees. This must be so even in the face of the strictest instructions by the licensee that all employees must use every precaution not to violate the Alcoholic Beverage Law in any way. Such a strict construction may work a hardship on the honest licensee, but it is a necessary construction for proper control of the alcoholic beverage industry. Cf. Re Cutter, Bulletin 479, Item 12, and cases cited, for a further discussion of this problem.

Defendant has been in business for many years. His record is otherwise clear. No aggravating circumstances appear and, in the absence thereof, I shall suspend the license for fifteen days, which is the minimum suspension in cases of this kind. Re Rudolph, Bulletin 680, Item 1.

Accordingly, it is, on this 29th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of Deerfield to Frank Barrale, t/a Rosenhayn Bar, for premises on N/E Corner Morton and Vineland Avenues, Deerfield Township, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. April 4, 1946, and terminating at 2:00 a.m. April 19, 1946.

ERWIN B. HOCK  
Deputy Commissioner.

- 6. DISCIPLINARY PROCEEDINGS - PERMITTING MINOR, HOLDER OF EMPLOYMENT PERMIT, TO SELL ALCOHOLIC BEVERAGES IN VIOLATION OF R. S. 33:1-26 AND RULE 2 OF STATE REGULATIONS NO. 13 - LICENSE SUSPENDED FOR A PERIOD OF 5 DAYS, LESS 2 FOR PLEA.

DISCIPLINARY PROCEEDINGS - SALE AND SERVICE BY MINOR PERMITTEE CONTRARY TO CONDITIONS OF EMPLOYMENT PERMIT, IN VIOLATION OF R. S. 33:1-26 - PERMIT PRIVILEGE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary Proceedings against  
PAUL WEISSER  
162 West Market Street  
Newark 3, N. J.,

Holder of Plenary Retail Distribution License D-92, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS

In the Matter of Disciplinary Proceedings against  
AARON WEISSER  
121 Fairbanks Street  
Hillside, N. J.,

AND ORDER

Holder of Employment Permit No. 309, issued by the State Commissioner of Alcoholic Beverage Control.

Joseph B. Sugrue, Esq., Attorney for Defendant-licensee and Defendant-permittee.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant-licensee has pleaded non vult to the charge of permitting his son, Aaron Weisser, who holds an employment permit for a person disqualified by reason of age, to sell and serve alcoholic beverages in violation of R. S. 33:1-26 and Rule 2 of State Regulations No. 13.

Aaron Weisser, the permittee, has also pleaded non vult to a charge of selling and serving alcoholic beverages contrary to the conditions upon which his employment permit was issued.

The permittee is sixteen years of age. On the evening of February 5, 1946, agents of the Department of Alcoholic Beverage Control, acting upon a complaint, visited the licensed premises. The permittee, a porter and a third employee were on the licensed premises. The permittee asked one of the agents what he desired to purchase and the agent ordered and was served a bottle of Garrett's

Virginia Dare Wine by the boy. The agent thereupon handed the boy a bill, and the boy rang up the sale and handed the agent the change. After this the agents identified themselves.

A signed statement was obtained from the boy in which he admitted having made the sale but stated that he was employed to work around the store and not to sell liquor. He gives as the reason for making the sale that he just "forgot."

As pointed out, minors must not handle, sell or serve liquor. Re. Rosenzweig, Bulletin 564, Item 8. Licensee has no previous record. Under the circumstances, I shall suspend the license for a minimum period of five days, less two for the plea, making a net suspension of three days. I shall suspend the permit for the balance of its term.

Accordingly, it is, on this 29th day of March, 1946,

ORDERED, that Plenary Retail Distribution License D-92, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Paul Weisser, for premises 162 West Market Street, Newark, be and the same is hereby suspended for a period of three (3) days, commencing at 9:00 a.m. April 8, 1946, and terminating at 9:00 a.m. April 11, 1946; and it is further

ORDERED, that Employment Permit No. 309, issued to Aaron Weisser by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby suspended for the balance of its term, effective immediately.

ERWIN B. HÖCK  
Deputy Commissioner.

7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR TRADE MINIMUM, IN VIOLATION OF RULE 6 OF STATE REGULATIONS NO. 30 - PREVIOUS RECORD - LICENSE SUSPENDED FOR A PERIOD OF 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

S. VOGEL INC. )  
267 South Orange Ave. )  
Newark 3, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-119, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )  
-----)

Glickenhau & Glickenhau, Esqs., by Jacob S. Glickenhau, Esq., Attorneys for Defendant-licensee.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

The defendant has pleaded non vult to charges alleging that on January 18, 1946 it sold a one-gallon bottle of G & D American Vermouth below the minimum consumer price published in Bulletin 690 of this Department, in violation of Rule 6 of State Regulations No. 20, without first having obtained a special permit to do so.

On January 18, 1946 Lillian Feldman, wife of the president of defendant corporation and an officer and stockholder thereof, sold to an agent of the Department of Alcoholic Beverage Control a gallon of G & D Vermouth for the sum of \$4.50. After the sale had been made, the agent identified himself and informed Mrs. Feldman that the Fair Trade price was \$4.72. The agent stated that her explanation was that she had just received the list and had failed to check the new prices and had become "all confused." She denied ever having made any other sales below Fair Trade price.

Counsel for defendant requested an opportunity to offer mitigating circumstances, which was afforded the defendant. At that time Mrs. Feldman appeared and stated that because of the fact that there had been some robberies in the vicinity shortly prior to the sale, she had been so upset by these circumstances that when the agent appeared she became frightened, which accounted for her failing to remember the Fair Trade price.

However, the record discloses that in February, 1942, the corporate licensee pleaded guilty to a similar charge, the sale on that occasion having been made by the president of the corporation, Irving Feldman, the husband of the person who made the sale in this particular instance. Re Samuel Vogel, Inc., Bulletin 493, Item 10. It is, therefore, apparent that too much consideration cannot be given the licensee for its explanation under these particular circumstances.

In view of the previous violation, its license will be suspended for twenty days, less five days for the plea, or a net suspension of fifteen days.

Accordingly, it is, on this 29th day of March, 1946,

ORDERED, that Plenary Retail Distribution License D-119, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to S. Vogel Inc., for premises 267 South Orange Avenue, Newark, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 9:00 a.m. April 4, 1946, and terminating at 9:00 a.m. April 19, 1946.

ERWIN B. HOCK  
Deputy Commissioner.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against )

WALTER J. KEEBLER )  
T/a KEEBLER'S CAFE )  
177 South Burlington St. )  
Gloucester City, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Common Council of the City of Gloucester City. )  
----- )

William T. Cahill, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant has pleaded non vult to a charge alleging that he possessed illicit alcoholic beverages at his licensed premises, in violation of R. S. 33:1-50.

On February 5, 1946, an investigator of the State Department of Alcoholic Beverage Control seized one 4/5 quart bottle labeled "Four Roses A Blend of Straight Whiskies", when his field test disclosed that the contents thereof were not genuine as labeled. Subsequent analysis by the Department chemist verified the findings of the investigator.

In a sworn statement given the investigator at the time of the seizure, the defendant admitted that he had partly refilled the "Four Roses" bottle with another whiskey. His stated reason for such illegal action was: "I simply tried to have what people wanted." He now says he assumed the blame to protect his wife's "mistake."

I have carefully considered the statement filed by the attorney for the defendant seeking to "explain" the violation and can find no merit therein.

Licensees are strictly responsible for any "refills" found in their stock of liquor. Re Kurian, Bulletin 517, Item 2. A customer is entitled to exactly what he orders. Re Leda, Inc., Bulletin 678, Item 1. Whether the "refill" in the instant case was a deliberate act of the licensee or the result of a "mistake" made by his wife is immaterial. Defendant is guilty.

Defendant has no prior adjudicated record and there are no aggravating circumstances in the violation. I shall suspend his license for the minimum period of fifteen days. Re Rudolph, Bulletin 680, Item 1.

Accordingly, it is, on this 29th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-9, issued by the Common Council of the City of Gloucester City to Walter J. Keebler, t/a Keebler's Cafe, for premises 177 South Burlington Street, Gloucester City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. April 4, 1946, and terminating at 2:00 a.m. April 19, 1946.

ERWIN B. HOCK  
Deputy Commissioner.

9. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against )  
 HENRY A. DELANO )  
 T/a HENNY'S CAFE )  
 Black Horse Pike & Browning Road )  
 Bellmawr Borough )  
 P. O. Mt. Ephraim, N. J., )  
 Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Bellmawr. )  
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CONCLUSIONS AND ORDER

William T. Cahill, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant has pleaded non vult to a charge alleging that he possessed illicit alcoholic beverages on his licensed premises, in violation of R. S. 33:1-50.

On February 7, 1946, an investigator of the State Department of Alcoholic Beverage Control seized two 4/5 quart bottles labeled "Canadian Club Blended Canadian Whisky" when his field tests disclosed that the contents thereof were not genuine as labeled. Subsequent analyses by the Department chemist verified the findings of the investigator.

Defendant admitted in a signed statement that he had refilled the "Canadian Club" bottles with another Canadian whiskey because "I.....could not get enough (Canadian Club whisky) to satisfy my customers who would not drink anything but Canadian Club".

However, a patron is entitled to receive exactly what he orders. Retailers are not permitted to refill bottles. It is immaterial if, as defendant alleges, the patrons received "a better blend of liquor". Re Leda, Inc., Bulletin 678, Item 1.

Defendant's license was suspended in 1940 for a period of five days as a result of being convicted by the local issuing authority of selling during prohibited (local) hours. In view of the fact that there are no subsequent convictions against him, I shall not consider a violation over five years ago in aggravation of the present charge.

I shall suspend defendant's license for the minimum period of fifteen days. Re Nurse, Bulletin 680, Item 7.

Accordingly, it is, on this 29th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Bellmawr to Henry A. Delano, t/a Henny's Cafe, for premises Black Horse Pike & Browning Road, Bellmawr Borough, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. April 4, 1946, and terminating at 2:00 a.m. April 19, 1946.

ERWIN B. HOCK  
Deputy Commissioner.

10. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 20 DAYS.

In the Matter of Disciplinary Proceedings against )

OTTO F. SCHMOLDT )  
 T/a YE COTTAGE INN )  
 Route 25 & Eastside Avenue )  
 Raritan Township )  
 P.O. R.D. 5, New Brunswick, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-17, issued by the Board of Commissioners of the Township of Raritan. )  
 ----- )

Otto F. Schmoldt, Defendant-licensee, Pro se.  
 Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant pleaded guilty to a charge alleging that he possessed on his licensed premises a 4/5 quart bottle labeled "Three Star Hennessy Jas. Hennessy & Co. Cognac", a 4/5 quart bottle labeled "Four Roses A Blend of Straight Whiskies", and a 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky", which bottles contained alcoholic beverages not genuine as labeled, in violation of R. S. 33:1-50.

On February 20, 1946 an investigator of the State Department of Alcoholic Beverage Control seized the bottles in question when his field tests disclosed that the contents of said bottles were not genuine as labeled.

Subsequent analyses by the chemist employed by the Department of Alcoholic Beverage Control verified the findings of the investigator.

The licensee denies any knowledge of the cause of the violation. Licensees, however, are responsible for any "refills" found in their stock of liquor. Re Kurian, Bulletin 517, Item 2.

Defendant has no previous adjudicated record. The license will be suspended for a period of twenty days. Cf. Re Zeidner & Cohen, Bulletin 680, Item 2.

Accordingly, it is, on this 29th day of March, 1946,

ORDERED, that Plenary Retail Consumption License C-17, issued by the Board of Commissioners of the Township of Raritan to Otto F. Schmoldt, t/a Ye Cottage Inn, for premises Route 25 & Eastside Avenue, Raritan Township, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. April 3, 1946, and terminating at 2:00 a.m. April 23, 1946.

ERWIN B. HOCK  
 Deputy Commissioner.

11. APPELLATE DECISIONS - HIGGINS v. BELMAR AND RYAN - DISCONTINUED.

GEORGE E. HIGGINS, )  
 Appellant, )  
 -vs- )  
 BOARD OF COMMISSIONERS OF THE )  
 BOROUGH OF BELMAR, and ELLIOT )  
 S. RYAN, t/a HOTEL NEW WINDSOR, )  
 Respondents )

ON APPEAL  
 ORDER OF DISCONTINUANCE

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 Elvin K. Simmill, Esq., Attorney for Appellant.  
 Joseph Silverstein, Esq., Attorney for Respondent Board of  
 Commissioners.  
 Edward J. Ascher, Esq., Attorney for Respondent Elliot S. Ryan.

This is an appeal from the issuance of a Seasonal Retail Consumption License to respondent Elliot S. Ryan, t/a Hotel New Windsor, for premises at 201 Fourth Avenue, Belmar.

Through their respective attorneys, the parties hereto have agreed by a formal stipulation that the appeal be withdrawn. It appears from the pleadings that the issuance of said license does not exceed the legal limitation of such licenses in Belmar. No cause appearing to the contrary,

It is, on this 1st day of April, 1946,

ORDERED, that the within appeal be and the same is hereby discontinued.

EDWARD J. DORTON  
 Deputy Commissioner.

12. FAIR TRADE - NOTICE OF SUPPLEMENTAL PUBLICATION.

April 4, 1946

The next official supplemental publication of minimum resale prices, pursuant to Fair Trade Rules (Regulations No. 30) will become effective on Monday, May 6, 1946. New items and changes in old items must be filed at the offices of this Department not later than Friday, April 12, 1946.

It has been noted that prices for many brands and types submitted by manufacturers and wholesalers for publication in the official complete wholesale price pamphlet effective May 1, 1946 represent substantial increases to retailers. It is important that these increases shall be reflected in the price listings for the items in the forthcoming minimum consumer price supplement. It is of the greatest economic importance to retailers and to all branches of the industry alike that retailers shall be afforded full and fair markups. The Department desires the maintenance of the schedule of OPA markups for retailers, that is, 33-1/3% on spirits, 45% on cordials and liqueurs, and 50% on wines.

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

Department of Alcoholic Beverage Control  
 By: JOHN H. MICHELSON  
 Assistant Deputy Commissioner.

13. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACT.

CANCELLATION PROCEEDINGS - CLUB LICENSEE DID NOT HAVE EXCLUSIVE, CONTINUOUS POSSESSION AND USE OF CLUB QUARTERS FOR THREE YEARS PRIOR TO APPLICATION FOR LICENSE, AS REQUIRED BY RULE 4 OF STATE REGULATIONS NO. 7 - LICENSE ORDERED CANCELLED.

In the Matter of Disciplinary Proceedings against )

NORTH CAMDEN CIVIC CLUB )  
920-22 South Third Street )  
Camden, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-45, )  
issued by the Municipal Board )  
of Alcoholic Beverage Control )  
of the City of Camden. )  
- - - - - )

Bruce A. Wallace, Esq., Attorney for Defendant-licensee.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant pleaded non vult to the following charge:

"In your application filed with the Municipal Board of Alcoholic Beverage Control of the City of Camden and upon which you obtained your current club license, you falsely stated 'Yes' in answer to Question 20 which asks: 'Has the club been in exclusive continuous possession and the use of club quarters for at least three (3) years immediately prior to this application?', whereas in truth and fact you did not have such possession and use for the said period; such false statement being in violation of R. S. 33:1-25."

In addition, the defendant was directed to show cause why its license should not be cancelled because of its failure to comply with Rule 4 of Regulations No. 7, which provides that:

"No license shall be issued to any club unless it shall have been in exclusive continuous possession and use of a clubhouse or club quarters for at least three years continuously immediately prior to the submission of its application for a license."

These show cause proceedings were uncontested.

It is unnecessary to determine the quantum of the defendant's guilt on the above charge since the license must be cancelled because of non-compliance with one of the essential requisites of a club license.

During the course of an investigation by agents of the State Department of Alcoholic Beverage Control it was disclosed that the club was incorporated in 1941; that the club had been in possession of its premises only since August, 1945, when it first applied for license, and that, prior to August, 1945, it met at the home of one of its members, Walter Wyatt, 1111 Federal Street, Camden, N. J. These facts were admitted in signed statements by officers of the club. It is clear that the required "exclusive continuous possession" of club quarters for three years prior to August, 1945 is totally lacking in this case. Monthly meetings at the home of a "member" are far from sufficient to meet the requirement of the regulation. Re The Progressive Democratic Club, Bulletin 672, Item 3.

Under the circumstances, the license must be cancelled.

Accordingly, it is, on this 5th day of April, 1946,

ORDERED, that Club License CB-45, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to the North Camden Civic Club for premises 920-22 South Third Street, Camden, N. J., be and the same is hereby cancelled and declared null and void, effective at 2:00 a.m. April 9, 1946.

ERWIN B. HOCK  
Deputy Commissioner.

14. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING EFFECTIVE DATE OF SUSPENSION (SEE BULLETIN 705, ITEM 10).

In the Matter of Disciplinary Proceedings against  
OTTO F. SCHMOLDT  
T/a YE COTTAGE INN  
Route 25 and Eastside Avenue  
Raritan Township  
P.O. R.D. 5, New Brunswick, N. J.,

O R D E R

Holder of Plenary Retail Consumption License C-17 issued by the Board of Commissioners of the Township of Raritan.  
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Otto F. Schmoldt, Petitioner, Pro se.

An Order having been entered herein on the 29th day of March, 1946, suspending Plenary Retail Consumption License C-17, issued by the Board of Commissioners of the Township of Raritan to Otto F. Schmoldt, t/a Ye Cottage Inn, for a period of twenty days commencing at 2:00 a.m. April 3, 1946, and terminating at 2:00 a.m. April 23, 1946; and

It appearing in a petition filed herein for postponement of the commencement of suspension of the license that, prior to the entry of the Order of suspension, arrangements had been completed for numerous banquets to be held at the licensed premises between April 4, 1946 and April 30, 1946; and

It appearing further that numerous innocent persons would be inconvenienced by the suspension of the license for the twenty-day period beginning April 3, 1946;

It is, on this 1st day of April, 1946,

ORDERED, that the said suspension of twenty days, instead of being effective commencing at 2:00 a.m. April 3, 1946, shall, in lieu thereof, commence at 2:00 a.m. May 2, 1946, and terminate at 2:00 a.m. May 22, 1946.

EDWARD J. DORTON  
Deputy Commissioner.

15. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 25 DAYS.

In the Matter of Disciplinary Proceedings against  
 PAUL GRIEFF  
 T/a YE OLD YORKE INN  
 Old York Road  
 Bridgewater Township  
 R. D. 4, Somerville, N. J.,  
 Holder of Plenary Retail Consumption License C-2 issued by the Township Committee of the Township of Bridgewater.

CONCLUSIONS  
 AND ORDER

William C. Egan, Esq., Attorney for Defendant-licensee.  
 Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

The defendant pleaded non vult to a charge alleging that, on February 8, 1946, he possessed a quart bottle labeled "Lord Calvert Straight Rye Whiskey", a 4/5 quart bottle labeled "King's Ransom Round the World Blended Scotch Whisky", a 4/5 quart bottle labeled "Haig & Haig Blended Scotch Whisky", and a 4/5 quart bottle labeled "Hennessy Jas. Hennessy & Co. Cognac", all of which bottles contained alcoholic beverages not genuine as labeled, in violation of R. S. 33:1-50.

On February 8, 1946, an investigator of the Department of Alcoholic Beverage Control tested forty-two open bottles of alcoholic beverages at defendant's premises and seized the four bottles mentioned in the charge when his preliminary tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by the Department chemist confirmed the fact that the whiskey in each of the four seized bottles was not genuine as labeled.

Defendant denies any knowledge whatsoever of the violation. Nevertheless, the licensee is held strictly accountable for the alcoholic beverages found on his licensed premises. Cf. Re Kurian, Bulletin 517, Item 2.

Defendant has a previous adjudicated record. Effective March 19, 1945, defendant's license was suspended by the local issuing authority for a period of seven days after being adjudged guilty of sale of alcoholic beverages to minors.

Under the circumstances, I shall suspend defendant's license for a period of twenty-five days. See Re Kovacs, Bulletin 687, Item 10.

Accordingly, it is, on this 4th day of April, 1946,

ORDERED, that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Bridgewater to Paul Grieff, t/a Ye Old Yorke Inn, for premises on Old York Road, Bridgewater Township, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. April 15, 1946, and terminating at 2:00 a.m. May 10, 1946.

ERWIN B. HOCK  
 Deputy Commissioner.

16. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against )

LATIN QUARTER, INC. )  
132 Orchard Street )  
Newark 5, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-947 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark. )  
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Anthony P. Bianco, Esq., Attorney for Defendant-licensee.  
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

Defendant-licensee, through its attorney, pleads non vult to a charge alleging that, on February 18, 1946, it possessed on its licensed premises two 4/5 quart bottles labeled "Canadian Club Blended Canadian Whisky", both of which bottles contained alcoholic beverages not genuine as labeled, in violation of R. S. 33:1-50.

On February 18, 1946 an ABC agent, after preliminary tests of defendant's open stock of liquor, seized the bottles in question when tests thereof indicated that the contents of the bottles were not genuine as labeled. Subsequent analysis by the Department chemist disclosed that the bottles had been refilled.

Defendant's officers disclaim any knowledge of the fact that the bottles had been refilled. Nevertheless, a licensee is strictly accountable for any "refills" found in the stock of liquor on the licensed premises. Cf. Re Kurian, Bulletin 517, Item 2.

Defendant has no previous adjudicated record. Therefore, I shall suspend its license for a period of fifteen days. Re Hartfield, Bulletin 683, Item 10.

Accordingly, it is, on this 4th day of April, 1946,

ORDERED, that Plenary Retail Consumption License C-947, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Latin Quarter, Inc., for premises 132 Orchard Street, Newark, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. April 10, 1946, and terminating at 2:00 a.m. April 25, 1946.

*Erwin B. Hock*  
Deputy Commissioner.