

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

BULLETIN 378

JANUARY 22, 1940

1. CLUB LICENSES - BONA FIDE GUESTS - MEANS GUESTS OF MEMBERS  
AND NOT OF BARTENDER.

BARTENDERS - MAY NOT BE EMPLOYED IF CONVICTED OF CRIME  
INVOLVING MORAL TURPITUDE - HEREIN OF THE PROCEDURE TO  
DETERMINE THE POINT.

Dear Sir:

It is the desire of our club to know whether the bartender is allowed to admit his guests into the club room.

Is it also permissible to allow a citizen, who has some time ago been fined for a violation of the State Alcoholic rules, to become a bartender?

Yours truly,  
Joseph Pambianchi,  
Secretary.

January 8, 1940

Joseph Pambianchi, Secretary,  
Italian-American Pleasure Club,  
New Village, N. J.

Dear Mr. Pambianchi:

According to our records, your club holds a club liquor license in Franklin Township. Under such type of license your club is strictly limited to sale or service of liquor to club members and their guests.

Hence, although your bartender may admit his own guests into the club room, he absolutely may not (nor may any other employee), under any circumstances, sell or serve any liquor to anyone who is not an actual member of the club or the bona fide guest of a member.

Violation of this rule will be cause for revocation of your license.

As to whether a person who has "been fined for a violation of the State Alcoholic rules" may work as a bartender in this State, everything depends upon just what he was found guilty of and the facts in his case. If he was convicted of what the Alcoholic Beverage Law calls a "crime involving moral turpitude", then no liquor licensee in New Jersey may hire him. Hence, before employing any person with a record, you should have him apply to the Commissioner for a hearing and a ruling to determine whether or not the crime, if any, of which he has been convicted involves moral turpitude and hence disqualifies him.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

By: Nathan Davis,  
Attorney-in-Chief.

2. ARTICLE - "EXPERIENCES OF THE STATE OF INDIANA RELATIVE TO FAIR TRADE PRACTICES IN THE LIQUOR DEPARTMENT."

By Hugh A. Barnhart, Excise  
Administrator of Indiana.\*

The Indiana law prohibits certain business practices on the part of wholesalers with retailers, such as rebates, extra discounts, gifts and favors "beyond the ordinary course of business", and likewise prohibits the retailers from accepting the same. Pursuant to this section of the statute, the Indiana Alcoholic Beverages Commission has required that the term "ordinary course of business" be given a definition by the industry itself. The industry has defined this term as meaning in this State, a quantity discount to the retailer of 3% on \$50.00 to \$99.99, or 4% on \$100.00 or more worth of merchandise, sold, billed, and delivered at one time. Hence, any rebate or discount or gift of cash or merchandise in excess of the above named discount would obviously be a violation of the Indiana statute.

The wholesalers keep on file the current price list on which they do business with Indiana retailers. No effort in any instance has been made to peg any price; rather, efforts have been confined to eliminating all of the various forms of commercial bribery after the price has once been quoted as it is shown in the wholesalers' price list, in the manner and under the section of the statute just described.

I believe that it can be said truthfully that our efforts along this line have not been in vain. Mind you, we have our share of trouble, and periodically various wholesalers and distillery representatives must be conferred with in order to offset and correct the many and varied ideas that various persons find to get around the end that we desire to accomplish.

Another phase of this program is that all producers are required to file with our Department their cost price F. O. B. the shipping point, the freight factor used by the producer in computing the wholesaler's suggested resale price and such suggested wholesale resale price. This information is thereafter furnished to the Secretary of the Indiana Wholesale Liquor Dealers Association and mimeographed copies are sent by that office to every wholesaler in the State. In other words, we have attempted to take the secrets out of the business. We believe that this system of open pricing has done much to create a healthy situation. Costs on all merchandise are known to every one in the business. The suggested wholesale resale price established by the distiller defines for that producer the term used in the statute, "ordinary course of business" and if a distillery representative or detail man attempts any commercial bribery to make deals in excess of these open prices with retail accounts, then such producer is again immediately obviously in violation of the statute.

As far as retail prices are concerned, Indiana has on its statute books a Fair Trade Act of the same type as has been recently adopted by many of our sister states. It is, however, no part of our Alcoholic Beverages Act and applies to all trade-marked merchandise. Many of the major distilleries have attempted

\* Reprinted from California A. B. C. Bulletin, Dec. 1939 -  
Vol. 4, No. 12, page 34.

to regulate their bottle prices to the public by placing their merchandise under fair trade contracts. For quite a period, the fact that these contracts existed did much to establish these resale prices. However, recently there has been a small minority of Indiana retailers who have seen fit to fail to observe these fair trade prices. At the present writing, it is not obvious what, if anything, can or will be done as far as our Department is concerned, in taking any hand in this matter. The producers themselves, have not seen fit to take advantage of their available legal remedy to force this minority of price cutters into line. The Department hopes that these producers will take some steps to remedy the situation as it exists before any general price war would break out and create a situation wherein the Department might be forced to take a hand. This latter discussion, however, is primarily anticipation, and the Department itself has taken no hand in establishing or attempting to regulate any retail prices other than prohibiting the following practices:

1. The use of handbills advertising liquor.
2. The use of the radio in advertising liquor.
3. The displaying of any sign on the outside of any liquor establishment advertising any liquor price either by the bottle or drink.

To a certain extent, this program is supplemented by the statute itself which prohibits any window display of liquor in any liquor establishment which is visible to the public from the street or sidewalk outside of such establishment.

Despite the fact that the Commission has not actively done anything to peg retail prices, the foregoing prohibitions at least tend to make it a little more difficult for price cutters to practice their art.

This state, like your own, is interested in having a stable liquor market. I have described here briefly what we have done to accomplish this. If there are any specific questions which you might have, we would be glad to give you our experiences here. On the other hand, we have read with interest recent newspaper comments concerning activities in your own state where you have found it necessary to deal with some of the forms of commercial bribery on the part of various distillers and wholesalers in your state, and would in turn appreciate very much having your comments on the situation as it exists in your state, and what you have done to find the solution to a problem which perplexes all of us.

3. ARTICLE - "FAIR TRADE CONTRACTS IN OTHER STATES."  
By Louis J. Gilbert, Secretary  
California Liquor Industries Ass'n.\*

The states which have made some attempts at endeavoring to curtail unfair competition in the distilled spirits field through price posting or compulsory fair trade contracts of one

\* Reprinted from California A. B. C. Bulletin, Dec. 1939 - Vol. 4, No. 12, page 36.

kind or another are Arizona, Arkansas, New Jersey, and Rhode Island. Some other states, Kentucky for instance, have adopted minor rules prohibiting the advertising of prices of distilled spirits to the general public.

Taking up these states chronologically, Rhode Island was the first to attempt wholesale and retail price publishing. In Rhode Island the State Liquor Commission compiled price lists which gave the wholesale price to retailers and the minimum stop price per bottle to consumers of all types of distilled spirits sold in the State. The wholesale list also contained quantity discounts ruling when different quantities were bought from the wholesaler.

The system, while based to some extent on prices ruling in fair trade contracts prepared by owners of the various brands, was, and is, as far as our knowledge goes, at the present time based upon action by the Liquor Commission without regard to fair trade contracts. We have no information regarding disciplinary action taken in Rhode Island to enforce these prices. Our information is, however, that the market has been stable.

The Arizona Tax Commission some two years ago acted in still another manner. Regulations by the Tax Commissioner, who has the administration of liquor control, required the owner of every brand of distilled spirits shipped into the state to advertise in a Beverage Trade Journal his prices from wholesaler to retailer and prices from retailer to consumer.

One of the rather startling innovations was the requirement that wholesalers' profit margins should equal  $16\frac{2}{3}\%$  of the sale price and that retailers' profit margins should equal  $33\frac{1}{3}\%$  of the selling price. This scheme has appealed to some members of the industry in California, but it has had the effect of raising consumer prices on distilled spirits in Arizona to the highest average of any state in the west.

Immediately following the California State Board of Equalization's adoption of Rule 42, a hearing was held in Arizona for the announced purpose of considering the adoption of the California rule, as the trade apparently considered it an improvement over their present system. We have no definite information as to what Arizona intends doing, but if the compulsory fair trade rule is coupled with compulsory mark-up, many industry members fear some public reaction to ensuing high prices.

As to Arkansas, we have only the sketchiest information regarding the type and effectiveness of regulation of unfair competition. The rule promulgated was modeled upon New Jersey's, and all that we have heard in the public and trade press has been criticism of the system. The Governor of the State went out of his way to condemn it as monopolistic in a statement to the daily press. In any event, their experience has been so short and conditions are so different from those in California that it is doubtful if much of value can be gotten from the State's experiences.

We have information under date of September 21 that the Georgia State Revenue Department has adopted regulations requiring liquor dealers to establish minimum prices and to refrain from injurious, uneconomic practices in the distribution of competitive brands. This statement says that wholesalers must file with the State Revenue Commissioner certified copies of fair trade agreements.

entered into and the proposed price changes must be submitted to the Commissioner for approval, and that regulation of prices is to be determined by agreement upon set discounts at which wholesalers must sell liquor to retailers. We have not yet received the actual copies of the regulations but they should be in our hands shortly. It is apparent that Georgia has not had much experience in this matter.

New Jersey, of course, has had over a year's experience with their particular rule. There are several essential differences between the New Jersey and the California Rule. In the first place the New Jersey Rule is purely voluntary; that is, manufacturers, wholesalers or other owners of brands are not compelled to file their fair trade contract price schedules in New Jersey. Looking from this distance, it also appears that New Jersey is not making any particular attempt to enforce wholesale prices. This, of course, the California Rule specifically intends to do. The New Jersey retailer, therefore, is apparently in the position of finding his shelves stocked with items which are under fair trade contract prices and items on which there is no fair trade price control. We have here no information as to proportion of brands which have fair trade contracts enforced. Disciplinary proceedings taken against price cutters are, therefore, apparently confined to those retailers who cut the price on those brands which are under fair trade acts.

Commissioner D. Frederick Burnett, in his usual forthright and direct style, gives five-day suspensions to any retailer who so much as cuts a bottle price one penny.

We have heard some criticism directed to the fact that there is a tendency, under the New Jersey statute as now written, to penalize the lines which are trying to stabilize the market through fair trade contracts, in that lines which are not under fair trade contracts become more attractive to price cutters and no risk is run of disciplinary proceedings to the dealers who cut prices on such lines.

We have now had some opportunity to get a reaction from the trade in general as to Rule 42. The feeling in the California industry seems to be that Rule 42 is both enforceable and fair and should be given every opportunity for a fair trial; but it appears as though something like New Jersey's policy of prompt and uniform crackdowns, with small suspensions, will have to be adopted in order to hold things in line.

4. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED.

In the Matter of the Seizure, on	)	Case 5619
November 11, 1939, of a Chevrolet	)	
Sedan and four 5-gallon cans of	)	ON HEARING
alcohol contained therein, at the	)	CONCLUSIONS AND ORDER
intersection of White Horse Pike	)	
and Vassar Avenue, Borough of	)	
Audubon, County of Camden and	)	
State of New Jersey.	)	
- - - - -	- - - - -)	

Abraham Merin, Esq., Attorney for Department of Alcoholic Beverage Control.

No other appearances.

BY THE COMMISSIONER:

On November 11, 1939 Audubon police officers, coming to the scene of a two-car accident at White Horse Pike and Vassar Avenue, seized one of the automobiles and four 5-gallon cans of mixed alcohol-and-water found therein. The driver, Stewart Young, and the owner of the car, John Richard Daniels, who was with him at the time, are now under arrest.

The alcohol-and-water was presumably bootleg since, although fit for beverage purposes, it bore no tax stamps. P.L. 1939, c. 177. Its illicit nature is confirmed by Daniels' statement to investigators of this Department that it had been picked up at a bootlegger's place near Camden.

Hence, the alcohol-and-water and the car used in its transportation are subject to forfeiture. R. S. 33:1-1(y), 66.

Accordingly, it is ORDERED that the property seized in this case, more particularly set forth in Schedule "A", be and is hereby forfeited, and that it be retained for the use of hospitals and State, County and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner.

D. FREDERICK BURNETT,  
Commissioner.

Dated: January 19, 1940.

SCHEDULE "A"

- 4 - 5-gallon cans of alcohol
- 1 - Chevrolet Sedan, Serial No. 2-AC-103014,  
Engine No. 1359796, 1939 N. J. Regis-  
tration No. CJ46N

5. SEIZURES - CONFISCATION PROCEEDINGS - HEREIN OF THE RELATION OF SEARCH WARRANTS TO FORFEITURES AND OF THE SEIZURE OF FURNITURE AND OF THE RIGHTS OF CONDITIONAL VENDORS AS AGAINST THE STATE AND OF FIXTURES AND PADLOCKING.

In the Matter of the Seizure on	:	
December 5, 1939, of a still, a	:	On Hearing
quantity of alcohol, some house-	:	
hold furniture, and miscellaneous	:	CONCLUSIONS AND
personal property at 94 Liberty	:	ORDER
Street, in the Borough of Lodi,	:	
County of Bergen, and State of	:	
New Jersey.	:	#5644
. . . . .	:	

Gaudielle & Shuart, Esqs., by Joseph J. Gaudielle, Esq., for  
 Rose Della Penta  
 Aaron Heller, Esq., for Gang and Gang, Inc.  
 Vanderwart & Scharnikow, Esqs., by William F. Scharnikow, for  
 Mutual Building and Loan Association  
 of Lodi, Mortgagee  
 Elizabeth Hines, for Robert Hines, t/a S and S Repair Shop  
 Harry Castelbaum, Esq., Attorney for the Department of Alcoholic  
 Beverage Control

BY THE COMMISSIONER:

On December 5, 1939, Investigators of this Department, accompanied by officers of the Lodi Police Department, raided the premises at 94 Liberty Street, Lodi, and found five 5-gallon cans of alcohol under the kitchen sink, a 40-gallon still and appurtenances set up in the basement, and mash vats, connected with the still by pipe line, in the garage. The still and the alcohol were seized, as was the household furniture and other personal property found in the building housing the still.

The still was not registered with this Department. It is, therefore, unlawful property. R.S. 53:2-2. Its presence in the house is admitted and no one contests its forfeiture.

At the seizure hearing Rose Della Penta, occupant of the premises, resisted forfeiture of certain household furniture and sought to avoid padlocking of the premises; Gang and Gang, Inc., sought to impress a lien as a conditional vendor upon part of the furniture; Mutual Building and Loan Association of Lodi, mortgagee of the premises, sought return of a seized oil burner and objected to padlocking of the premises, and Robert Hines, unpaid vendor of a washing machine, sought its return.

As to Rose Della Penta: The entire furniture of the house and all personal property with the exception of clothing, jewelry and personal belongings was seized as unlawful property at the time of the raid. While the raid was in progress Rose Della Penta, who owns and occupies the premises, arrived and admitted that she owned and operated the still.

Notwithstanding that damning admission, she now contests forfeiture of the furniture (which she claims as her own, except some belonging to her step-son, Anthony Della Penta) for the reasons (1) that the officers made search of the premises pursuant to search warrant naming Anthony Della Penta; (2) that the household furniture could not lawfully be seized because it was not used or adaptable for use in connection with the operation of the still.

Her first point has heretofore, in principle, been decided adversely to her. Thus, in Re Tricoli, Bulletin 164, item 9, a case in which the seizure of a still and personal property was made without any search warrant, it was said:

"Counsel further contends that the seizure was invalid because no search warrant had been obtained and prays for the return of the property on this ground. No determination need be made as to whether under the circumstances the officer should have obtained a search warrant, since the disposition of the property is not dependent upon the method of its seizure.

"The supplement above referred to (P.L.1935, Ch. 255, now R.S. 33:2-1 et seq.) provides that all property, when seized, shall be under the jurisdiction of the Commissioner, who shall determine after a hearing whether the property constitutes unlawful property and should be forfeited to the State. Although the Act contains a provision authorizing the Commissioner to return seized or forfeited property where its owner has acted in good faith and has unknowingly violated the provisions of the Act, it contains no provision authorizing the return of such property solely because the method of seizure was allegedly improper. Under general principles of law forfeiture is not dependent upon the validity of the seizure. Cf. United States v. Quantity of Extracts, Bottles, Etc., 54 F. (2d) 643, 645 (D.Fla. 1931), where the court said:

'To quash the search warrant, however, is not ipso facto fatal to the libel. The right of forfeiture is not dependent upon the validity of the seizure. As a strict matter of law, a libel for forfeiture will lie, notwithstanding the illegality of the search warrant under which the seizure was made.'

"See also Strong v. United States, 46 F. (2d) 257 (C.C.A.1st, 1931); United States v. Various Items of Personal Property, 40 F. (2d) 422 (C.C.A. 2nd, 1930), affirmed 282 U.S. 577 (1930); Dodge v. United States, 272 U.S. 530 (1926)."

Her second point is without any basis because directly contrary to the clear legislative language of the statute, R. S. 33:2-2, which provides that unregistered stills, articles adaptable for use therewith, and

"all personal property of whatsoever kind, found in a building or in any yard or inclosure connected with a building or on the premises in which such still or distilling apparatus or parts thereof are found, are declared to be unlawful property."

It is true that R.S. 33:2-7 provides:

"The commissioner, upon being satisfied that a person whose property has been seized or forfeited pursuant to the provisions of this chapter has acted in good faith and has unknowingly violated the provisions of this chapter, may order that such property be returned upon payment of the reasonable costs incurred in connection with the seizure, such costs to be determined by the commissioner."

But Rose Della Penta makes no claim that she had acted in good faith and had unknowingly violated the provisions of the law. On the contrary, she admitted that the still was hers. The size of the still, the nature of the installation, and the quantity of the finished product on hand indicate that the violation was deliberate and commercialized.

With the illicit benefits of bootlegging go its lawful burdens. The claim of Rose Della Penta for the return of her furniture is denied.

As to Gang and Gang, Inc.: This applicant seeks recognition of its lien as a conditional vendor of certain articles of furniture. Generally, the liens of innocent third parties, who have made reasonable investigation and fail to learn any facts which would have put them on notice of the illegal activities of the vendee, will be recognized pursuant to the discretionary power conferred by R.S. 33:2-7. It appears, however, that the furniture sought to be impressed with the lien was in part sold on August 30, 1935, and in part on January 3, 1939; that of the first purchase, totaling \$158.10, the unpaid balance of \$12.00 was written off as a bad debt on December 31, 1937; that notwithstanding the unpaid balance and consequent poor credit rating of the purchaser, more furniture was sold on January 3, 1939, at a total price of \$180.75, of which \$28.75 was unpaid at the time of the seizure. It may be noted that the furniture sought to be impressed with the lien was sold to Joseph Della Penta (the husband of Rose Della Penta), which fact casts some doubt on her alleged ownership of the furniture.

The credit manager of Gang and Gang, Inc., testified that Joseph had been a customer for seventeen years, and although claiming knowledge of his occupation and character, was completely ignorant of the nature of Joseph Della Penta's employment, knowing only that he was "in politics". He finally admitted that no investigation of Joseph Della Penta had been made, saying that a sale involving only \$180.00 was not worth the bother of investigation. Under the circumstances, I see no reason to allow the liens claimed.

As to Robert Hines: Among the seized articles was a washing machine sold by Hines to Joseph Della Penta, on which a \$20. balance is still due and owing. Title to the washer seems to have passed, there being no apparent reservation of title by way of security. No showing was made by Hines that any investigation of the purchaser was made before he parted with possession of the washing machine. Without any lien at all, he is in no better position than any other unpaid vendor and no reason appears why his claim to specific property should be allowed.

As to Mutual Building and Loan Association of Lodi: The claimant is the mortgagee of the premises and as such seeks to avoid forfeiture of the oil burner included in the seizure. Testimony establishes that the oil burner was the source of heat for the boiler which generated steam for heating the house. It is, therefore, a fixture and a part of the house. The fact that it was also used to supply steam for the cooker of a still does not make it any the less a part of the realty. The claim of the mortgagee is, therefore, allowed.

As to padlocking: The premises in question are the dwelling house of Rose Della Penta, owned by her, and her home for nineteen years. The mortgage is in default and foreclosure is threatened. Rose Della Penta has no independent income, relying for her support on contributions from her husband, Joseph, from whom she claims to be separated. The forfeiture of all her household furniture in addition to the pending criminal proceedings against her would seem to be ample punishment for her illicit

alcoholic beverage activity. To padlock her home, in addition, and thereby accelerate foreclosure, would, under the circumstances, appear unnecessarily harsh. Padlocking is therefore waived.

The property described in Schedule "A", annexed hereto, except the oil burner, is determined to be unlawful property. It is, therefore, on this 19th day of January, 1940,

ORDERED that it be forfeited and sold, destroyed, or retained for the use of hospitals and State, County and municipal institutions.

As second-hand furniture is usually of but small value and I surmise that the State Finance Commissioner will not desire to retain it for the use of hospitals and State, County and municipal institutions, I shall, if he so decides, rather than destroy the furniture, or attempt to sell it for what it will bring, entertain a petition by Rose Della Penta for its return to her upon payment of the costs of seizure and storage.

D. FREDERICK BURNETT,  
Commissioner.

SCHEDULE "A"

- 2 - wooden vats full of mash
- 1 - 3-burner gas stove
- 9 - empty 5-gallon cans
- 1 - copper cooker
- 1 - mushroom type column
- 1 - galvanized cooler with copper coil
- 1 - Gilbarco oil burner
- 5 - 5-gallon cans of alcohol
- 1 - copper tribox
- Miscellaneous pipes, hose, fittings, tools, etc.
- Miscellaneous living room, sun parlor, dining room, hall, kitchen and bedroom furniture.

6. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED, PADLOCK DENIED.

In the Matter of the Seizure, on )	
November 29, 1939, of a dismantled )	Case 5636
still seized on John Bertuccio's )	
farm located on Williamstown Road, )	ON HEARING
Sicklerville, in the Township of )	CONCLUSIONS AND ORDER
Winslow, County of Camden and )	
State of New Jersey. )	
-----	

John Bertuccio, Pro Se.  
Harry Castelbaum, Esq., Attorney for the Department of  
Alcoholic Beverage Control.

BY THE COMMISSIONER:

On November 29, 1939, investigators of this Department found the articles described in Schedule "A" annexed hereto, in an attic in premises occupied by John Bertuccio and located on Williamstown Road, Sicklerville, Winslow Township. The seized property included dismantled unregistered still parts, but there was no still operating on the premises.

At the hearing, John Bertuccio testified that he is the owner of the farm on which he has lived for twenty-five years; that he operates a truck farm and, in addition, conducts a junk business on the premises; that the seized property was loose junk which was accumulated by him in his junk business and was never used by him as a still; that he has never previously been arrested for any violation of the liquor laws; that he is in poor financial circumstances and, if he is evicted from the premises, it will deprive him of a home.

Since the parts were not registered under the provisions of R. S. Title 33, Chapter 2, the articles seized are unlawful property.

As to padlocking: I have some doubt as to Bertuccio's story that the seized property was merely accumulated junk; but in view that the still parts were dismantled and that he has no criminal record, I shall not padlock his premises.

Accordingly, it is determined that the seized property constitutes unlawful property and it is ORDERED that the same be and hereby is forfeited in accordance with the provisions of R. S. 33:2-5, and that it be retained for the use of hospitals and State, County and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner.

D. FREDERICK BURNETT,  
Commissioner.

Dated: January 19, 1940.

SCHEDULE "A"

- 1 - copper cooker and dephlegmator
- 1 - copper filter
- 1 - copper gooseneck
- 1 - galvanized cooler with copper coils
- 1 - brick and iron stove with galvanized top and chimney
- 8 - 50-gallon barrels (empty)
- 2 - 100-gallon barrels (empty)
- 1 - hand force pump
- 2 - funnels
- 1 - galvanized receiving tank
- 1 - 250-gallon wooden hogshead (empty)
- 1 - lot of bottles and jugs
- Miscellaneous pipes, fittings and hose

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

In the Matter of Disciplinary Proceedings against )  
 )  
 GEORGE VAFIADIS, )  
 130 Anderson Street, )  
 Hackensack, N. J., )  
 )  
 Holder of Plenary Retail Distribution License D-12, issued by )  
 the City Council of the City of )  
 Hackensack. )  
 ----- )

CONCLUSIONS AND ORDER

George Vafiadis, Pro Se.

Charles Basile, Esq., Attorney for the State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of selling liquor at less than the Fair Trade price at the licensed premises on January 5, 1940, in violation of Rule 6 of State Regulations No. 30.

The usual penalty for this violation is ten days.

By entering this plea in ample time before the day fixed for hearing, the Department has been saved the time and expense of proving its case. The license will, therefore, be suspended for five (5) days instead of ten (10) days.

Accordingly, it is, on this 19th day of January, 1940,

ORDERED, that Plenary Retail Distribution License D-12, heretofore issued to George Vafiadis by the City Council of the City of Hackensack, be and the same is hereby suspended for a period of five (5) days, effective January 23, 1940, at 3:00 A.M.

D. FREDERICK BURNETT, Commissioner.

8. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES - SECOND OFFENSE.

In the Matter of Disciplinary Proceedings against )

JOSEPH WEISBERGER, )  
492 Jersey Avenue, )  
Jersey City, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distribution License D-5, issued by the Board of Commissioners of the City of Jersey City. )

-----)

Joseph Weisberger, Pro Se.

Charles Basile, Esq., Attorney for the State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of selling liquor at less than the Fair Trade price at the licensed premises on December 28, 1939, in violation of Rule 6 of State Regulations No. 30.

On October 26, 1939, this licensee committed a similar violation, for which, on confession of guilt, I suspended his license for five days, Bulletin 372, Item 4.

The usual penalty will therefore be doubled. The license will be suspended for ten (10) days on his second confession.

Accordingly, it is, on this 19th day of January, 1940,

ORDERED, that plenary Retail Distribution License D-5, heretofore issued to Joseph Weisberger by the Board of Commissioners of the City of Jersey City, be and the same is hereby suspended for a period of ten (10) days, effective January 23, 1940, at 2:00 A. M.

D. FREDERICK BURNETT,  
Commissioner.

9. SEIZURES - CONFISCATION PROCEEDINGS - PROPERTY FORFEITED, PADLOCK ISSUED.

In the Matter of the Seizure on	)	Case 5617
November 9, 1939, of two stills	)	
and a quantity of alcoholic bever-	)	
ages on premises owned by Joseph	)	ON HEARING
(Jacob) Buffett, located on	)	CONCLUSIONS AND ORDER
W. California Avenue, in the City	)	
of Pleasantville, County of Atlantic	)	
and State of New Jersey.	)	
-----)		

Abraham Merin, Esq., Attorney for the Department of Alcoholic Beverage Control.  
 No other appearances.

BY THE COMMISSIONER:

On November 9, 1939 investigators of this Department discovered two unregistered stills on premises located on W. California Avenue, Pleasantville, Atlantic County, owned by Joseph (Jacob) Buffett. They arrested Alex Robinson, the tenant, and seized, pursuant to R. S. 33:2-3, the property listed in Schedule "A" herein. Subsequently, Buffett was also arrested and charged, as was also Robinson, with possession of unregistered stills and untaxed alcoholic beverages, in violation of R. S. 33:2-10 and 33:1-50. Buffett pleaded guilty and was given a sixty-day jail term. Robinson was held in default of \$500.00 bail to await Grand Jury action.

At a hearing duly held to determine whether the seized property should be confiscated and the premises padlocked, no one appeared to contest the proceedings.

Accordingly, it is ADJUDGED that the seized property constitutes unlawful property and is hereby forfeited in accordance with the provisions of R. S. 33:2-5, and shall be retained for the use of hospitals and State, County and municipal institutions, or destroyed in whole or in part at the direction of the Commissioner.

It is further ORDERED that the premises located on W. California Avenue, in the City of Pleasantville, County of Atlantic and State of New Jersey, owned by Joseph (Jacob) Buffett, being the dwelling house and shed in which the illicit stills and other unlawful property was found, shall not be used or occupied for any purpose whatsoever, for a period of six months, commencing the 19th day of February, 1940.

D. FREDERICK BURNETT,  
 Commissioner.

Dated: January 19, 1940.

SCHEDULE "A"

- 2 - copper cookers
  - 2 - copper gooseneck
  - 2 - galvanized receiving tanks
  - 2 - galvanized cooler with copper coil
  - 1 - steel cooler with copper coil
  - 7 - containers of alcoholic beverages
  - 5 - 50-gallon empty barrels
  - 4 - 5-gallon empty stone crocks
  - 32 - 1-gallon empty jugs
  - 3 - tin funnels
- A number of empty pint and quart bottles

## 10. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - 15 DAYS.

January 20, 1940

Adrian Post,  
Town Clerk,  
Secaucus, N. J.

My dear Mr. Post:

I have before me staff report and your letter of January 12th re disciplinary proceedings conducted by the Town Council against Mary Ulikowski, 248 Secaucus Road, charged with sale of alcoholic beverages to minors, and note that her license was suspended for fifteen days.

Please express to the Mayor and Council my appreciation for their conduct of these proceedings. Since perchance the case may come before me on appeal, I can express no opinion as to the merits, but feel free to say that in the event that the licensee was properly found guilty the penalty imposed is salutary.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

## 11. ADVERTISING - SIGNS - MANUFACTURERS AND WHOLESALERS MAY NOT ADVERTISE RETAIL OUTLETS ON BILLBOARDS.

January 15, 1940

General Outdoor Advertising Co.,  
Atlantic City, N. J.

Gentlemen:

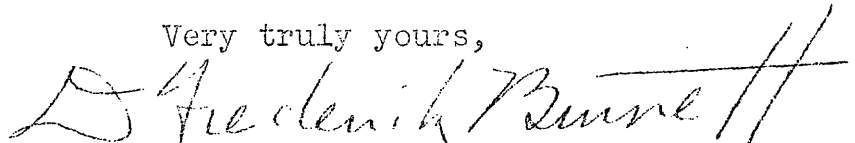
I have before me your letter of January 9th inquiring whether an outdoor sign may be displayed advertising the name of a taproom in conjunction with the name of a particular beer, for example, "Blank's saloon serves XYZ Beer".

I can hardly believe that the cost of such advertising would be borne by Mr. Blank, and hence assume that the XYZ people would pay the freight.

In such a case the advertising is prohibited by State Regulations 21, Rule 1, which prohibits manufacturers and wholesalers from furnishing any signs to any retail licensee, except inside signs and advertising specialties (such as trays, coasters, display racks, menu-cards and calendars).

That excludes outside signs.

Very truly yours,

  
Commissioner.

New Jersey State Library

