

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

BULLETIN 768

JUNE 24, 1947

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

BULLETIN 768

JUNE 24, 1947.

1. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR
TRADE MINIMUM - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JOSEPH ANDRASCIK /
T/a WOODBRIDGE LIQUOR STORE)
574 Amboy Avenue)
Woodbridge, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribu-)
tion License D-3, issued by the)
Township Committee of the Township)
of Woodbridge.)
-----)

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

BY THE COMMISSIONER:

Defendant pleads guilty to a charge alleging that he sold a one-half gallon jug of Roma California Port Wine below the established Fair Trade price, in violation of Rule 6 of State Regulations No. 30.

On May 9, 1947, the defendant sold the product in question to an ABC agent for the sum of \$2.00, whereas the minimum consumer price of said item, as established in Bulletin 751, effective March 3, 1947, was \$2.42.

Defendant has no previous adjudicated record. Inasmuch as the violation herein does not appear to be an aggravated one, I shall suspend defendant's license for a minimum period of ten days, less five days' remission for the plea, or a net suspension of five days. Re Mack Drug Co., Inc., Bulletin 695, Item 9.

Accordingly, it is, on this 10th day of June, 1947,

ORDERED that Plenary Retail Distribution License D-3, issued by the Township Committee of the Township of Woodbridge to Joseph Andrascik, t/a Woodbridge Liquor Store, for premises 574 Amboy Avenue, Woodbridge, be and the same is hereby suspended for a period of five (5) days, commencing at 9:00 a.m. June 16, 1947, and terminating at 9:00 a.m. June 21, 1947.

ERWIN B. HOCK
Commissioner.

2. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR
TRADE MINIMUM -- LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

GORMAN'S LIQUOR STORES, INC.
606 Paterson Plank Road
Union City, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distri-
bution License D-16, issued by the
Board of Commissioners of the City
of Union City.

Gorman's Liquor Stores, Inc., Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded guilty to a charge alleging the sale of
alcoholic beverages at retail for a price below the minimum consumer
price, in violation of Rule 6 of State Regulations No. 30.

On May 20, 1947, an inspector of the State Department of Alco-
holic Beverage Control purchased at defendant's premises six 4/5
quart bottles of Hiram Walker's Imperial Blended Whiskey for a total
price of \$19.00. The minimum retail price of said item as estab-
lished in Bulletin 751, effective March 3, 1947, is \$3.40 per bottle,
or \$20.40 for the six bottles so purchased.

Since this is defendant's first violation, I shall impose the
usual ten-day penalty. Remitting five days because of the plea will
leave a net penalty of five days. Re 20th Century Bar, Inc., Bulle-
tin 762, Item 4.

Accordingly, it is, on this 9th day of June, 1947,

ORDERED that Plenary Retail Distribution License D-16, issued
by the Board of Commissioners of the City of Union City to Gorman's
Liquor Stores, Inc., for premises 606 Paterson Plank Road, Union City,
be and the same is hereby suspended for a period of five (5) days,
commencing at 9:00 a.m. June 16, 1947, and terminating at 9:00 a.m.
June 21, 1947.

ERWIN B. HOCK
Commissioner.

3. RETAIL LICENSEES - "LIQUOR BY WIRE" PERMISSIBLE IN ACCORDANCE WITH PLAN AND UNDER CONDITIONS SPECIFIED HEREIN.

May 28, 1947

Mr. Milton Willner
New York City.

Dear Sir:

We have reviewed the prospectus of your "Shopper's Service" which would provide retail liquor dealers a method of doing business similar to "Flowers by Wire" used by florists.

As we understand it, your plan would mean that you would circularize retail liquor dealers in various states who are duly licensed to engage in the sale of alcoholic beverages by the bottle or other original container to join your "Service" and become a member thereof on payment of a \$25.00 fee to your concern. You would then furnish each member with a complete list of all other members in the various states together with a list showing brand, type and price of alcoholic beverages available for sale. These lists would be published periodically.

Under your plan, a purchaser wishing to make a gift of alcoholic beverages to a consumer in another state or locality would go to a nearby member of your "Service" and place an order with him for one or more of the items on the above mentioned list. The purchaser would leave with this licensee the proper retail price as provided in the place of delivery plus a service charge of forty cents. The forwarding licensee would retain the forty cents and would transmit the order, together with the payment therefor, to one of the members of your "Service" in the state and locality of delivery. This latter licensee would then fill the order and deliver same to the recipient, obtaining a receipt for the delivery and sending said receipt to the forwarder, and would retain the full purchase price without need for dividing it with anyone.

A plan not unlike yours was approved several years ago by this Department (Re Weitzman, Bulletin 230, Item 9) but, so far as we can ascertain, such plan was not continued by the sponsors thereof for any appreciable length of time. In any event, so far as this Department is concerned, we see no objection to your plan provided:

(1) The sales and deliveries are made to and for the use of consumers only and in no case for resale.

(2) No sale or delivery is made to any person in New Jersey under the age of twenty-one years.

(3) All other laws and regulations regarding sale and delivery by New Jersey retail licensees are fully obeyed.

(4) All laws and regulations of other states involved, as well as the Federal laws and regulations, are complied with.

(5) Prices as set forth in your list concerning items in New Jersey are not less than the minimum resale prices as provided by our Fair Trade regulations (viz., State Regulations No. 30). In this connection, we may point out that the minimum resale prices are contained in a bulletin put out periodically by this Department. It will be necessary that you keep fully posted on these bulletins since prices set forth in your list will promptly have to be changed accordingly.

For your information, we are sending under separate cover a copy of the New Jersey Alcoholic Beverage Law, a copy of the Department's Rules and Regulations, and also Bulletin 751, which contains the latest complete Minimum Resale Prices, effective March 3, 1947. A similar bulletin will be issued shortly, effective June 3, 1947.

Please note the special ruling on the cover of the said Minimum Resale Price bulletin in connection with price advertising of merchandise not listed in the pamphlet. This special ruling prevents any listing in your booklet of any alcoholic beverages not contained in our said Minimum Resale Price bulletin.

Finally, while we perceive nothing improper in your plan as presently outlined, nevertheless, full right is reserved to the Department to modify or revoke the provisions of this letter should experience or proper control require the same.

Very truly yours,
ERWIN B. HOCK
Commissioner.

4. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATE FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING OF BUSINESS.

In the Matter of Disciplinary Proceedings against)

ROCK VIEW (INC.))

T/a ROCK VIEW HOUSE)

River Rd., 2 Mi. from N. Y. State Line)

Montague Township)

Port Jervis P.O., N.Y.,)

Holder of Plenary Retail Consumption License)

C-3 issued by the Township)

Committee of the Township of Montague.)

O R D E R

BY THE COMMISSIONER:

It appearing that by order dated November 8, 1946, the license held by this defendant was suspended for a period of ten days, less five days for a non vult plea, leaving a net penalty of five days, and that, because the defendant's premises were then closed, the effective date of the suspension was held in abeyance (see Bulletin 738, Item 1), and

It further appearing that defendant's premises have now been reopened for business;

It is, on this 10th day of June, 1947,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of the Township of Montague to Rock View (Inc.), t/a Rock View House, for premises on River Rd., 2 Mi. from N.Y. State Line, Montague Township, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. June 16, 1947, and terminating at 3:00 a.m. June 21, 1947.

ERWIN B. HOCK
Commissioner.

5. DISCIPLINARY PROCEEDINGS - UNLAWFUL TRANSPORTATION OF ALCOHOLIC BEVERAGES - EMPLOYMENT OF UNQUALIFIED PERSON - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against)

EUGENE J. WEISS & JULIAN TUCHMAN)
T/a WOODCLIFF DAIRY & DELICATESSEN)
7500 Broadway)
North Bergen, New Jersey,)

Holders of Limited Retail Distribution
License DL-20, issued by the Board of)
Commissioners of the Township of North
Bergen.)

CONCLUSIONS
AND ORDER

Eugene J. Weiss & Julian Tuchman, Defendant-licensees, Pro Se.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendants plead non vult to the following charges:

"1. On April 1, 1947, you transported a case of beer from your licensed premises to the home of a consumer, in a vehicle which did not bear any transit insignia provided for by R. S. 33:1-28 and State Regulations No. 17; such transportation thereby being in violation of R.S. 33:1-2.

"2. On April 1, 1947, and prior thereto, a minor, viz., 17 year old Stanley Sadlon, was knowingly employed by you without any requisite permit from the State Department of Alcoholic Beverage Control; such employment by you being in violation of R. S. 33:1-26 and State Regulations No. 13."

Defendants claim that by reason of having very little experience in the alcoholic beverage industry, the violations aforementioned were inadvertently committed. Although I sympathize with the predicament in which defendants find themselves, I have no alternative other than to impose a suspension for the violations committed.

Defendants have no previous adjudicated record. I shall, therefore, suspend their license for fifteen days, less five days for the plea entered herein, or a net suspension of ten days.

Accordingly, it is, on this 10th day of June, 1947,

ORDERED that Limited Retail Distribution License DL-20, issued by the Board of Commissioners of the Township of North Bergen to Eugene J. Weiss & Julian Tuchman, t/a Woodcliff Dairy & Delicatessen, 7500 Broadway, North Bergen, be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. June 16, 1947, and terminating at 9:00 a.m. June 26, 1947.

ERWIN B. HOCK
Commissioner.

6. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD - LICENSE
SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary
Proceedings against)

ANTONI IWANOWSKI
T/a OLLY'S CAFE
623 Van Houten Avenue
Clifton, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-37, issued by the)
Municipal Council of the City of)
Clifton.)
-----)

Riskin & Riskin, Esqs., by Philip W. Riskin, Esq., Attorneys for
Defendant-licensee.
William F. Wood, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant pleads not guilty to a charge alleging possession on
his licensed premises of a 4/5 quart bottle labeled "Four Roses A
Blend of Straight Whiskies", the contents of which were not genuine
as labeled, in violation of R. S. 33:1-50.

On January 23, 1947, an ABC agent, after preliminary tests of
defendant's open stock of liquor, seized the bottle in question when
tests thereof indicated that the contents of the bottle had different
characteristics than the whiskey named on the label. Subsequent
analysis of said whiskey by the Department Chemist disclosed that the
whiskey was not genuine as labeled.

Defendant denies any knowledge of the violation. Defendant con-
tends that the bottle of whiskey in question was on the premises on
October 16, 1946, when an inspector of the Federal Alcohol Tax Unit,
Internal Revenue Service, made tests of defendant's open stock of
liquor and that the bottle had not been tampered with by anyone
since that time. There was no report of the illicit character of any
bottle of "Four Roses A Blend of Straight Whiskies" made by the
federal inspector. The federal inspector testified that he tested
seventeen bottles of alcoholic beverages on October 16, 1946 and
seized the three bottles at that time which the tests revealed to be
underproof. I am satisfied that the instant violation took place
after the inspection made by the agent of the Federal Alcohol Tax
Unit.

The contention of defendant that he did not personally partici-
pate in and had no knowledge of the violation is no defense.
Re Barrale, Bulletin 705, Item 5.

Defendant has a previous adjudicated record. Effective February
24, 1947, defendant's license was suspended for a period of fifteen
days for a similar violation as that committed herein. Re Iwanowski,
Bulletin 745, Item 2, and Bulletin 749, Item 2. Under the circum-
stances, I shall suspend defendant's license for a period of thirty
days.

Accordingly, it is, on this 10th day of June, 1947,

ORDERED that Plenary Retail Consumption License C-37, issued by
the Municipal Council of the City of Clifton to Antoni Iwanowski,

t/a Olly's Cafe, for premises 623 Van Houten Avenue, Clifton, be and the same is hereby suspended for the balance of its term, effective at 3:00 a.m. June 16, 1947; and it is further

ORDERED that if any license be issued to this licensee or any other person for the premises in question for the 1947-48 fiscal year, such license shall be under suspension until 3:00 a.m. July 16, 1947.

ERWIN B. HOCK
Commissioner.

7. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATE FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING OF BUSINESS.

In the Matter of Disciplinary)
Proceedings against)

CONGRESS HALL HOTEL COMPANY)

Perry St., Beach Ave., Congress)

St. & Congress Place)

Cape May, N. J.,)

O R D E R

Holder of Plenary Retail Consump-)
tion License C-2 issued by the)
Board of Commissioners of the)
City of Cape May.)
-----)

BY THE COMMISSIONER:

It appearing that by Order dated December 18, 1946 the license held by this defendant was suspended for a period of fifteen days, less five days for the entry of a non vult plea, leaving a net suspension of ten days, and that the effective date of said suspension was reserved for future determination (see Bulletin 741, Item 12), and

It further appearing that the defendant's premises have now been reopened for business (cf. Bulletin 749, Item 2);

It is, on this 10th day of June, 1947,

ORDERED that Plenary Retail Consumption License C-2, issued by the Board of Commissioners of the City of Cape May to Congress Hall Hotel Company, for premises at Perry St., Beach Ave., Congress St. & Congress Place, Cape May, be and the same is hereby suspended for ten days, commencing at 2:00 a.m. June 16, 1947, and terminating at 2:00 a.m. June 26, 1947.

ERWIN B. HOCK
Commissioner.

8. SEIZURE - FORFEITURE PROCEEDINGS - MOTOR VEHICLES USED TO TRANSPORT
STOLEN ALCOHOLIC BEVERAGES IN VIOLATION OF ALCOHOLIC BEVERAGE LAW
ORDERED FORFEITED - STOLEN ALCOHOLIC BEVERAGES RESTORED TO OWNER.

In the Matter of the Seizure on)
November 12 and 13, 1946, of 106)
bottles of various brands of alco-)
holic beverages, and a Chevrolet)
truck and two Buick sedans, in the)
Town of Montclair, County of Essex)
and State of New Jersey.)

Case No. 7070

ON HEARING
CONCLUSIONS AND ORDER

Newton H. Porter, Esq., Attorney for Peter Caggiano.
Bando J. Caruso, Esq., Attorney for Allen Young.
Abner W. Feinberg, Esq., Attorney for Montclair Food Co., Inc.
Harry Castelbaum, Esq., appearing for the State Department of
Alcoholic Beverage Control.

BY THE COMMISSIONER:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes, to determine whether 106 bottles of various brands of alcoholic beverages and a Chevrolet truck, seized on November 12, 1946, and two Buick sedans, seized on November 13, 1946 in Montclair, N. J., constitute unlawful property and should be forfeited.

This case involves the transportation of alcoholic beverages stolen from Montclair Food Co., Inc., a retail liquor licensee.

It appears that on complaint that such thefts were being committed, Montclair police officers had the licensed premises under surveillance on the morning of November 12, 1946, and witnessed five cases of alcoholic beverages being removed from the licensed premises and loaded on one Peter Caggiano's Chevrolet truck. When Caggiano drove away, he was followed by the police officers, who stopped him after he traveled a short distance. Caggiano, the truck and the liquor were taken to police headquarters. There, according to the officers, Caggiano admitted that the five cases of liquor had been stolen from Montclair Food Co., Inc. and named one Allen Young and one Anthony Varrallo as his accomplices.

Caggiano and Young were questioned on that day and the following day by police officers and ABC agents, who obtained signed sworn statements from them.

According to the officers, the gist of the story told to them by these men is that Caggiano and Varrallo stole alcoholic beverages from the Montclair Food Co., Inc. every week since December 1945; that this liquor was transported from the licensed premises to Caggiano's home in his Chevrolet truck; that such liquor was sold by Caggiano to Young and transported on some occasions to Young's home in Caggiano's Buick sedan and on other occasions in Young's Buick sedan; that Caggiano had last used his Buick sedan for that purpose on November 10, 1946, and Young last used his Buick sedan to transport such alcoholic beverages on November 9, 1946; that two cases of the stolen alcoholic beverages were then in Caggiano's garage; and that Young, who did not hold any license to sell alcoholic beverages, said that he had sold these alcoholic beverages by the bottle on Sundays.

In addition to the Chevrolet truck and the five cases of alcoholic beverages therein, there were seized two cases of alcoholic beverages in Caggiano's garage, 22 bottles of alcoholic beverages found in Young's home, which the officers say he told them he had purchased from Caggiano, and both Buick sedans. None of the motor vehicles were licensed to transport alcoholic beverages.

It is unlawful to use an unlicensed vehicle to transport alcoholic beverages intended for sale. R.S. 33:1-2. Alcoholic beverages so transported are illicit (R. S. 33:1-1(i)) and are subject to forfeiture. Alcoholic beverages intended for unlawful sale are likewise illicit. The vehicle used or intended to be used to transport such illicit alcoholic beverages is likewise subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-66. The transportation of stolen alcoholic beverages is a serious violation of the law and, in all such cases, in so far as the wrongdoer is concerned, forfeiture follows. Cf. Seizure Case No. 6556; Seizure Case No. 6796, Bulletin 677, Item 11; Seizure Case No. 6434; Seizure Case No. 6882, Bulletin 694, Item 4; Seizure Case No. 7000, Bulletin 729, Item 2; Seizure Case No. 7021, Bulletin 733, Item 7; and Seizure Case No. 7012, Bulletin 743, Item 6.

When the matter came on for hearing pursuant to R.S. 33:1-66, Peter Caggiano and Allen Young appeared with counsel and sought return of their respective motor vehicles. An appearance was also entered by counsel for Montclair Food Shop, which applied for return of whatever alcoholic beverages were seized.

During the course of the hearing, the Chevrolet truck was returned to Peter Caggiano upon payment to the State Commissioner of Alcoholic Beverage Control of the sum of \$200.00, its appraised retail value, under protest, pursuant to R. S. 33:1-66. Caggiano, through his counsel, stipulated that the Commissioner should determine in this proceeding whether this money should be returned to him.

Obviously, as the natural consequence of Caggiano's having knowingly engaged in the theft, the unlicensed sale of alcoholic beverages, and the use of his Chevrolet truck in such illegal enterprise, such truck or its cash equivalent should be forfeited.

However, counsel for Caggiano and Young contend that the two Buick sedans are not subject to forfeiture because there were no alcoholic beverages, stolen or otherwise, in those vehicles when seized. In other words, that a motor vehicle must be seized while in the act of transporting alcoholic beverages unlawfully to be subject to forfeiture under the Alcoholic Beverage Law; that it must be a present and not a past offense. The further point is raised that the mere admissions of Caggiano and Young that they unlawfully transported alcoholic beverages in such vehicles is insufficient legally to establish that the vehicles were so used.

Unlawful property is subject to forfeiture. R.S. 33:1-66. Unlawful property is defined by R.S. 33:1-1(y) as follows:

"'Unlawful property'. All illicit beverages and all implements, vehicles, vessels, airplanes, and paraphernalia for the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing, or transportation of illicit beverages used in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages or owned, possessed, kept or stored with intent to use the same in the manufacture, sale, distribution, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing or transportation of illicit beverages, whether such use be by the person owning, possessing, keeping, or storing the same, or by another with the consent of such person; and all alcoholic beverages, fixtures and personal property located in or upon any premises, building, yard or inclosure connected with a building, in which an illicit beverage is found, possessed, stored or kept."

This language clearly includes both a past or present unlawful transportation of alcoholic beverages. The State Department of Alcoholic Beverage Control has uniformly construed this law as authorizing the seizure and forfeiture of a motor vehicle for an admitted use thereof for the unlawful transportation of alcoholic beverages in the past, even though such motor vehicles did not contain any alcoholic beverages at the time of the seizure. See Seizure Cases cited supra. Judicial construction in other jurisdictions of statutes similar in language and import are in accord with the Department's construction of the statute in question. Williams v. State, 27 Ga. A. 224, 107 S. E. 620 (Court of Appeals of Georgia 1921). Two Certain Ford Coupe Automobiles v. United States, 53 F. (2d) 187 (Circuit Court of Appeals, 5th Circuit 1931). General Motors Acceptance Corporation v. United States, 286 U.S. 49, 76 L. ed. 971 (1932). The Sterling, 65 F. (2d) 439 (Circuit Court of Appeals, 5th Circuit 1933). Commonwealth v. One 1939 Cadillac Sedan, 45 A. (2d) 406, 158 Pa. Super. 392 (1946).

The objection that under this construction of the law a person's property is exposed to seizure and forfeiture for an indefinite extended period and hence is oppressive, is negated by the provisions of R. S. 2:24-22, which fixes a limitation of two years after the offense is committed for proceedings to forfeit property to the State.

The contention that the cause for forfeiture cannot be established solely by the admissions of Caggiano and Young is likewise without merit. They are admissions against interest by the owners of the property sought to be forfeited. It is fundamental that admissions of that character are primary evidence. Newhouse v. Phillips, 110 N.J.L. 421 (E. & A 1933). Kellam v. Akers Motor Lines, Inc., 133 N.J.L. 1 (E. & A 1945). Lodge on Evidence in New Jersey Practice, page 711, citing Patton v. Freeman, 1 N.J.L. 134. Specifically, in the field of forfeiture, see 48 C.J.S., page 664, Section 337, and Interstate Securities Co. v. U.S., 151 F. (2d) 224 (Circuit Court of Appeals, 10th Circuit 1945). Furthermore, on one occasion Caggiano and Young were questioned within the hearing of one another, by ABC agents, and each corroborated the other's recital of the use of the Buick sedans in the unlawful transportation of the stolen alcoholic beverages.

Neither Caggiano nor Young testified, or otherwise questioned the accuracy of the admissions attributed to them by the officers. This is not a criminal proceeding, and the rules of evidence governing admissions of confessions of crime do not apply, although the evidence produced indicates that the admissions of Caggiano and Young would properly be admitted even in a criminal trial. See State v. Geltzeiler, 101 N.J.L. 415. It has therefore been established by proper evidence that the Buick sedans in question were used to transport alcoholic beverages unlawfully.

Therefore, the Buick sedans will also be forfeited. The seven intact cases (84 bottles) of alcoholic beverages have been identified as those stolen from Montclair Food Co., Inc., and will be returned to such licensee after the criminal proceedings in the case have been terminated, upon payment of the costs of their seizure and storage. The licensee has waived any claim to the 22 bottles of alcoholic beverages found in Young's home and intended for unlawful sale, inasmuch as they cannot be identified as stolen from such licensee.

Accordingly, it is DETERMINED and ORDERED that the Buick sedans and the 22 bottles of alcoholic beverages, described in Schedule "A" attached hereto, constitute unlawful property, and the same be and hereby are forfeited, in accordance with the provisions of R. S. 33:1-66, and that they 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 State Commissioner of Alcoholic Beverage Control; and it is further

DETERMINED and ORDERED that the Chevrolet truck, described in said schedule, constitutes unlawful property, and that the sum of \$200.00, representing the retail value of such car, paid under protest to the State Commissioner of Alcoholic Beverage Control by Peter Caggiano, be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, to be accounted for in accordance with law.

Dated: June 10, 1947.

ERWIN B. HOCK
Commissioner.

SCHEDULE "A"

- 1 - Buick Sedan, Serial #33360102, Engine #43531132, 1946 N.J. Registration FR-937
- 1 - Chevrolet truck, Serial #2HB04-7158, Engine #3196950, 1946 N.J. Registration X-V3910
- 1 - Buick sedan, Serial #33255058, Engine #63399022, 1946 N. J. Registration EH-89L
- 3 - pints McLoughlin's Reserve Whiskey
- 3 - pints Dixie Belle Sloe Gin
- 5 - pints Schenley Reserve
- 1 - pint Dixie Belle Gin
- 1 - pint Guckenheimer Whiskey
- 3 - 4/5 quart bottles Calvert's Reserve
- 2 - 4/5 quart bottles McLoughlin's Reserve
- 1 - 4/5 quart bottle P.M. DeLuxe Whiskey
- 1 - 4/5 quart bottle Park & Tilford Reserve
- 1 - 4/5 quart bottle Corby's Reserve
- 1 - 4/5 quart bottle Bellows Dry Gin

9. APPELLATE DECISIONS - SCHUETTE v. CRESSKILL.

HERMAN SCHUETTE,

Appellant,

-vs-

BOROUGH COUNCIL OF THE BOROUGH
OF CRESSKILL,

Respondent

ON APPEAL
ORDER OF DISCONTINUANCE

C. Conrad Schneider, Esq., Attorney for Appellant.
Walter H. Jones, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from the respondent's refusal to approve appellant's application for transfer of a plenary retail consumption license formerly held by Evelyn Degli Antoni for premises 110 Knickerbocker Road, Cresskill, to the appellant for premises at 470 Knickerbocker Road, Cresskill.

After the matter had been partially heard, the appellant withdrew his application and transfer of the license in question was made to other persons who are not parties to this appeal.

The appellant now desires to discontinue the appeal and the respondent has no objection thereto. Since no reason appears to the contrary,

It is, on this 10th day of June, 1947,

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

ERWIN B. HOCK
Commissioner.

10. ADVERTISING - ENDORSEMENT OF PRODUCT BY PERSON OF PROMINENCE IN THE ENTERTAINMENT FIELD PERMITTED UNDER CIRCUMSTANCES SET FORTH HEREIN.

June 10, 1947

F. & M. Schaefer Brewing Company
430 Kent Avenue
Brooklyn, N. Y.

Gentlemen:

We understand that you propose to embark upon an advertising campaign utilizing billboards, newspapers, and window displays in licensed premises in which the focal point of interest will be a picture of a person of prominence in the entertainment field. The proposed text is to carry a quotation which, in effect, will be a testimonial of your product, and is to include the name of the person pictured.

This Department has no objection to the proposed campaign, providing that the depicted person is not an athlete, sportsman, sportswoman, doctor, chemist, scientist or similar person. See Re Camden County Beverage Company, Bulletin 210, Item 3. It is obvious that testimonials from persons in the categories named might create an impression that the product advertised has some connection with physical prowess or possesses therapeutic or health-giving qualities.

Reconsideration of the entire problem of testimonials and endorsements, in the light of past experience, induces belief that this type of promotion of alcoholic beverages, in and of itself, is generally not objectionable. In recognition of this, it is to be noted that there appears to be no Federal regulation presently prohibiting such advertising generally (Re Alexander, Bulletin 148, Item 10), and thus there is no control of endorsement advertising matter emanating from outside New Jersey but delivering its message in New Jersey via radio, national magazines and out-of-state newspapers. It would seem unreasonable to prohibit such advertising within New Jersey so long as it is not prohibited on a Federal basis. However, it is my earnest advisory suggestion that advertisers planning the use of testimonial advertising should submit text and illustrations to the Department for formal approval before putting a contemplated program into use.

Ruling herein made is, of course, subject to review and reconsideration in the event that it appears abuses are occurring or that the practice of testimonial advertising has gone beyond proper bounds.

Very truly yours,
ERWIN B. HOCK
Commissioner.

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

In the Matter of Disciplinary
Proceedings against

ROSWELL REUSSER
T/a OLD STONE HOTEL
1 Mill Street
Bernardsville, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-5, issued by the)
Common Council of the Borough of)
Bernardsville.)
-----)

Roswell Reusser, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that, on April 24, 1947, he possessed an illicit alcoholic beverage, to wit, a 4/5 quart bottle of "Black & White Blended Scotch Whisky", which bottle was not genuine as labeled, in violation of R. S. 33:1-50.

There is nothing in the record to indicate that the defendant is personally implicated in the violation or that he had any knowledge thereof. So far as appears, the offense may have resulted from the machinations of an employee. Despite the defendant's personal innocence, however, he remains strictly accountable for his stock of liquor. Re Kurian, Bulletin 517, Item 2.

The only prior suspension against the defendant's record occurred in July 1937, on a charge of sales to a minor. In view of the lapse of time, this record will not be considered in aggravation of the instant offense. I shall, therefore, suspend the license for a period of fifteen days, less five days for the plea, leaving a net penalty of ten days.

Accordingly, it is, on this 11th day of June, 1947,

ORDERED that Plenary Retail Consumption License C-5, issued by the Common Council of the Borough of Bernardsville to Roswell Reusser, t/a Old Stone Hotel, for premises 1 Mill Street, Bernardsville, be and the same is hereby suspended for ten (10) days, commencing at 1:00 a.m. June 16, 1947, and terminating at 1:00 a.m. June 26, 1947.

ERWIN B. HOCK
Commissioner.

12. APPELLATE DECISIONS - HACK v. ASBURY PARK.

ALICE WANDA HACK,
T/a WAGON WHEEL CAFE,

Appellant,

-vs-

CITY COUNCIL OF THE CITY OF
ASBURY PARK,

Respondent

ON APPEAL
CONCLUSIONS AND ORDER

Durand, Ivins & Carton, Esqs., by Robert V. Carton, Esq.,
Attorneys for Appellant.

E. Alexander Edelstein, Esq., Attorney for Respondent.

Harold Feinberg, Esq., Attorney for Objectors.

BY THE COMMISSIONER:

This is an appeal from the denial of appellant's application to transfer her plenary retail consumption license from premises known as 1114 Main Street to premises known as 1114 and 1112 Main Street, Asbury Park.

Appellant has been conducting a licensed restaurant at 1114 Main Street. Her brother owns a separate building known as 1112 Main Street, the front part of which is now being used as a shoemaker shop. To the rear of the shoemaker shop there is a large room used for storage, and to the rear of the storage room there is a kitchen. Viewed from Main Street, the two buildings are separated by an open space twenty inches in width. This space extends for a distance of 45 feet along the portion of 1112 which is used as a shoemaker shop and storage room. There is no access from one building to the other except through the kitchen which is connected to the rear part of 1114 by a door. The kitchen is used in conjunction with the licensed restaurant. Appellant plans to open a package goods store in the front part of 1112 with a separate entrance on Main Street.

Under the circumstances I find that there is no free access for the public from one building to the other, and hence, if a restaurant were conducted at 1114 and a package goods store at 1112, the entire premises could not be considered as a single place of business. R.S. 33:1-26 provides that a separate license is required for each specific place of business. Although a consumption licensee may maintain one or more bars and also a bottle goods department, all of his activities must be part of a single business operated as one unit at a specific place. Re Schlenger, Bulletin 165, Item 11. Since appellant would have two separate places of business she would require two separate licenses and could not operate both places of business under her plenary retail consumption license.

Appellant has indicated that she is willing to make structural changes which would result in the closing of the alleyway which she owns and the connection of the two buildings in the front part thereof so that they would constitute a single place of business. That issue, however, is not involved in this case. If structural changes were made and a subsequent application filed for a transfer, respondent would be justified in considering the number of licensed premises which presently exist in the neighborhood in reaching a decision as to whether the appellant should be permitted to enlarge her premises. Mark v. Newark, Bulletin 703, Item 10.

For the reasons aforesaid, the action of the respondent is affirmed.

Accordingly, it is, on this 13th day of June, 1947,

ORDERED that the action of the respondent be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed.

ERWIN B. HOCK
Commissioner.

13. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN LICENSE APPLICATION
CONCEALING MATERIAL FACT - LICENSE SUSPENDED FOR 10 DAYS, LESS 5
FOR PLEA.

In the Matter of Disciplinary
Proceedings against

ALBERT E. POLASKY
T/a FIRST CIRCLE INN
N/S Wilson Blvd. at Airport Circle
Pennsauken Township
P.O. Camden, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-8, issued by the Township
Committee of the Township of
Pennsauken.

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

BY THE COMMISSIONER:

Defendant has pleaded non vult to a charge alleging that he falsely answered "No" to a question in the application for his current license, in violation of R. S. 33:1-25.

Defendant falsified his application by failing to set forth therein a suspension by the local issuing authorities of his former license for a period of five days, effective February 8, 1943, after a finding of guilty to charges alleging "sale of alcoholic beverages to minors".

I shall suspend the license for ten days and remit five days because of the plea, leaving a net suspension of five days. Re Russo, Bulletin 577, Item 1.

Accordingly, it is, on this 13th day of June, 1947,

ORDERED that Plenary Retail Consumption License C-8, issued by the Township Committee of the Township of Pennsauken to Albert E. Polasky, t/a First Circle Inn, for premises N/S Wilson Blvd. at Airport Circle, Pennsauken Township, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. June 23, 1947, and terminating at 3:00 a.m. June 28, 1947.

ERWIN B. HOCK
Commissioner.

14. STATE LICENSES - NEW APPLICATIONS FILED.

Schenley Distributors, Inc.

160-164 Bay St.

Jersey City, N. J.

Application for Plenary Winery License (1947-48) filed
June 13, 1947.

Angelo DeMarco

361 Little Mill Road

Franklin Township, Franklinville, N. J.

Application for State Beverage Distributor's License (1947-48)
filed June 19, 1947.

15. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - DISMISSED FOR LACK OF PROOF.

In the Matter of Disciplinary)
Proceedings against)

WALTER BOGUSZEWSKI)

1600 Broadway)

Camden, N. J.,)

ORDER OF DISMISSAL

Holder of Plenary Retail Consump-)
tion License C-111, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Camden.)

-----)
Walter A. Uliase, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant was served with charges alleging that, on May 3, 1947, he sold, served and delivered alcoholic beverages to two minors, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

Both minors are out-of-State residents. During the investigation made by ABC agents, the minors voluntarily gave sworn statements of the events resulting in the alleged offense, and gave every indication of cooperating fully with the Department. Several days before the hearing, however, when they were contacted by the ABC agents, the minors stated that they would not appear at the hearing and, since they were non-residents, they were not subject to subpoena.

After unsuccessfully exhausting all available means to procure the attendance of the minors, the prosecution moved to have the charges dismissed because of the inability to prove the charges against the defendant in the absence of the minors. The attorney for the defendant has consented to the dismissal. The motion will be granted.

Accordingly, it is, on this 17th day of June, 1947,

ORDERED that the charges herein be and the same are hereby dismissed.

NEW JERSEY STATE LIBRARY

Erwin D. Hook
Commissioner.