

25 Rose Avenue,

Madison,

Morris County, New Jersey.

STATE OF NEW JERSEY

Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 873

APRIL 25, 1950.

TABLE OF CONTENTS

ITEM

1. DISCIPLINARY PROCEEDINGS (Lodi) - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - "FARMING OUT LICENSE" - LICENSE SUSPENDED FOR BALANCE OF TERM.
2. DISCIPLINARY PROCEEDINGS (Lodi) - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE - "FARMING OUT LICENSE" - POSSESSING CONTRACEPTIVES ON LICENSED PREMISES - CHARGE OF EMPLOYING DISQUALIFIED PERSON DISMISSED FOR LACK OF PROOF - LICENSE SUSPENDED FOR BALANCE OF TERM.
3. RECAPITULATION OF ACTIVITY FOR QUARTERLY PERIOD FROM JANUARY 1, 1950 THROUGH MARCH 31, 1950.
4. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT ALCOHOL TRANSPORTED IN MOTOR VEHICLE - ILLICIT ALCOHOL, OTHER ALCOHOLIC BEVERAGES, AND MOTOR VEHICLE ORDERED FORFEITED - LIEN OF INNOCENT LIENOR RECOGNIZED.
5. DISCIPLINARY PROCEEDINGS (Trenton) - MISLABELED BEER TAP - PRIOR DISSIMILAR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (New York, N. Y.) - "FARMING OUT LICENSE" - ILLEGAL SITUATION CORRECTED - ORDER SUSPENDING LICENSE FOR BALANCE OF TERM AMENDED TO PROVIDE FOR SUSPENSION FOR 20 DAYS.
7. DISCIPLINARY PROCEEDINGS (Irvington) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
8. NEW LEGISLATION - SALES BY NEW JERSEY MANUFACTURERS AND WHOLESALERS TO ORGANIZATIONS OF ARMY, NAVY OR AIR FORCE PERSONNEL OPERATING UNDER REGULATIONS PROMULGATED BY SECRETARY OF WAR, SECRETARY OF THE NAVY, SECRETARY OF THE AIR FORCE, OR STATE NATIONAL GUARD - AMENDMENT MADE SO AS TO INCLUDE AIR FORCE PERSONNEL - RULING IN BULLETIN 556, ITEM 5 RESCINDED.
9. SEIZURE - FORFEITURE PROCEEDINGS - STOCK OF ALCOHOLIC AND OTHER BEVERAGES, FIXTURES AND FURNISHINGS IN SPEAKEASY ORDERED FORFEITED - VARIOUS ITEMS RETURNED TO INNOCENT OWNERS.
10. STATE LICENSES - NEW APPLICATIONS FILED.
11. DAYLIGHT SAVING TIME EFFECTIVE THROUGHOUT THE STATE FROM LAST SUNDAY IN APRIL UNTIL LAST SUNDAY IN SEPTEMBER.

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 873

APRIL 25, 1950.

1. DISCIPLINARY PROCEEDINGS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE "FARMING OUT LICENSE" - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary Proceedings against)

ALBINO NIGRO)
T/a Als' Bowl-O-Drome)
450 Main Street)
Lodi, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-22, issued by the Mayor and Council of the Borough of Lodi.)

Albino Nigro, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges which in substance allege that he falsely denied in his application for his current license that any other individual had an interest in the license or received a percentage of the profits derived from the business conducted under the license, in violation of R.S. 33:1-25; and that he knowingly aided and abetted Peter Kavalski to exercise, contrary to R.S. 33:1-26, the rights and privileges of his license, in violation of R.S. 33:1-52.

An examination of the file in the instant case discloses that, during the latter part of 1947, defendant and Peter Kavalski agreed verbally that Peter Kavalski would operate the bar along with the rest of the licensed premises for which the license was issued to defendant, and in return therefor he was to receive 35% of the net profits derived from the sale of alcoholic beverages. Peter Kavalski agreed to pay all the expenses incidental to the operation of the licensed business. Furthermore, by lease dated August 18, 1947, Peter Kavalski agreed to pay a stipulated rent to the defendant herein for the use of the entire building which contained, in addition to the barroom, several bowling alleys. This lease expired on August 31, 1949. Peter Kavalski has operated the business continually until the present time and maintains that he pays in cash to the defendant all moneys received in excess of 35% of the net profits. Peter Kavalski set forth the receipts and disbursements of the moneys received from the licensed business in his federal income tax reports filed by him since entering into the verbal agreement in 1947. The defendant showed in his federal income tax reports since 1947 only the rent received as landlord for the use of the premises in question. The facts disclosed by the investigation herein indicate that the license in the name of defendant herein has been "farmed out" to said Peter Kavalski, who apparently is not personally disqualified from holding a license.

Defendant has no prior record. Since it appears that the unlawful situation continues to exist, I have no alternative except to suspend the license for the balance of its term. However, I shall entertain an application by verified petition to lift the suspension herein imposed, if and when the unlawful condition is corrected, but

under no circumstances will said suspension be lifted until after twenty days from the effective date thereof. Re Bruno, Bulletin 786, Item 5.

Accordingly, it is, on this 11th day of April, 1950,

ORDERED that Plenary Retail Consumption License C-22, issued by the Mayor and Council of the Borough of Lodi to Albino Nigro t/a Als' Bowl-O-Drome, for premises 450 Main Street, Lodi, be and the same is hereby suspended for the balance of its term, effective 3:00 a.m. April 17, 1950.

ERWIN B. HOCK
Director.

- 2. DISCIPLINARY PROCEEDINGS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF THE LICENSE (FARMING OUT LICENSE) - POSSESSING CONTRACEPTIVES ON LICENSED PREMISES - CHARGE OF EMPLOYING DISQUALIFIED PERSON DISMISSED FOR LACK OF PROOF - LICENSE SUSPENDED FOR BALANCE OF TERM.

In the Matter of Disciplinary Proceedings against)
 FRANK COSTA)
 T/a PALM GROVE)
 Lot 3, Block 122)
 Route 6)
 Lodi, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-28, issued by the Mayor and Council of the Borough of Lodi.)
 -----)

DiMaria & DiMaria, Esqs., by Anthony P. DiMaria, Esq., Attorneys for Defendant-licensee.
 William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded not guilty to charges alleging that (1) and (2) in his license application for the current licensing year he failed to reveal that Louis, Pete and Leonard Costa had an interest in the business conducted under his license and also failed to reveal that he had agreed to permit them to retain the profits of said business, (3) since November 1945 he had permitted them to exercise the privileges of his successive licenses, (4) he employed a person disqualified by reason of criminal conviction, and (5) on September 23, 1949 he possessed contraceptives on the licensed premises.

From written statements made by the defendant on September 20 and September 29, 1949, it appears that he "gave the tavern business" to his three sons, Louis, Pete and Leonard Costa, who "operate the tavern as their own". In response to a question concerning the receipts of the business, the defendant deposed that "They (his sons) keep all the moneys taken in by the tavern. I just get enough out of the tavern to pay the taxes -- the boys get the rest." Although the defendant is unable to read English, the evidence is clear that both statements were read to him prior to his signing them.

The testimony given by the defendant and his sons at the hearing held herein falls far short of overcoming the probative force of the admissions made by the defendant in the aforesaid statements, although some doubt has been raised as to whether all three sons, or only Louis, actually exercised the privileges of the license. It is unnecessary to determine this issue since, even if Louis was the sole beneficiary of the business licensed nominally to the defendant since November 1945, the basic violations set forth in the first three charges have been established. I, therefore, find the defendant guilty of charges (1), (2) and (3), so far as they pertain to Louis Costa.

Without detailing the testimony as to the fourth charge, I find that the evidence does not warrant a finding of guilt thereon and, accordingly, this charge is dismissed.

With respect to the fifth charge, there is nothing in the record to negate the testimony of two ABC agents that contraceptives were found on the licensed premises. Although no evidence of other immoral activity was uncovered, the mere possession of contraceptives on licensed premises constitutes, in itself, a violation of the regulations. See Rule 9 of State Regulations No. 20. The defendant is found guilty of this charge.

In the absence of any proof to the contrary, it is assumed that the illegal situation which resulted in the institution of the first three charges continues to exist. Under the circumstances, the license will be suspended for the balance of the current licensing term with leave reserved to the defendant, or other proper person, to have the suspension lifted upon proof of proper ownership and operation of the license and business conducted thereunder. Since, however, the defendant merits a penalty of forty days for the violations of which he was found guilty herein, the suspension will not be lifted until a full forty days have elapsed from the effective date of the order herein.

Accordingly, it is, on this 11th day of April, 1950,

ORDERED that Plenary Retail Consumption License C-28, issued by the Mayor and Council of the Borough of Lodi to Frank Costa, t/a Palm Grove, Lot 3, Block 122, Route 6, Lodi, be and the same is hereby suspended for the balance of the current licensing term, effective 3:00 a.m. April 17, 1950; and it is further

ORDERED that application may be made as aforesaid for the lifting of the suspension but, in no event, will such lifting become effective prior to 3:00 a.m. May 27, 1950.

ERWIN B. HOCK
Director.

April 11, 1950

3. RECAPITULATION OF ACTIVITY FOR QUARTERLY PERIOD FROM JANUARY 1, 1950 THROUGH MARCH 31, 1950

	JAN.	FEB.	MAR.	TOTAL
ARRESTS:				
Total number of persons arrested	23	20	19	62
Licensees and employees	4	7	5	16
Bootleggers	19	12	14	45
ABC agent impersonator	-	1	-	1
SEIZURES:				
Motor vehicles - cars	2	1	-	3
- trucks	-	4	-	4
Stills - over 50 gallons	2	2	-	4
- 50 gallons or under	3	1	-	4
Mash - gallons	175.00	1,000.00	-	1,175.00
Distilled alcoholic beverages - gallons	52.73	8.13	358.47	419.33
Wine - gallons	8.84	2.96	171.75	183.55
Brewed malt alcoholic beverages - gallons	9.75	8.13	29.61	47.49
RETAIL LICENSEES:				
Premises inspected	860	771	874	2,505
Premises where alcoholic beverages were gauged	799	683	869	2,351
Bottles gauged	15,519	12,044	15,202	42,765
Premises where violations were found	36	28	36	100
Violations found	53	34	42	129
Type of violations found:				
Unqualified employees	13	20	21	54
Gambling devices	19	4	3	26
Probable fronts	3	2	6	11
Reg. #38 sign not posted	5	1	1	7
Other mercantile business	3	1	2	6
Prohibited signs	1	-	1	2
Improper beer taps	-	-	2	2
Other violations	9	6	6	21
STATE LICENSEES:				
Premises inspected	22	25	18	65
License applications investigated	10	14	21	45
COMPLAINTS:				
Complaints assigned for investigation	300	237	330	867
Investigations completed	367	316	379	1,062
Investigations pending	(139)	(110)	137	137
LABORATORY:				
Analyses made	110	122	151	383
"Shake-up" cases (alcohol, water & artificial color)-bottles	3	5	10	23
Liquor found to be not genuine as labeled - bottles	6	6	6	18
IDENTIFICATION BUREAU:				
Criminal fingerprint identifications made	54	14	23	91
Persons fingerprinted for non-criminal purposes	124	139	182	445
Identification contacts made with other enforcement agencies	167	105	123	395
Motor vehicle identifications via N.J.State Police teletype	17	2	4	23
DISCIPLINARY PROCEEDINGS:				
Cases transmitted to municipalities	12	9	20	41
Violations involved:				
Sale during prohibited hours	6	3	13	22
Sale to minors	2	3	2	7
Permitting brawls on premises	2	-	2	4
Sale to non-members by clubs	2	1	-	3
Permitting slot machines on premises	2	-	-	2
Licensee working while drunk	1	-	-	1
Sale to intoxicated persons	-	3	2	5
Permitting bookmaking on premises	-	1	-	1
Permitting females to tend bar	-	1	-	1
Conducting business as a nuisance	-	1	-	1
Permitting hostesses on premises	-	-	1	1
Employing unqualified persons	-	-	1	1
Sale by retailer on credit	-	-	1	1
Permitting lottery activity on premises (punch boards)	-	-	1	1
Cases instituted at Division	23	8	25	56
Violations involved:				
Possessing illicit liquor	2	2	9	13
Sale under Fair Trade price	5	1	6	12
Sale during prohibited hours	3	1	2	6
Permitting immoral activity on premises	2	2	1	5
Fraud and front	3	-	2	5
Sale to minors	5	-	-	5
Sale to non-members by clubs	3	-	-	3
Permitting hostesses on premises	2	1	-	3
Delivery on credit to retailer in default	1	-	2	3
Failure to report retailer in default	1	-	2	3
Purchase from improper source	1	-	1	2
Advertising below Fair Trade	1	-	-	1
Possessing contraceptives on premises	1	-	-	1
Sale to intoxicated persons	1	-	-	1
Failure to retain copies of orders	1	-	-	1
Conducting business as a nuisance	-	1	-	1
Mislabeling beer taps	-	1	2	3
Combination sale	-	1	-	1
Sale at discount	-	1	-	1
Hindering investigation	-	-	1	1
Delivery without bona fide invoice	-	-	1	1
Storage off licensed premises	-	-	1	1
Failure to afford view into premises during prohibited hours	-	-	1	1

	JAN.	FEB.	MAR.	TOTAL
DISCIPLINARY PROCEEDINGS (Cont'd):				
Cases brought by municipalities on own initiative and reported to Division	2	2	2	6
Violations involved:				
Permitting brawls on premises	2	-	1	3
Sale to minors	1	-	-	1
Hindering investigation	1	-	-	1
Sale during prohibited hours	-	2	-	2
Permitting bookmaking on premises	-	-	1	1
HEARINGS HELD AT DIVISION:				
Total number of hearings held	42	29	38	109
Appeals	7	2	4	13
Disciplinary proceedings	11	17	20	48
Eligibility	10	8	6	24
Seizures	10	-	6	16
Tax revocation	3	2	-	5
Applications for license	1	-	1	2
Application for certificate	-	-	1	1
PERMITS ISSUED:				
Total number of permits issued	732	709	700	2,141
Employment	97	81	109	287
Solicitors	88	95	113	296
Disposal of alcoholic beverages	125	102	97	324
Social affairs	282	332	238	852
Special wine	32	5	2	39
Miscellaneous	108	94	141	343

4. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT ALCOHOL TRANSPORTED IN MOTOR VEHICLE - ILLICIT ALCOHOL, OTHER ALCOHOLIC BEVERAGES, AND MOTOR VEHICLE ORDERED FORFEITED - LIEN OF INNOCENT LIENOR RECOGNIZED.

In the Matter of the Seizure on)
 December 4, 1949, of a quantity)
 of alcoholic beverages and a Ford)
 coupe, at 108 Monroe Street, Morris)
 Township, County of Morris and)
 State of New Jersey.)

Case No. 7546

ON HEARING
 CONCLUSIONS AND ORDER

-----)
 George B. Turton, Esq., Attorney for the Motor Finance Corporation.
 Harry Castelbaum, Esq., appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether a quantity of alcoholic beverages and William Colston's Ford coupe, described in the schedule attached hereto, seized on December 4, 1949 at 108 Monroe Street, Morris Township, New Jersey, constitute unlawful property and should be forfeited.

It appears that ABC agents and the local chief of police were at William Colston's home on the day in question when he arrived there in the Ford coupe. There were eight pint-bottles of corn whiskey in the car. The bottles bore no labels or tax stamps or other indicia of tax payment. The car and the corn whiskey were seized and the officers also searched the dwelling, in which they found a quantity of beer, wine and whiskey. One of the agents had purchased alcoholic beverages from Colston at the premises on a previous occasion.

Colston did not hold any license authorizing him to sell alcoholic beverages at the premises. It further appears that Colston was convicted in 1931 in Essex County for violating the liquor laws, and was again convicted in 1940 in Morris County after a small illicit still had been found in his home.

The corn whiskey in the pint bottles was prima facie illicit because of the absence of labels or tax stamps on the bottles. R.S. 33:1-88. Such illicit alcoholic beverages, the motor vehicle in which they were transported and all other alcoholic beverages and personal property seized therewith on the premises constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(i) and (y), R.S. 33:1-2, R.S. 33:1-66.

When the matter came on for hearing pursuant to R.S. 33:1-66, an appearance was entered for Motor Finance Corporation, which sought recognition of an alleged lien against the motor vehicle. Forfeiture of the alcoholic beverages and other articles seized was not opposed.

The finance company presented evidence which established that it financed the purchase of the Ford coupe by Colston to the extent of \$1,076.40, and holds as security a conditional sales contract covering the motor vehicle. The certificate of ownership issued by the Division of Motor Vehicles has noted thereon that the finance company holds an encumbrance on the vehicle. The balance due on the contract is \$574.08. An additional claim is presented for attorney's fees but such claims have been uniformly disallowed in proceedings of this nature. See Seizure Case No. 6668.

The dealer who sold the car presented the application for the loan to the finance company. The dealer informed such company that William Colston and his wife resided at the Monroe Street address for 10 years and was employed as a porter at a prominent theater in Morristown and had been there for the past 12 years; that his wife and daughter were likewise employed there; and that Colston had a savings bank account. The manager of the theater was given as a reference. The dealer reported that he had previously sold cars to Colston and had known him for many years.

The finance company manager spoke over the telephone with the manager of the theater who confirmed the employment of Colston and his wife and daughter at the theater, and said that Colston was regarded as an industrious person.

A finance company must establish that it made an adequate investigation of the character, identity and employment of the person with whom it dealt and that it did not discover such person's criminal record or any facts which would have led a reasonably prudent person to suspect that he had such a record. Seizure Case No. 4968, Bulletin 384, Item 8.

Where a reasonable credit inquiry, such as an ordinary prudent person should be expected to make, fails to reveal any fact or suspicious circumstance as to odious reputation of the purchaser of an automobile, no arbitrary requirement should be properly placed upon an automobile finance company to call up the chief of police or other law-enforcing officials before acquiring a lien title to an automobile. U.S. v. One 1935 Ford, 13 Fed. Supp. 104.

The facts in the instant case clearly demonstrate that the finance company was not at fault in not discovering that Colston had a record for violating the liquor laws. In passing it may be noted that the last such conviction was in 1940. I therefore find that the finance company acted in good faith and, accordingly, I shall recognize its lien pursuant to the discretionary authority afforded me by R. S. 33:1-66(f).

It appears that the amount of the lien and the costs of seizure and storage of the motor vehicle exceeds its appraised retail value, and that it will not benefit the state to retain the motor vehicle for the use of the state conditioned upon payment of such lien. The motor

vehicle will therefore be returned to the finance company upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 21st day of April, 1950, Motor Finance Corporation pays the costs incurred in the seizure and storage of the Ford coupe, more fully described in Schedule "A" attached hereto, such motor vehicle will be returned to it; and it is further

DETERMINED and ORDERED that the balance of the seized property described in Schedule "A" constitutes unlawful property and the same be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, 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 Director of the Division of Alcoholic Beverage Control.

ERWIN B. HOCK
Director.

Dated: April 11, 1950.

SCHEDULE "A"

- 9 - pint bottles of corn whiskey
- 1 - 4/5 qt. bottle of rum
- 1 - 4/5 qt. bottle of whiskey
- 3 - 1-gal. jugs of wine
- 1 - 5-gal. barrel of wine
- 6 - bottles of soda
- 22 - bottles of beer
- 1 - Ford coupe - Engine #99A766498 - 1949 N. J.
Reg. VB251
- Miscellaneous empty bottles and drinking
glasses

5. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAP - PRIOR DISSIMILAR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

FRANCES K. LEVENSON,)
Administratrix Estate of Harry M.)
Levenson)
T/a HARRY'S CAFE)
214 South Warren Street)
Trenton 9, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-211, issued by the Board of Commissioners of the City of Trenton.)

-----)
Frances K. Levenson, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded non vult to the charge that on March 16, 1950 she possessed a mislabeled beer tap in her licensed premises, in violation of Rule 1 of State Regulations No. 22.

An ABC agent, on routine inspection of the defendant's licensed premises on the day in question, found that beer was being drawn from a barrel marked "Rubsam and Horrymann" through a spigot labeled "Erlanger".

The license of the late Harry M. Levenson for the premises in question was suspended for a period of seven days, effective June 15, 1944, as a result of his plea of guilty to charges alleging sale of alcoholic beverages to minors. Bulletin 623, Item 5. However, because of the length of time which has elapsed since the previous dissimilar violation, I shall not consider the prior record in fixing the period of suspension herein. I shall suspend defendant's license for a period of three days, less one day's remission for the plea, or a net suspension of two days. Re Braun's Tavern, Inc., Bulletin 871, Item 9.

Accordingly, it is, on this 12th day of April, 1950,

ORDERED that Plenary Retail Consumption License C-211, issued by the Board of Commissioners of the City of Trenton to Frances K. Levenson, Administratrix Estate of Harry M. Levenson, t/a Harry's Cafe, for premises 214 South Warren Street, Trenton, be and the same is hereby suspended for a period of two (2) days, commencing at 2:00 a.m. April 19, 1950, and terminating at 2:00 a.m. April 21, 1950.

ERWIN B. HOCK
Director.

6. DISCIPLINARY PROCEEDINGS - "FARMING OUT LICENSE" - ILLEGAL SITUATION CORRECTED - ORDER SUSPENDING LICENSE FOR BALANCE OF TERM AMENDED TO PROVIDE FOR SUSPENSION FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against

WILSON LINE OPERATING CO.
24 State Street
New York, New York,

ON PETITION
O R D E R

Holder of Plenary Retail Transit Licenses M-12 and M-15 for M. V. Liberty Belle and Steamer State of Pennsylvania, respectively, issued by the Director of the Division of Alcoholic Beverage Control.

Wilson Line Operating Company, by F. F. James, District Manager.

BY THE DIRECTOR:

This matter is before me by virtue of a petition asking a re-consideration of the penalty imposed in these disciplinary proceedings by order dated March 24, 1950, Bulletin 871, Item 3, wherein and whereby plenary retail transit licenses M-12 and M-15, issued to defendant-petitioner for M. V. Liberty Belle and Steamer State of Pennsylvania, respectively, were suspended for the balance of their respective terms, i.e., until June 30, 1950.

It appears from the proof accompanying the said petition (1) that the agreement between petitioner-defendant and Ford Brothers Maritime Corporation has been terminated by mutual consent, as of April 10, 1950, thus correcting the illegal situation heretofore existing; (2) that defendant-petitioner will place both of said ships in commission, as of May 26, 1950; (3) that many charter and booking parties have been entered into between defendant-petitioner and various organizations covering practically every day on and after the said May 26;

It further appearing that where the illegal situation has been corrected, the minimum suspension imposed for violations similar to that mentioned herein is twenty days, cf. Re DiPaolo, Bulletin 568, Item 5; and it further appearing that no effective penalty could be imposed during the period when the license privileges were not being used, Re Solomon, Bulletin 586, Item 2,

It is, on this 17th day of April, 1950,

ORDERED that the order heretofore suspending plenary retail transit licenses M-12 and M-15, as aforesaid, be and hereby is amended so that the concluding date of the suspension then imposed be June 15, 1950 (thus effectively suspending the said licenses for twenty days), instead of June 30, 1950; and it is further ordered that said plenary retail transit licenses be restored to full force and effect, as of 12:01 a.m. June 15, 1950.

ERWIN B. HOCK
Director.

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

In the Matter of Disciplinary Proceedings against EMIL HAYER T/a HAYER'S CAFE 1000-02 Stuyvesant Avenue Irvington, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-33, issued by the Board of Commissioners of the Town of Irvington.

Carl J. Yagoda, Esq., Attorney for Defendant-licensee. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he possessed an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 28 of State Regulations No. 20.

On January 5, 1950, an inspector employed by the Alcohol Tax Unit, Internal Revenue Service, Treasury Department, inspected 30 opened bottles of distilled spirits in defendant's premises and seized one 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky" when field tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by a Federal chemist disclosed that the contents of the seized bottle were lower in acids and substantially higher in solids than the contents of a genuine sample, and that the color of the contents of the seized bottle substantially varied from the color of the contents of a genuine sample.

Defendant has no prior adjudicated record. I shall, therefore, suspend defendant's license for the minimum period of fifteen days, less five days' remission for the plea entered herein, leaving a net suspension of ten days. Re Azario, Bulletin 872, Item 2.

Accordingly, it is, on this 18th day of April, 1950,

ORDERED that Plenary Retail Consumption License C-33, issued by the Board of Commissioners of the Town of Irvington to Emil Hayer, t/a Hayer's Cafe, for premises 1000-02 Stuyvesant Avenue, Irvington, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. April 24, 1950, and terminating at 2:00 a.m. May 4, 1950.

ERWIN B. HOCK Director.

8. NEW LEGISLATION - SALES BY NEW JERSEY MANUFACTURERS AND WHOLESALERS TO ORGANIZATIONS OF ARMY, NAVY OR AIR FORCE PERSONNEL OPERATING UNDER REGULATIONS PROMULGATED BY SECRETARY OF WAR, SECRETARY OF THE NAVY, SECRETARY OF THE AIR FORCE, OR STATE NATIONAL GUARD - AMENDMENT MADE SO AS TO INCLUDE AIR FORCE PERSONNEL - RULING IN BULLETIN 556, ITEM 5 RESCINDED.

Assembly Bill No. 284 was approved by the Governor on April 11, 1950, and thereupon became Chapter 26 of the Laws of 1950. The Act, effective immediately, reads as follows:

"AN ACT to amend 'An act concerning alcoholic beverages, and supplementing chapter one of Title 33 of the Revised Statutes,' approved August fourth, one thousand nine hundred and forty-one (P.L. 1941, c. 326).

"BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

"1. Section one of the act of which this act is amendatory is amended to read as follows:

"1. The holder of any valid and unrevoked Class A or Class B license, as defined in sections 33:1-10 and 33:1-11 of the Revised Statutes, except the holder of a bonded warehouse bottling license, shall be entitled, subject to rules and regulations, to distribute and sell alcoholic beverages within the limits of his license to any voluntary unincorporated organization of army, navy, or air force personnel for consumption on the military installation whereon such organization is established pursuant to regulations promulgated by the Secretary of War, the Secretary of the Navy or the Secretary of the Air Force, or, if the consent of the State Department of Defense shall have first been obtained, under the State National Guard regulations.

"2. This act shall take effect immediately."

In view of the foregoing legislation, and for the purpose of putting the army, navy and air force personnel involved in the same status as regards the Division of Alcoholic Beverage Control, I am herewith rescinding the Division's ruling set forth in Bulletin 556, Item 5, which had been adopted as an implementing war measure to aid the army authorities.

ERWIN B. HOCK
Director.

9. SEIZURE - FORFEITURE PROCEEDINGS - STOCK OF ALCOHOLIC AND OTHER BEVERAGES, FIXTURES AND FURNISHINGS IN SPEAKEASY ORDERED FORFEITED - VARIOUS ITEMS RETURNED TO INNOCENT OWNERS.

In the Matter of the Seizure on December 4, 1949, of a quantity of alcoholic beverages, various fixtures, furnishings and restaurant equipment and foodstuffs, at 40 Flagler Street, Morristown, County of Morris and State of New Jersey.) Case No. 7544
)
) ON HEARING
) CONCLUSIONS AND ORDER

 Fred Laifer, Esq., Attorney for Breyer Ice Cream Co.
 Samuel M. Hollander, Esq., by Seymour Bodner, Esq., Attorney for Super-Cold New York Co.
 Charles H. Smith, Esq., Attorney for John Clark Thurmond (Thurmon).
 Royal Music Co., by Joseph Jennings.
 Hobart Manufacturing Co., by Eugene Teetsel.
 Rosen Wholesale Grocery Co., by Nathan A. Rosen.
 Herbert Coombs, Pro Se.
 Harry Castelbaum, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether a quantity of alcoholic beverages and various fixtures, furnishings, restaurant equipment and foodstuffs, itemized in a schedule attached hereto, seized on December 4, 1949 in John Clark Thurmond's restaurant and grocery store, located at 40 Flagler Street, Morristown, New Jersey, constitute unlawful property and should be forfeited.

It appears that ABC agents made the seizure because of alleged unlawful sales of alcoholic beverages by John Clark Thurmond on November 20 and December 4, 1949 to an ABC agent in the kitchen in the rear of his restaurant. Three 4/5 quarts and four pints of whiskey were found in a compartment at the rear of the restaurant counter and 82 cans of beer were found in the kitchen. Thurmond did not hold any license authorizing him to sell alcoholic beverages at the premises.

When the matter came on for hearing pursuant to R.S. 33:1-66, the above named claimants appeared and sought return of various items of the seized property.

John Clark Thurmond, who gave the agents a signed statement admitting the sale of beer on November 20 and December 4 to the ABC agent, also appeared at the hearing. He sought to claim that the rooms in the rear of his store were the quarters of a club, entirely unconnected with his business establishment, and, hence, that the equipment seized in such establishment should not be forfeited. Since the evidence does not establish any such state of facts, there is no necessity to discuss the validity of such a defense.

The premises are described as a store or restaurant, with a doorway to another room in which there were tables, chairs and a music box. There is a doorway from this room to the kitchen and a doorway from the kitchen to another room.

The ABC agent testified that, on November 20th, he entered the store and proceeded to the kitchen. Thurmond and seven or eight other men were there. The agent purchased drinks of whiskey and beer from Thurmond and observed the other men drinking. The agent left but returned shortly thereafter and purchased two cans of beer from

Thurmond. He told Thurmond he wanted to take the beer to his car and Thurmond placed the cans of beer in a paper bag. There was nothing to indicate that it was a club. From time to time Thurmond went to the store, whenever a bell rang in the kitchen indicating the entry of a customer to the store.

The ABC agent returned to the place on December 4th and again went into the kitchen. Thurmond and a number of men and women were there. The agent purchased two cans of beer from Thurmond. Shortly thereafter other ABC agents entered and disclosed their identity. When the agent informed Thurmond that all of the equipment was to be seized, Thurmond for the first time said that it was a club; "We're doing it for the club." The agents then made a search of the place for specific evidence to that effect but did not discover any such evidence.

Thurmond testified that he sold alcoholic beverages to the ABC agent on November 20th and December 4th because he was accompanied by a club member and that he accepted money for the drinks from the agent as a contribution to the club rather than as payment for the drinks. He claims that the beer and whiskey belong to the club members and that he kept the whiskey in his store for safekeeping. It was pointed out to Thurmond that he had not brought any member of the "club" to testify in his behalf and that there was only his uncorroborated statement that there was such a club.

To all outward aspects, it was the familiar type of speakeasy operated under the cloak of a seeming legitimate retail business. Thurmond's mere denial is not convincing evidence to the contrary.

The seized whiskey and beer were obviously intended for sale and, hence, are illicit. R.S. 33:1-1(y). Such illicit alcoholic beverages and all personal property seized therewith in the premises constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66. Thurmond, the operator of the speakeasy, cannot obtain return of any part of the seized property. Re Seizure Case No. 7548, Bulletin 872, Item 10.

Those persons who can establish to my satisfaction that their property was placed in Thurmond's establishment in good faith and that they had no knowledge that alcoholic beverages were being sold there unlawfully, or of such facts as would have led a person of ordinary prudence to discover that fact, may obtain return of their property. R.S. 33:1-66(f).

Breyer Ice Cream Co. has established that it is the owner of two ice cream cabinets and three compressors, loaned to Thurmond and seized in his store.

Royal Music Co. has established that it is the owner of the music box seized in the place.

The Hobart Manufacturing Co. holds a conditional sales contract covering a Hobart scale seized from Thurmond. The purchase price was \$95.00 and the balance due on such contract is \$84.00. It is obvious that the value of the scale is less than the lien claim and the cost of its seizure and storage.

Super-Cold New York Co. holds a conditional sales contract covering a frozen food case with coils and compressor which was seized from Thurmond. The purchase price was \$665.00 and the balance due thereon is \$638.00. This item, likewise, is of less value than the lien claim and cost of seizure.

Thurmond's establishment had the outward aspect of a legitimate business enterprise and the articles above referred to were placed there in the regular course of the respective claimant's business. The employees of these claimants who dealt with Thurmond did not observe the sale of any alcoholic beverages when they were there or have any reason to suspect that such activities were being carried on in the place. Accordingly, I shall recognize their respective claims.

The claims of Rosen Wholesale Grocery Co. and Herbert Coombs are of a different nature.

The grocery company claims that it sold to Thurmond the soda fountain which was in his store. It offered in evidence an invoice on its billhead covering the sale of a soda fountain. It was a sale on credit, with installments payable weekly. The grocery company did not reserve any title and its position is merely that of a general creditor. It has no lien or specific interest in the soda fountain which I can recognize and, hence, its request for return of the soda fountain is denied. R.S. 33:1-66(f); Re Seizure Case No. 7471, Bulletin 855, Item 2.

Herbert Coombs, on behalf of his brother, Samuel C. Coombs, seeks to recover a Crosley refrigerator. He has presented a receipt dated September 20, 1948 from one Daniel B. Ackis, evidencing the sale of a Crosley refrigerator to Samuel C. Coombs. Herbert Coombs did not at any time have possession of the refrigerator and has no personal knowledge of its removal from Ackis' possession or its whereabouts. He says that he saw a refrigerator in Thurmond's store, but he cannot, of course, identify it as the refrigerator which his brother purchased. In the absence of any substantial evidence that whatever refrigerator was seized in Thurmond's store is owned by Samuel C. Coombs, I am compelled to deny Herbert Coombs' request for return of the refrigerator.

Accordingly, it is DETERMINED and ORDERED that if, on or before the 28th day of April, 1950, Breyer Ice Cream Co., Royal Music Co., Hobart Manufacturing Co. and Super-Cold New York Co. each pay their proportionate share of the costs of seizure and storage as allocated by the Director, the two ice cream cabinets and the three compressors, the music machine, the scale, and the frozen food case and appurtenant equipment, more particularly described in Schedule "A" attached hereto, will be returned to the respective claimants; and it is further

DETERMINED and ORDERED that the balance of the seized property described in Schedule "A", including the cash receipts and currency in the music machine, constitutes unlawful property and the same be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, 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 Director of the Division of Alcoholic Beverage Control.

ERWIN B. HOCK
Director.

Dated: April 19, 1950.

SCHEDULE "A"

- | | |
|--|--|
| 7 - bottles of whiskey | 1 - soda fountain |
| 82 - cans of beer | 1 - counter with marble top |
| 1 - Florence Oil Heater | 6 - gum vending machines and
currency therein |
| 1 - Wurlitzer Music Box, Serial
#7542090 and currency therein | 1 - deep freeze unit #11042 |
| 1 - Crosley refrigerator | 1 - 8-compartment ice cream
cabinet (Savage Thrift) |
| 1 - Kelvinator soda cooler | 3 - Silex |
| 1 - Nut dispenser and currency
therein | 1 - Davenport |
| 1 - Electric clock (Pepsi Cola) | 1 - Secretary |
| 1 - Gem Scale #345 | 12 - chairs |
| 1 - Telechron Electric Clock | 2 - tables |
| 1 - Mills Compressor - Serial
#C32000 | 1 - metal cabinet |
| 1 - Refrigerator Compressor -
B-5732 | 1 - porcelain top table |
| 2 - Refrigerating Units -
#751124-9, #K998965 | 1 - waffle grill |
| 1 - Combination gas range and
grille | 1 - Faraday Broilmaster |
| 1 - National Cash Register -
#1840295-726 | 1 - toaster |
| 1 - Dayton Scale #1218405 | 1 - Detecto scale |
| 1 - Meat Refrigerator #4129 | 1 - wooden stand and ice box |
| 1 - Globe Slicing Machine - #1852 | 1 - chest of drawers |
| 1 - Norge broilator | 7 - fluorescent lights |
| 1 - 8-compartment ice cream
cabinet | \$25.72 in cash |
| | Miscellaneous grocery and
restaurant equipment, food-
stuffs and merchandise, as
more particularly listed in
an inventory in the case. |

10. STATE LICENSES - NEW APPLICATIONS FILED.

Oliver A. Finan, Inc.
185 First Street
Jersey City, N. J.

Application for Transportation License filed April 13, 1950.

Norman Krouk
T/a Home Beverage
732 East St. George Ave.
Linden, N. J.

Application for State Beverage Distributor's License filed
April 13, 1950.

ERWIN B. HOCK
Director.

11. DAYLIGHT SAVING TIME EFFECTIVE THROUGHOUT THE STATE FROM LAST SUNDAY IN APRIL UNTIL LAST SUNDAY IN SEPTEMBER.

April 24, 1950.

Under New Jersey law (Revised Statutes, 1:1-2.3) the standard of time in the State is Eastern Standard Time except from the last Sunday in April until the last Sunday in September, in each year, when the standard of time is Eastern Daylight Saving Time which is one hour in advance of Eastern Standard Time.

The law is state-wide in its application and is binding on all municipalities.

This year's Eastern Standard Time period is almost over. From midnight Saturday, April 29th, and throughout the five-month Daylight Saving period, the time will be one hour in advance of the present Eastern Standard Time. To illustrate: As of midnight Saturday, April 29th, clocks are to be turned ahead one hour. If the regulations of "Municipality X" require closing between the hours of 2:00 A.M. and 7:00 A.M., that municipality's licensed premises must be closed when the changed clock time reaches 2:00 A.M. and remain closed until the changed clock time reaches 7:00 A.M.

In some other states the change to Daylight Saving Time will take place at 2:00 A.M. on the morning of Sunday, April 30th. Similarly, in some New Jersey municipalities, there are ordinances or resolutions or executive proclamations which indicate that the change to Daylight Saving Time is to take place, in the particular municipality, at 2:00 A.M. on the morning of Sunday, April 30th. But regardless of such ordinances, resolutions or proclamations, the change to Daylight Saving Time will be legally effective in all New Jersey municipalities not at 2:09 A.M. on the morning of Sunday, April 30th, but at midnight Saturday, April 29th.

Erwin F. Hoek

Director.