

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

BULLETIN 831

FEBRUARY 7, 1949.

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

BULLETIN 831

FEBRUARY 7, 1949.

1. STATE REGULATIONS NO. 20 - CONDUCT OF LICENSEES AND USE OF LICENSED PREMISES - AMENDED RULES 4, 6, 14 AND 16 AND NEW RULE 28 PROMULGATED.

TO ALL RETAIL LICENSEES:

RE: STATE REGULATIONS NO. 20

In order to strengthen over-all enforcement of the Alcoholic Beverage Law, amendments of Rules 4, 6, 14 and 16 of State Regulations No. 20 and new Rule 28 of Regulations No. 20 are hereby promulgated, pursuant to R. S. 33:1-39, to become effective February 10, 1949.

Existing Rules 4, 6, 14 and 16 of Regulations No. 20 will be continued in effect with respect to violations thereof committed prior to February 10, 1949, so that such violations may be effectively prosecuted in disciplinary proceedings notwithstanding amendment of the Rules.

It should be noted that new Rule 28, which in effect prohibits possession of illicit alcoholic beverages, refilling, etc., merely restates in a single Rule the several applicable provisions of the Alcoholic Beverage Law appearing in R. S. 33:1-1(i), R.S. 33:1-50(e) and R.S. 33:1-88.

It should further be noted that the amendment of Rule 4 makes the licensee responsible in disciplinary proceedings if any criminal conviction occurs as the result of any illegal activity (such as gambling, prostitution, possession of slot machines, etc.) off the licensed premises if the licensed premises or the licensed business is used in furtherance or aid of or in connection with the illegal activity; that the amendment of Rule 6 adds to the existing Rule a prohibition that no licensee may possess, have custody of, or allow, permit or suffer any lottery tickets on the licensed premises; that the amendment to Rule 14 authorizes distribution licensees, despite the prohibition of the Rule against open containers on distribution premises, to accept defective merchandise for return so long as the container is resealed (by gummed paper strip, sealing wax, or other convenient means) and the container is labeled with the date of return and the name and address of the customer returning the merchandise; and that the amendment to Rule 16 involves merely a clarification of the language of the existing Rule.

The amended and new Rules are as follows:

Rule 4. No licensee shall allow, permit or suffer in or upon the licensed premises any known criminals, gangsters, racketeers, pick-pockets, swindlers, confidence men, prostitutes, female impersonators, or other persons of ill repute; nor shall any licensee allow, permit or suffer the licensed premises or the licensed business to be used in furtherance or aid of, or in connection with any illegal activity or enterprise resulting in a conviction in a criminal prosecution.

Rule 6. No licensee shall allow, permit or suffer any lottery to be conducted, or any ticket or participation right in any lottery to be sold or offered for sale, nor shall any licensee possess, have custody of, or allow, permit or suffer any such ticket or participation right, on or about the licensed premises.

Rule 14. No retail distribution licensee shall allow, permit or suffer any alcoholic beverages to be consumed on the licensed premises nor shall such licensee possess or allow, permit or suffer any open containers of alcoholic beverages on or about the licensed premises; provided, however, that opened bottles of alcoholic beverages returned by a customer as allegedly defective may be so possessed pending return to the manufacturer or wholesaler; and further provided the container is resealed and labeled with the name and address of the customer and the date of return by the customer.

Rule 16. No retail licensee shall conduct the licensed business unless the current license certificate is at all times conspicuously displayed on the licensed premises in such plain view as to be easily read by all persons visiting such premises.

Rule 28. No retail licensee shall possess, have custody of, or allow, permit or suffer on or about the licensed premises, any alcoholic beverage manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported in violation of the New Jersey Alcoholic Beverage Law, or any alcoholic beverage in any keg, barrel, can, bottle, flask or similar container which (a) does not bear any label describing its contents or (b) bears a label which does not truly describe its contents or (c) does not bear any indicia of tax payment as required by the laws of the United States.

Dated: February 4, 1949.

ERWIN B. HOCK  
Director.

2. STATE REGULATIONS NO. 30 - SALE OF ALCOHOLIC BEVERAGES SUBJECT TO FAIR TRADE CONTRACTS - REVISED RULES PROMULGATED.

TO ALL RETAIL LICENSEES AND STATE BEVERAGE DISTRIBUTORS:

Re: State Regulations No. 30

Experience with the operation of State Regulations No. 30 (the Fair Trade regulations) has demonstrated the necessity for their revision in conjunction with revision of Regulations No. 34 (the wholesale price regulations), to facilitate administration, to strengthen enforcement, and to coordinate publication of Minimum Resale (Fair Trade) Price Lists with Wholesale Price Lists.

Accordingly, revised Regulations No. 30 are hereby promulgated, pursuant to R. S. 33:1-23.1 and R.S. 33:1-39, to become effective February 10, 1949.

Existing Regulations No. 30 will be continued in effect with respect to violations thereof committed prior to February 10, 1949 and also to authorize publication of a supplemental Minimum Resale Price List to become effective March 1, 1949. The currently effective January 1949 retail price list and its March 1949 supplement will be continued in effect until April 1, 1949, the effective date of the first Minimum Resale Price List to be published pursuant to the revised regulations.

Hereafter, Fair Trade price lists and Wholesale Price Lists will be published at the same time, both to become effective on the first of January, April, July and October of each year and both normally to continue in effect for a period of 90 days. This plan has been adopted to avoid the serious and far-reaching effects upon sound liquor control that result from price changes at irregular intervals not coordinated at both the retail and wholesale level.

Licensees who are privileged to sell at retail and who sell alcoholic beverages listed in the Fair Trade price list will be principally concerned with the provisions of Rules 5 and 6 of the revised regulations, which should be studied carefully and observed scrupulously, since violation is cause for suspension or revocation of license. It should be noted that such licensees are prohibited not only from sale of fair-traded products at less than the listed price plus listed container deposit, if any, but also from advertising such products for sale at less than their listed price plus listed container deposit, if any; that non-listed products may not be price advertised in any periodical, publication, circular, handbill or direct mailing piece (heretofore prohibited by special ruling appearing on the cover of each Fair Trade price list); and that private or exclusive brands may be so price advertised so long as such advertisement also states that the brand is the private or exclusive brand of the retailer.

It may further be noted that under the revised regulations, it will no longer be necessary to keep the Fair Trade price list displayed on or near the counter or bar as heretofore required by Rule 7 of existing Regulations No. 30 since that requirement has been omitted from the revision.

Revised Regulations No. 30 are as follows:

#### REGULATIONS NO. 30

##### Sale of Alcoholic Beverages Subject to Fair Trade Contracts

Rule 1. Any manufacturer, or any wholesaler with the consent of the manufacturer or importer of the products affected, who has entered into any Fair Trade contract with any licensed New Jersey retailer which provides that the retailer shall not resell any of the products affected thereby at less than the prices stipulated therein or pursuant thereto, may file with the Director of the Division of Alcoholic Beverage Control (hereinafter referred to as the "Director") a list of the prices so stipulated in or pursuant to a then currently effective Fair Trade contract, in form to be prescribed by the Director, not later than the twentieth day of February, May, August and November of each year for publication pursuant to Rule 3.

Rule 2. No manufacturer or wholesaler shall file any Fair Trade price list with the Director unless such prices are actually stipulated in or pursuant to a then existing Fair Trade contract with a licensed New Jersey retailer; nor shall any wholesaler file such price list unless such contract has been entered into with the consent of the manufacturer or importer of the alcoholic beverages sought to be price listed.

Rule 3. Minimum Resale Price Lists shall be published quarterly by the Director, to become successively effective on and after the first day of January, April, July and October of each year, and shall list by type and brand name the minimum resale prices listed with the Director by manufacturers and wholesalers in accordance with Rule 1. Said Minimum Resale Price Lists shall be printed in pamphlet form and mailed to all New Jersey retailers not later than three business days before the effective date of such price lists. All manufacturers and wholesalers who have filed Fair Trade price lists shall be chargeable with a proportionate cost of the printing and mailing of the pamphlet so published and mailed.

Rule 4. The Director may, upon adequate cause appearing therefor, suspend the foregoing provisions as to the time of filing Fair Trade price lists, time of publication of Minimum Resale Price Lists, and time of mailing to retailers, to permit changes in minimum resale prices to take effect upon such shorter notice as he may prescribe. Any Minimum Resale Price List then currently effective may be continued in effect for a period not to exceed thirty days after the scheduled publication date of the next succeeding Minimum Resale Price List by announcement of the Director upon his finding that an emergency exists.

Rule 5. No licensee shall sell or advertise for sale at retail, directly or indirectly, any alcoholic beverage at less than the price of such beverage plus container deposit, if any, listed in the then currently effective Minimum Resale Price List (which until April 1, 1949 shall be the January 1949 Minimum Resale Price List and its March 1949 supplement) published by the Director of the Division of Alcoholic Beverage Control; provided, however, that a special permit so to do may be granted by the Director for special cause shown pursuant to Rule 7.

Rule 6. No licensee shall advertise, directly or indirectly, in any periodical, publication, circular, handbill or direct mailing piece, the retail price of any alcoholic beverage not listed in the then currently effective Minimum Resale Price List (which until April 1, 1949 shall be the January 1949 Minimum Resale Price List and its March 1949 supplement) published by the Director of the Division of Alcoholic Beverage Control; provided, however, that nothing herein contained shall prohibit such price advertising of a private or exclusive brand confined to, or owned, controlled or distributed by a single retailer, and stated to be such in the advertisement.

Rule 7. Application by a licensee privileged to sell alcoholic beverages at retail for a special permit authorizing the sale of any particular product affected by the price listed in the Minimum Resale Price List at less than the price stipulated therein will be entertained by the Director in the following situations: (a) where the product was actually possessed by the licensee prior to the initial listing of the product in the Minimum Resale Price List; (b) where the licensee is actually and permanently closing out his stock for the purpose of completely discontinuing sale of such product; (c) where the product is damaged or deteriorated in quality and notice is given to the public thereof; and (d) where sale of the product is by an officer acting under orders of any court.

Dated: February 4, 1949.

ERWIN B. HOCK  
Director.

3. STATE REGULATIONS NO. 30 - SALE OF ALCOHOLIC BEVERAGES SUBJECT TO FAIR TRADE CONTRACTS - APPLICATION OF REVISED RULES TO MANUFACTURERS AND WHOLESALERS.

TO ALL MANUFACTURERS AND WHOLESALERS:

Re: State Regulations No. 30

Enclosed is copy of release of even date to all licensees privileged to sell alcoholic beverages at retail (Bulletin 831, Item 2), promulgating revised State Regulations No. 30 (the Fair Trade regulations) to become effective February 10, 1949.

The revised regulations are set forth in full in the enclosed release. It should be noted that henceforth Minimum Resale Price Lists will be published at the same time as Wholesale Price Lists, both to become effective on the same date and both normally to continue in effect for a 90-day period. See in this connection the revision of Regulations No. 34, promulgated contemporaneously herewith.

The first Minimum Resale Price List to be published pursuant to revised Regulations No. 30 will become effective on April 1, 1949, until which date the January 1949 Minimum Resale Price List and its March 1949 supplement will be continued in effect. Price listings intended for the April 1949 publication must be filed with the Director of the Division of Alcoholic Beverage Control not later than February 20, 1949.

Price listings may be submitted in the same form as heretofore, but it should be particularly noted that, to evidence qualification for listing under Rule 1 and compliance with Rule 2 of the revised regulations, price lists submitted must bear a certification as follows:

(In the case of a manufacturer):

"It is hereby represented that the list of prices herewith filed with the Director of the Division of Alcoholic Beverage Control are those stipulated in or pursuant to a currently effective Fair Trade contract between the undersigned and a licensed New Jersey retailer.

\_\_\_\_\_  
(Name of manufacturer)

By: \_\_\_\_\_  
(Signature of authorized representative)"

(Or in the case of a wholesaler):

"It is hereby represented that the list of prices herewith filed with the Director of the Division of Alcoholic Beverage Control are those stipulated in or pursuant to a currently effective Fair Trade contract between the undersigned and a licensed New Jersey retailer and it is further represented that said contract has been entered into with the consent of the manufacturer or importer of the products herein listed.

\_\_\_\_\_  
(Name of wholesaler)

By: \_\_\_\_\_  
(Signature of authorized representative)"

It should also be noted that manufacturers and wholesalers, as well as retailers, are prohibited by Rule 5 from advertising fair-traded products in New Jersey at less than the New Jersey listed price plus container deposit, if any, and by Rule 6 from advertising in New Jersey the retail price of any product not listed in the Minimum Retail Price List.

It may also be noted that under the revised regulations, it will no longer be necessary to file with the Director of the Division of Alcoholic Beverage Control copies of Fair Trade contracts and alterations thereof as heretofore required by Rules 1, 2 and 3 of existing Regulations No. 30, or labels as required by existing Rule 4, except as such labels may be called for in particular cases (as, for example, with initial listing of products) pursuant to Rule 1 of the revised Regulations, to clarify identification of products to be price listed.

ERWIN B. HOCK  
Director.

4. STATE REGULATIONS NO. 34 - WHOLESALE PRICES AND MAXIMUM REBATES, FREE GOODS, ALLOWANCES AND OTHER INDUCEMENTS TO RETAILERS - REVISED RULES PROMULGATED.

TO ALL MANUFACTURERS AND WHOLESALERS PRIVILEGED TO SELL ALCOHOLIC BEVERAGES OTHER THAN MALT ALCOHOLIC BEVERAGES (V, VL, S, SL, R, W, WL and WW Licenses):

Re: State Regulations No. 34

Experience with the operation of State Regulations No. 34 (the wholesale price regulations) has demonstrated the necessity for their revision to facilitate administration, to strengthen enforcement and to coordinate publication of Wholesale Price Lists with Minimum Resale (Fair Trade) Price Lists.

Accordingly, revised Regulations No. 34 are hereby promulgated, pursuant to R. S. 33:1-39 and R. S. 33:1-33, to become effective February 10, 1949.

Existing Regulations No. 34 will be continued in effect with respect to violations thereof committed prior to February 10, 1949, and the currently effective August, 1948 Wholesale Price List and its supplements will be continued in effect until April 1, 1949, the effective date of the first Wholesale Price List to be published pursuant to the revised regulations.

Henceforth, Wholesale Price Lists will be published at the same time as Minimum Resale Price Lists, both to become effective on the first of January, April, July and October of each year and both normally to continue in effect for a 90-day period. See in this connection the revision of Regulations No. 30, promulgated contemporaneously herewith.

The first Wholesale Price List to be published pursuant to revised Regulations No. 34 will become effective on April 1, 1949. Price listings for the April, 1949 publication must be filed with the Director of the Division of Alcoholic Beverage Control not later than February 20, 1949. Exclusive brands, to be exempted from price listing, must be registered with the Director in accordance with the requirements of Rule 1, not later than March 31, 1949.

Significant new matter appearing in the revised regulations should be particularly noted, viz.: that exclusive brands need not be price listed if they are registered with the Director (see Rule 1); that complete price filings are to be made not later than the twentieth of February, May, August and November of each year (see Rule 2) for complete publication to become effective on the first of January, April, July and October of each year (see Rule 3); that price listings may not include brands not acquired from the brand owner or authorized supplier except with special permission of the Director for good cause shown (see Rule 4); that price listings will be available for inspection for three business days and amended price listings may be filed until 4 P.M. of the fourth business day after the final filing date, thereby excluding Saturdays, Sundays and other legal holidays (see Rule 5); that in case of emergency an existing price list may be continued in effect up to 30 days after its normal expiration date or an intermediate supplement published (see Rule 7); that the only allowances that may be made to retailers are listed discounts, samples, and advertising matter within the limits of Regulations No. 21, and that tie-in sales of any kind are now expressly prohibited (see Rule 8); that records must be kept concerning distribution of samples (see Rule 10); that manufacturers and wholesalers may not conduct or participate in any sales contest of any kind, or permit their employees to so participate (see Rule 11); and that manufacturers and wholesalers may purchase tickets, etc. for social affairs of only bona fide retailers' trade associations and organizations (see Rule 12).

It may also be noted that the revision discontinues the requirements of existing Rule 7 requiring preparation of itemized affidavits of salaries, commissions, etc. since it is anticipated that this information can be obtained from basic records when needed; and that certain other minor provisions have been omitted as either unworkable or unnecessary in view of the over-all revision of the regulations.

Revised Regulations No. 34 are as follows:

#### REGULATIONS NO. 34

##### Wholesale Prices and Maximum Rebates, Free Goods, Allowances and Other Inducements to Retailers.

Rule 1. No manufacturer or wholesaler shall sell to any retailer any alcoholic beverages other than malt alcoholic beverages except at the price thereof, less discount, if any, listed by the manufacturer or wholesaler in the then currently effective Wholesale Price List (which until April 1, 1949 shall be the August 1948 Wholesale Price List and its supplements) published by the Director of the Division of Alcoholic Beverage Control (hereinafter referred to as the "Director"); provided, however, that nothing contained herein shall apply to sale of any branded alcoholic beverage sold by its manufacturer or wholesaler exclusively to one New Jersey retailer; and provided further that (1) such brand and the name of the retailer are registered with the Director and (2) the brand has not been assigned during a period of at least one year previously to another New Jersey retailer.

Rule 2. Manufacturers and wholesalers of alcoholic beverages other than malt alcoholic beverages intending to sell such alcoholic beverages to retailers shall individually file with the Director not later than the twentieth day of February, May, August and November of each year price and discount listings containing as to each item listed (1) its correct brand or trade name, (2) its nature and type,

(3) its age and proof or alcoholic content when stated on the label, (4) the number of unit containers per case, (5) the capacity of each unit container, and (6) the wholesale bottle and standard case prices and, at the option of the manufacturer or wholesaler, the one-half and one-quarter standard case prices, which prices shall be individual for each item and not in combination with any other item. Said listing may, in addition, contain a statement of any discount to be allowed uniformly for payment in cash at or before delivery or within five days thereafter, not to exceed 2%, to be applicable to the total purchase price of a single complete delivery of an entire purchase order.

Rule 3. Wholesale Price Lists shall be published quarter-annually by the Director, to become successively effective on and after the first day of January, April, July and October of each year and shall list by manufacturer or wholesaler the complete schedule of wholesale prices (stated separately and not in combination with any other item) of all alcoholic beverages other than malt alcoholic beverages to be offered for sale and to be sold by each manufacturer and wholesaler to retailers as set forth in price and discount listings previously filed with the Director in accordance with Rule 2.

Rule 4. No wholesaler shall include in his price and discount listing any brand of alcoholic beverages not acquired from the owner of the brand or its supplier authorized by the owner of the brand to supply New Jersey wholesalers, except pursuant to waiver of the provisions of this Rule granted by the Director upon petition setting forth the brand name, the quantity acquired, the source of supply, and such other information with respect thereto as the Director may deem necessary.

Rule 5. Price and discount listings filed with the Director shall be available for inspection during regular business hours at the offices of the Division of Alcoholic Beverage Control by manufacturers and wholesalers until 4:00 P.M. of the third business day after the twentieth day of February, May, August and November. A manufacturer or wholesaler may amend his price and discount listing already filed to meet a lower and competing price and discount listing filed by another manufacturer or wholesaler with respect to alcoholic beverages of the same brand or trade name and of like age, quality and unit container size; provided, however, that any such amended price and discount listing must be filed before 4:00 P.M. of the fourth business day after the twentieth day of February, May, August and November; and provided, further, that such amended listing does not set forth prices lower and discounts greater than those being met.

Rule 6. Wholesale Price Lists published by the Director shall be printed in pamphlet form and mailed to all retailers not later than three business days before the effective date of such price lists. All manufacturers and wholesalers who file price and discount listings shall be chargeable with a proportionate cost of the printing and mailing of the pamphlet so published and mailed.

Rule 7. The Director may, upon adequate cause appearing therefor, suspend the foregoing provisions as to the time of filing price and discount listings, time of publication of Wholesale Price Lists, and time of mailing to retailers, to permit changes in prices and discounts to take effect upon such shorter notice as he may prescribe. Any Wholesale Price List then currently effective may be continued in effect for a period not to exceed thirty days after the scheduled publication date of the next succeeding Wholesale Price List, by announcement of the Director upon his finding that an emergency exists.

Rule 8. No manufacturer or wholesaler of alcoholic beverages other than malt alcoholic beverages shall furnish directly or indirectly to any retailer any gift, rebate, or allowance of money or any thing of value (whether by sale, loan, gift or otherwise) or other discount or inducement, including free goods, deals, combination sales, and similar merchandising devices, except permissible discounts as and if scheduled by the manufacturer or wholesaler in the Wholesale Price List and as permitted by Rule 10 hereof and Regulations No. 21; nor shall any such manufacturer or wholesaler sell to a retailer any particular brand or brands of alcoholic beverages tied in with, or contingent upon the retailer's purchase of, some other beverage, alcoholic or otherwise, or any other merchandise or service.

Rule 9. No manufacturer or wholesaler of alcoholic beverages other than malt alcoholic beverages shall accept from any retailer any return of alcoholic beverages for credit unless such alcoholic beverages were originally delivered to the retailer by the manufacturer or wholesaler not more than thirty days prior to such return, except pursuant to waiver of the provisions of this Rule granted by the Director upon petition setting forth good cause.

Rule 10. Manufacturers and wholesalers of alcoholic beverages other than malt alcoholic beverages may give to a retailer who has not previously purchased a particular brand or type of alcoholic beverage, as a sample, not more than one pint of such alcoholic beverage or, if such alcoholic beverage is not packaged in containers of less than one fifth gallon or one quart, not more than one fifth gallon or one quart of such alcoholic beverage; provided, however, that any alcoholic beverage other than malt alcoholic beverages given as a sample shall have printed or stamped in ink on its brand label "SAMPLE--NOT FOR SALE" in letters not less than one-half inch in height and of proportionate width; and provided, further, that a record of the distribution of such samples shall be maintained by the distributing manufacturer or wholesaler for a period of one year, which record shall include the name of the retailer to whom the sample was given, the name of the person by whom given, the product given, the size of the container given, and the date upon which given.

Rule 11. No manufacturer or wholesaler of alcoholic beverages other than malt alcoholic beverages shall conduct or participate in any promotional contest in connection with the sale or distribution, or the promotion of the sale or distribution, of alcoholic beverages other than malt alcoholic beverages, or allow, permit or suffer any employee to participate in such contest.

Rule 12. Nothing contained in these Regulations shall be deemed to prohibit manufacturers and wholesalers from purchasing tickets, subscriptions or admissions to dances, outings, picnics and dinners held by, and advertisements in the publications or periodicals of, retailers' bona fide trade associations and organizations only.

Rule 13. No manufacturer or wholesaler of alcoholic beverages other than malt alcoholic beverages shall deliver or cause to be delivered to a retailer any alcoholic beverages other than those itemized on the bona fide order first signed by the retail licensee or his agent on the face of the order sheet immediately following the last item of alcoholic beverages appearing thereon, which order shall be executed and signed in duplicate and a copy left with the retail licensee. Copies of all orders shall be kept at the licensed premises of the retail licensee and of the manufacturer or wholesaler, respectively, for a period of one year from the date thereof unless the Director shall have granted written permission to the manufacturer or wholesaler to keep them at a designated place outside of the state and such orders shall be available for inspection by agents of the Division at all times.

ERWIN B. HOCK  
Director.

Dated: February 4, 1949.

5. STATE REGULATIONS NO. 35 - CONTRACTS OF EMPLOYMENT AND CONDUCT OF SOLICITORS - REVISED RULES PROMULGATED.

TO ALL MANUFACTURERS AND WHOLESALERS PRIVILEGED TO SELL ALCOHOLIC BEVERAGES OTHER THAN MALT ALCOHOLIC BEVERAGES (V, VL, S, SL, R, W, WL and WW licenses):

Re: State Regulations No. 35

In conjunction with revision of State Regulations No. 34 (the wholesale price regulations) promulgated contemporaneously herewith, it has been deemed necessary and desirable to revise Regulations No. 35 (covering solicitors' employment contracts and compensation) to strengthen collateral enforcement of Regulations No. 34.

Accordingly, revised Regulations No. 35 are hereby promulgated, pursuant to R. S. 33:1-39, R. S. 33:1-67 and R.S. 33:1-93, to become effective February 10, 1949.

Existing Regulations No. 35 will be continued in effect with respect to violations thereof committed prior to February 10, 1949, and contracts of employment presently filed with the Director pursuant to Rule 2 of existing Regulations No. 35 shall be deemed as filed in compliance with Rule 2 of revised Regulations No. 35 from February 10, 1949 to April 1, 1949, but new copies of such contracts as they then exist must be filed with the Director after March 25, 1949 and not later than April 1, 1949.

Significant new matter appearing in the revised regulations should be particularly noted, viz.: that complete filing of current employment contracts between manufacturers and wholesalers of alcoholic beverages other than malt alcoholic beverages and their solicitors must be made annually (see Rule 2); that any modification whereby compensation of such solicitors is increased as to a particular item for a period of less than ninety days is deemed a prohibited bonus (see Rule 2); that such solicitors are prohibited from furnishing any gifts, rebates, free goods, etc. to retailers whether or not such furnishing is in connection with a sale of alcoholic beverages (as heretofore) and that such solicitors may not sell, or solicit an order for, any merchandise tied in with any other merchandise or service (see Rule 3); and that such solicitors may not participate in any contest promoting sale of alcoholic beverages other than malt alcoholic beverages.

It may be noted that the revision discontinues the requirements of existing Rules 4 and 5 concerning quarterly submission to the Director of sworn statements by manufacturers and wholesalers and solicitors respecting monies paid and received respectively, since it is anticipated that this information can be obtained from basic records when needed.

All manufacturers and wholesalers to whom this notice is directed are required to inform their solicitors of the revision of Regulations No. 35 and of the effect thereof, and to certify to the Director, not later than February 10, 1949, that their solicitors have been so informed.

Revised Regulations No. 35 are as follows:

REGULATIONS NO. 35Contracts of Employment and Conduct of Solicitors.

Rule 1. No manufacturer or wholesaler of alcoholic beverages other than malt alcoholic beverages shall, directly or indirectly, give to any holder of a solicitor's permit for the State of New Jersey any cash bonus, allowance or other inducement over and above the salary and commission or other compensation of any kind fixed by written contract of employment between the solicitor and his employer.

Rule 2. Between the twenty-fifth day of March and the first day of April of each year, as to the holder of New Jersey solicitors' permits then employed, and within five days after the issuance of such solicitors' permits to solicitors thereafter employed, each manufacturer and wholesaler engaged in the sale in New Jersey of alcoholic beverages other than malt alcoholic beverages, employing persons who hold such solicitors' permits, shall file with the Director of the Division of Alcoholic Beverage Control a copy of the contract of employment pursuant to which said solicitor is employed, which contract shall set forth truly the salary and commission or other compensation of any kind agreed to be paid to such solicitor. Written notice of modification of such contracts together with the provisions thereof shall be filed with said Director within five days after such modification is effected. Any modification of a contract of employment between a manufacturer or wholesaler and any solicitor whereby the solicitor's salary or commission or compensation of any kind is increased with respect to sales of any particular kind of alcoholic beverages for a period of less than ninety days shall be deemed a bonus, allowance or other inducement prohibited by Rule 1.

Rule 3. No holder of a solicitor's permit employed by a manufacturer or wholesaler of alcoholic beverages other than malt alcoholic beverages shall furnish, directly or indirectly, to any retailer any gift, rebate or allowance of money or any thing of value (whether by sale, loan, gift or otherwise) or other discount or inducement including free goods, deals, combination sales, and similar merchandising devices; nor shall such holder of a solicitor's permit sell to any retailer, or solicit from any retailer any order for, any particular brand or brands of alcoholic beverages tied in with, or contingent upon the retailer's purchase of, some other beverage, alcoholic or otherwise, or any other merchandise or service.

Rule 4. No holder of a solicitor's permit employed by a manufacturer or wholesaler of alcoholic beverages other than malt alcoholic beverages shall participate in any promotional contest in connection with the sale or distribution, or the promotion of the sale or distribution, of alcoholic beverages other than malt alcoholic beverages.

Dated: February 4, 1949.

ERWIN B. HOCK  
Director.

February 2, 1949

6. ACTIVITY REPORT FOR JANUARY 1949

<b>ARRESTS:</b>		
Total number of persons arrested	-----	14
Licensees and employees	----- 4	
Bootleggers	----- 10	
<b>SEIZURES:</b>		
Motor Vehicles - cars	-----	1
Stillis - 50 gallons or under	-----	2
Mash - gallons	-----	600.00
Distilled alcoholic beverages - gallons	-----	13.36
Wine - gallons	-----	326.14
Brewed malt alcoholic beverages - gallons	-----	3.19
<b>RETAIL LICENSEES:</b>		
Premises inspected	-----	892
Premises where alcoholic beverages were gauged	-----	910
Bottles gauged	-----	15,484
Premises where violations were found	-----	43
Violations found	-----	46
Type of violations found:		
Unqualified employees	----- 13	
Probable fronts	----- 7	
Gambling devices	----- 3	
Reg. sign not posted	----- 3	
Other mercantile business	----- 11	
Other violations	----- 9	
<b>STATE LICENSEES:</b>		
Premises inspected	-----	20
License applications investigated	-----	10
<b>COMPLAINTS:</b>		
Complaints assigned for investigation	-----	300
Investigations completed	-----	315
Investigations pending	-----	107
<b>LABORATORY:</b>		
Analyses made	-----	102
"Shake-up" cases (alcohol, water and artificial color) - bottles	-----	3
Liquor found to be not genuine as labeled - bottles	-----	3
<b>IDENTIFICATION BUREAU:</b>		
Criminal fingerprint identifications made	-----	10
Persons fingerprinted for non-criminal purposes	-----	153
Identification contacts made with other enforcement agencies	-----	145
Motor vehicle identifications via N. J. State Police Teletype	-----	6
<b>DISCIPLINARY PROCEEDINGS:</b>		
Cases transmitted to municipalities	-----	12
Violations involved:		
Sale during prohibited hours	----- 3	
Sale to intoxicated persons	----- 3	
Sale to minors	----- 2	
Permitting brawls on premises	----- 2	
Sale to non-members by clubs	----- 2	
Licensee working while drunk	----- 1	
Possessing contraceptives on premises	----- 1	
Failure to afford view into premises during prohibited hours	----- 1	
Cases instituted at Division (*1 includes cancellation proceedings)	-----	19
Violations involved:		
Possessing illicit liquor	----- 6	
Sale during prohibited hours	----- 4	
Sale under Fair Trade price	----- 3	
Fraud and front	----- 3*	
Permitting immoral activity on premises	----- 2	
Conducting business as a nuisance	----- 2	
Permitting hostesses on premises	----- 1	
Unqualified employees	----- 1	
Hindering investigation	----- 1	
Sale to intoxicated persons	----- 1	
Cases brought by municipalities on own initiative and reported to Division	-----	5
Violations involved:		
Sale to minors	----- 2	
Sale during prohibited hours	----- 1	
Permitting brawls on premises	----- 1	
Sale to intoxicated persons	----- 1	
Permitting gambling on premises	----- 1	
<b>HEARINGS HELD AT DIVISION:</b>		
Total number of hearings held	-----	43
Appeals	----- 7	
Disciplinary proceedings	----- 19	
Eligibility	----- 10	
Seizures	----- 2	
Tax revocation	----- 4	
Hearing on petition	----- 1	
<b>PERMITS ISSUED:</b>		
Total number of permits issued	-----	778
Employment	----- 101	
Solicitors	----- 141	
Disposal of alcoholic beverages	----- 122	
Social affairs	----- 285	
Special wine	----- 34	
Miscellaneous	----- 95	

Erwin B. Hock,  
Director



were the only persons employed at the place, which is a comparatively small restaurant. On September 15th the agent observed Mrs. Pennisi place in the cash register the money which he paid her. Pennisi's wife did not appear at the hearing.

There were three empty one-gallon wine jugs, one full gallon jug of wine, and three sealed bottles of whiskey, in the kitchen of the restaurant. The wine served to the ABC agent on September 15th, poured by Mrs. Pennisi in the kitchen from a jug, apparently was the last in stock. The agent testified that he overheard Mrs. Pennisi, while in the kitchen, say to someone there, "We are out of wine, better get some more". While the agent was there, Mr. Pennisi asked his nephew to go to a nearby licensed establishment and purchase a gallon of wine. This was the full gallon seized at the place. Mr. Pennisi says that this wine, as well as that which had been in the empty jugs, was for cooking purposes, and that the whiskey was for a birthday party for his wife to be held later.

There can be no question that Mrs. Pennisi actually sold drinks of wine to the ABC agent; indeed, Mr. Pennisi did not seriously dispute that fact. The sale of wine on the premises leads to the logical conclusion that all, or some part, of the wine seized at the premises was intended for like unlawful sale, and hence is illicit. R.S. 33:1-1(i). Such illicit wine, and all personal property seized therewith in the restaurant, including the whiskey, are subject to seizure and forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

Pennisi challenges any forfeiture of the property, contending that legally there can be no forfeiture unless it is established that the unlawful sale of wine was made with his knowledge, sanction or approval, and submits that his testimony that he did not know or observe his wife serve or sell any wine, although he was there at the time, stands uncontradicted.

Forfeiture does not depend upon the guilt or innocence of the owner of the property. The only issue is whether the property was used in violation of the law. Seizure Case No. 7332, Bulletin 826, Item 6, and cases therein cited. Since such a violation was committed in the instant case, cause for forfeiture has been established.

I have the discretionary authority to relieve an innocent owner or claimant from forfeiture, if it is established to my satisfaction that such person acted in good faith and unknowingly violated the law or did not know or have any reason to suspect that his property would be put to an unlawful use. R. S. 33:1-66(e) and (f).

Neither the facts nor the law warrant my relieving Mr. Pennisi from forfeiture. It is logical to conclude from the facts that Pennisi was aware of the unlawful sales of wine made by his wife. He cannot escape responsibility for his wife's unlawful conduct. A husband and wife are presumed to know of each other's misdeeds, especially when such misconduct is connected with their activities in a business in which both are interested or employed. See Seizure Case No. 4563, Bulletin 367, Item 3, Seizure Case No. 6365, Bulletin 750, Item 2. No evidence has been presented to rebut that presumption. In addition, since his wife was employed as a waitress at his restaurant, Pennisi is legally responsible for her violation of the liquor law, whether committed with or without his knowledge, under the general principle of law that a master is responsible for the acts of his servant while engaged in the master's work. See Seizure Case No. 7002, Bulletin 751, Item 2, and cases cited therein. Hence, as to Mr. Pennisi, his property will be forfeited.

Major Enterprises Co. seeks return of a music machine. North Jersey Cigarette Sales, Inc. seeks return of a cigarette vending machine. Capitol Ice Cream Co. seeks return of a Frigidaire ice cream

freezer. R. & Y. Novelties Co. seeks return of a pinball machine. Belmont Vending Co. seeks return of a nut vending machine. Anthony Velardi seeks return of a typewriter.

Each of the claimants established at the hearing that they were the owners of the respective items, identified as part of the property seized.

Neither Mr. Pennisi nor his wife have any previous criminal record, and the appearance of the place was that of a usual type of restaurant. Evidence was presented by each claimant that the various articles were placed in Pennisi's restaurant in normal business routine, on a profit-sharing basis, except for Velardi, who loaned the typewriter to Pennisi as an accommodation, and that each, respectively, did not know, or have knowledge of any facts which would have led a person of reasonable prudence to suspect that alcoholic beverages were being unlawfully sold there.

I am therefore satisfied from the evidence presented that the claimants should obtain return of the specific items owned by them.

Accordingly, it is DETERMINED and ORDERED that if on or before the 7th day of February, 1949, the Major Enterprises Co., North Jersey Cigarette Sales, Inc., the Capitol Ice Cream Co., R. & Y. Novelties Co., Belmont Vending Co., and Anthony Velardi each pay the costs of seizure and storage of the respective article to be returned to each, such costs to be determined by the Director by a reasonable allocation of a portion of the total cost to each item, the articles hereinabove referred to, more fully described in Schedule "A" attached hereto, will be returned to their respective owners, and it is further

DETERMINED and ORDERED that the balance of the seized property, as described in Schedule "A" aforesaid, including the cash receipts seized, constitutes unlawful property, and that 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 Alcoholic Beverage Control.

ERWIN B. HOCK  
Director.

Dated: January 25, 1949.

SCHEDULE "A"

- 4 - 4/5 quart bottles of whiskey
- 1 - gallon jug of wine
- 3 - empty wine jugs
- 1 - Music machine and currency therein
- 1 - pinball machine and currency therein
- 1 - cigarette vending machine and currency therein
- 1 - cash register with \$43.85
- 1 - Frigidaire 6 hole ice cream freezer
- 1 - Underwood typewriter
- 1 - peanut vending machine
- Fixtures, furnishings, equipment and other items of personal property as listed in an inventory, to which reference is made as if set forth herein at length.

8. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

BLUE RIBBON CAFE, INC. )  
207 Straight Street )  
Paterson 1, N. J., )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-26, issued by the Board of Alcoholic Beverage Control of the City of Paterson. )  
----- )

Max H. Roller, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that, on December 30, 1948, it sold alcoholic beverages during prohibited hours, in violation of Rule 1 of State Regulations No. 38.

On Thursday, December 30, 1948, at about 10:40 p.m., an employee of defendant sold a pint of wine in its original container to an ABC agent for off-premises consumption.

Rule 1 of State Regulations No. 38 prohibits such sales of alcoholic beverages after 10:00 p.m. on weekdays.

Defendant has no prior adjudicated record. Therefore, in the absence of aggravated circumstances, I shall impose the minimum suspension of fifteen days for a violation of this type. Five days will be remitted because of the plea entered herein, leaving a net suspension of ten days. Re Cnyla, Bulletin 678, Item 9.

Accordingly, it is, on this 28th day of January, 1949,

ORDERED that Plenary Retail Consumption License C-26, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Blue Ribbon Cafe, Inc., for premises 207 Straight Street, Paterson, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. January 31, 1949, and terminating at 5:00 a.m. February 10, 1949.

*William E. Hack*  
Director.