

Mr. Ernest M. Tapner, DP
26 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 870

MARCH 22, 1950.

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

BULLETIN 870

MARCH 22, 1950.

1. DISCIPLINARY PROCEEDINGS - PLENARY WINERY LICENSEE - SUSPENSION
FOR BALANCE OF TERM LIFTED, UPON RECONSIDERATION, AFTER LICENSE
HAD BEEN UNDER SUSPENSION FOR FOUR MONTHS.

In the Matter of Disciplinary)
Proceedings against)

VIRGIL FILIPPI)
T/a FILIPPI WINES)
771 Palisade Avenue)
Cliffside Park, N. J.,)

ON PETITION
O R D E R

Holder of Plenary Winery License)
V-46, issued by the Director of)
the Division of Alcoholic)
Beverage Control.)

-----)
Anthony Delchop, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

On October 25, 1949, I suspended the license considered herein for the balance of its term, commencing at 7:00 a.m. October 31, 1949. See Bulletin 858, Item 11. The suspension was imposed after defendant had pleaded non vult to a charge alleging that he sold wine to consumers although his renewed license did not contain the additional privilege of selling at retail.

Petitioner has now filed a duly verified petition wherein he requests the reinstatement of his license to permit the renewed operation of his winery business in order that he may provide for his family. In said petition he represents that he will sell only to wholesalers, retailers, churches and without this State, within the terms of his license.

I find, upon reconsideration, that, although the violation committed herein was of a serious nature, seven months have elapsed since the violation was committed and the license has now been under suspension for a period of four months. I conclude, therefore, that defendant has been sufficiently punished and shall grant his request for relief.

Accordingly, it is, on this 9th day of March, 1950,

ORDERED that Plenary Winery License V-46, issued by the Director of the Division of Alcoholic Beverage Control to Virgil Filippi, t/a Filippi Wines, for premises 771 Palisade Avenue, Cliffside Park, be restored to full force and operation, effective immediately.

ERWIN B. HOCK
Director.

2. MORAL TURPITUDE - CONVICTION FOR CARRYING CONCEALED WEAPON MAY OR MAY NOT INVOLVE MORAL TURPITUDE - UNDER FACTS OF CASE THE CONVICTION INVOLVED MORAL TURPITUDE.

March 9, 1950.

Re: Case No. 614

Subject was found guilty of possession of a dangerous weapon and, as a result thereof, a Judge of a County Court, on January 18, 1950, placed him on probation for a period of three years and fined him the sum of \$500.00.

Subject testified that he transported from his home to a home of a friend, certain money stolen by his friend and another person, together with two guns which were used in the robbery. He further testified that he transported these articles because his friend refused to leave his apartment unless and until the guns and the money obtained in the robbery were transferred by subject to the friend's home. Although subject had knowledge of the robbery and the whereabouts of the participants, he carried the "loot" and the two guns to his friend's home but did not notify the police authorities.

Subject testified at the hearing in this case that the friend who committed the robbery had previously been a frequent afternoon visitor to his home, at which time they used subject's telephone for the purpose of placing bets on horses.

The crime of carrying a concealed weapon may or may not involve moral turpitude. When the crime stands alone, unattended by other crimes or intent to commit other crimes, it does not ordinarily involve moral turpitude. Re Case No. 131, Bulletin 451, Item 7. In view of the circumstances in the present case, however, I am satisfied that the crime of which subject was convicted is a crime involving moral turpitude.

I recommend, therefore, that subject be advised that, in the opinion of the Director, he is not eligible to hold a liquor license in this state or to be employed by or connected in any business capacity whatsoever with the holder of such a license, within the meaning of R.S. 33:1-25, 26.

Clarence E. Kremer
Attorney.

APPROVED:
ERWIN B. HOCK
Director.

3. 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)

GERALD LEVY)
T/a VICTORY WINE & LIQUOR STORES)
457 Central Avenue)
East Orange, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-3, issued by the Municipal Board of Alcoholic Beverage Control of the City of East Orange.)

Gerald Levy, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold alcoholic beverages at retail below the minimum consumer price, in violation of Rule 5 of State Regulations No. 30.

On January 28, 1950, ABC agents purchased from defendant in his licensed premises one case of twelve 4/5 quarts of Kinsey Gold Label Blended Whiskey for the sum of \$42.00. The minimum consumer price of said item as disclosed in list of prices effective January 1, 1950, is \$3.99 for a 4/5 quart bottle, with a permissible five per cent. discount for sale by the case, thus making the minimum consumer price \$45.49 for the items sold to the agents.

The minimum penalty for Fair Trade violations is ten days. See Bulletin 792, Item 9.

Defendant has no prior adjudicated record. I shall suspend his license for ten days, less five days for the plea, leaving a net suspension of five days. See Bulletin 867, Item 5.

Accordingly, it is, on this 13th day of March, 1950,

ORDERED that Plenary Retail Distribution License D-3, issued by the Municipal Board of Alcoholic Beverage Control of the City of East Orange to Gerald Levy, t/a Victory Wine & Liquor Stores, for premises 457 Central Avenue, East Orange, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. March 20, 1950, and terminating at 9:00 a.m. March 25, 1950.

ERWIN B. HOCK
Director.

4. SEIZURE - FORFEITURE PROCEEDINGS - UNLAWFUL TRANSPORTATION OF STOLEN ALCOHOLIC BEVERAGES IN TAXICABS AND OTHER MOTOR VEHICLE - ALL MOTOR VEHICLES ORDERED FORFEITED - APPLICATION OF WIFE FOR RETURN OF MOTOR VEHICLE REGISTERED IN HUSBAND'S NAME DENIED.

In the Matter of the Seizure on August 10, 1949 of a Packard taxicab, and the seizure on August 12, 1949 of a Buick sedan, and the seizure on August 15, 1949 of a Checker taxicab in the City of Newark, County of Essex and State of New Jersey. Case No. 7495 ON HEARING CONCLUSIONS AND ORDER

Robert E. Rosenberg, Esq., Attorney for John Johnson and Leon Brannon. Maurice Schapira, Esq., Attorney for Tessie Lipscomb. Harry Castelbaum, Esq., appearing for 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, and further pursuant to stipulations hereinafter referred to, dated August 22, 1949, signed by Leon Brannon and John Johnson, to determine whether Brannon's Checker taxicab, Johnson's Packard taxicab and Timothy Lipscomb's Buick sedan, seized in August 1949 in Newark, New Jersey, constitute unlawful property and should be forfeited.

It appears that the above mentioned three motor vehicles, which were used to transport stolen alcoholic beverages, were seized by Newark police officers and turned over to the Division of Alcoholic Beverage Control.

Pending the seizure hearing in the case, Leon Brannon obtained return of his Checker taxicab upon payment of the sum of \$350.00, its appraised retail value, and John Johnson obtained return of his Packard taxicab upon payment of the sum of \$650.00, its appraised retail value, both payments being made to the Director of the Division of Alcoholic Beverage Control, under protest, pursuant to R.S.33:1-66. By the terms of the above stipulations entered into by Leon Brannon and John Johnson, the Director is to determine in this proceeding whether such money shall be returned to them respectively or should be forfeited.

When the matter came on for hearing pursuant to R.S. 33:1-66, Johnson and Brannon appeared with counsel and sought return of the money deposited by them. Tessie Lipscomb, wife of Timothy Lipscomb, also appeared with counsel and sought return of the Buick sedan.

The facts established by the evidence are that Timothy Lipscomb was one of a group of men who, in the summer of 1949, stole a substantial quantity of alcoholic beverages from various taverns in Newark. Lipscomb participated in four such thefts, using the Buick sedan to transport himself and his companions to the scene of the robberies and to transport stolen alcoholic beverages to New York, where they were sold. Taxicabs were also hired to transport part of the stolen liquor. According to the evidence, Johnson's taxicab was used three times in July and once in August, and Brannon's taxicab was used once in July. The driver of Johnson's taxicab says that he was called about 3:00 a.m. in each case, drove to or near a designated street corner, and the cases of alcoholic beverages were placed in his taxicab, in turn, from a garage, from an alleyway and another car, from another garage, and from a street corner. The driver of

Brannon's taxicab was called at about 5:30 a.m., and the alcoholic beverages placed in his taxicab were carried from the side door of a tavern. On the basis of these circumstances, the drivers, who were arrested, could scarcely fail to recognize that they were engaged in a criminal enterprise.

It is unlawful to transport alcoholic beverages without a license, with the exception of a minor quantity for personal consumption, not here involved. R.S. 33:1-2. Neither the taxicabs nor the Buick sedan were licensed to transport alcoholic beverages. Alcoholic beverages transported unlawfully are illicit. Likewise, the alcoholic beverages are illicit because of the manner, as above outlined, in which the alcoholic beverages were acquired and possessed by the persons involved. R.S. 33:1-1(i). Illicit alcoholic beverages and the vehicle used to transport such beverages constitute unlawful property. R.S. 33:1-1(y). Unlawful property is subject to forfeiture. R.S. 33:1-66.

My authority to return property subject to forfeiture is confined to those cases where it is established to my satisfaction that the person seeking such return acted in good faith, and had no knowledge of the unlawful use to which the property was put or of such facts as would have led a person of ordinary prudence to discover such use. R.S. 33:1-66(f).

The motor vehicle registration for the Buick sedan was issued to Timothy Lipscomb. The dealer's invoice for the car is to Timothy Lipscomb. Nevertheless, Mrs. Lipscomb seeks to claim that she is the actual owner of the car. Mrs. Lipscomb has not presented any convincing evidence, documentary or otherwise, that such is the actual fact. It does not appear that she had any independent means or real source of independent income with which to purchase a car. She does not drive a car.

Mrs. Lipscomb's husband had the car on at least four occasions, in early morning hours, when he transported the stolen liquor. She tried to discourage her husband's association with her brother, who has a long criminal record and who is implicated in the thefts of the liquor. I am not satisfied that Mrs. Lipscomb was unaware that her husband was using the car to transport stolen alcoholic beverages. Accordingly, because of her failure to establish that she is the actual owner of the car and did not know or have any reason to suspect her husband's illegal liquor activities, Mrs. Lipscomb's application for return of the Buick sedan is denied.

The evidence presented by Johnson and Brannon discloses that, although they operate their taxicab business ostensibly under the name of an organization of which they are members, such business is actually an individual enterprise, each the owner of a single taxicab, operating under a license issued by the City of Newark, from headquarters in that city. Neither personally operates his cab, but employs one or two drivers. Their membership in the organization covers aspects other than the actual management and control of their enterprise.

Neither Johnson nor Brannon exercised personal supervision of his driver's activities. Brannon did not even personally employ his drivers. Each delegated collection of the income and supervision of the taxicabs to Harrison Ross, an employee of the organization who also devoted considerable time to the operation of his own fleet of taxicabs. Neither Johnson nor Brannon nor Ross made any realistic effort to check or supervise the day-to-day activities. The drivers of Johnson and Brannon's taxicabs were not required to give a detailed account of their trips.

Harrison Ross acknowledges that by an ordinance of the City of Newark the driver of a taxicab is required to make a record, upon an appropriate form, of the time and place where he picks up and discharges each passenger. Ross did not require drivers under his supervision to comply with this ordinance. Such ordinance is a requisite in the conduct of a taxicab business in the City of Newark. Its obvious design was to compel the owner of a taxicab to supervise his driver's activities by this method, as a precaution likely to prevent the taxicab from being used in an illegal enterprise. Such owner is derelict in the conduct of his business if he fails to comply with the ordinance.

The personal innocence of the owner of a vehicle is not a defense to forfeiture of such vehicle for violation of the liquor law. This is a fundamental principle of law and is clearly expressed in Goldsmith, Jr. - Grant Co. v. United States, 254 U. S. 505, 65 L. Ed. 376, cited in Patrick v. Driscoll, 132 N.J.L. 478.

It is not personal innocence, but good faith and the exercise of reasonable prudence which is prerequisite to remission of forfeiture. In other words, a person placing in another person the instrumentality used in committing a liquor law violation must establish, if he seeks return of such instrumentality, that although he used reasonable precautions, he did not know or have any reason to suspect that his property would be put to such an unlawful use. Johnson and Brannon have not established any such state of facts; on the contrary, it appears that they operated their business in a most slipshod manner. Illustrative cases rejecting applications by taxicab owners for return of taxicabs used in the illegal transportation of alcoholic beverages are Pittsburg Taxicab Co. v. United States, 281 Fed. 669; and Busic v. United States, 149 Fed. 2d 794. See also note on this subject in 24 A.L.R., p. 1130. The application of John Johnson and Leon Brannon for return of the respective sums deposited by them is therefore denied.

Accordingly, it is DETERMINED and ORDERED that the Buick sedan, more fully described in Schedule "A" attached hereto, 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; and it is further

DETERMINED and ORDERED that the Checker taxicab and the Packard taxicab listed in the aforesaid schedule, constitute unlawful property and that the sum of \$350.00, representing the retail value of such Checker taxicab and the sum of \$650.00, representing the retail value of such Packard taxicab returned to Leon Brannon and John Johnson, respectively, paid under protest to the Director of the Division of Alcoholic Beverage Control by Leon Brannon and John Johnson, be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66, to be accounted for in accordance with law.

ERWIN B. HOCK
Director.

Dated: March 13, 1950.

SCHEDULE "A"

- 1 - Packard Taxi - N.J. 1949 Registration OA55L, Serial #2184-3016
- 1 - Buick sedan, N. J. 1949 Registration FC77C, Serial # 133773498,
Engine No. 43974730
- 1 - Checker Taxi - N. J. 1949 Registration OA53L, Serial #1015,
Engine No. 1365

5. DISCIPLINARY PROCEEDINGS - FRONT - FALSE STATEMENTS IN APPLICATION - AIDING AND ABETTING ALIEN TO HOLD MORE THAN 10% OF STOCK OF LICENSED CORPORATION - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR 45 DAYS.

In the Matter of Disciplinary Proceedings against)

FARMER'S BAR & GRILL)
50-52 Cornelia Street)
Newark 5, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-705, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Harris N. Goldberg, 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 charges alleging (1) that it made false statements in its application, thereby concealing the true extent of the interest of one Manuel Silvia and the fact that one Jose Barbas had an interest in said corporation-defendant, in violation of R. S. 33:1-25, and (2) that from September 21, 1948 until January 31, 1950, the date the charges were preferred, it aided and abetted the said Jose Barbas to exercise the rights of its successive plenary retail consumption licenses, in violation of R.S. 33:1-52.

In its application filed on June 6, 1949, defendant listed as its stockholders: Bernardo Rodrigues (8 shares or 80%); Manuel Silvia (1 share or 10%); and Patricia Afriat (1 share or 10%). Investigation discloses that Bernardo Rodrigues, Manuel Silvia and Jose Barbas (not mentioned in the application) were originally each the real and beneficial owner of 33-1/3% of defendant's stock.

Silvia is a native of Portugal. He has never been naturalized and therefore is not qualified to hold more than a 10% interest in a retail licensee corporation. R.S. 33:1-25 provides, among other things:

"No retail license shall be issued to any corporation ...unless each owner, directly or indirectly, of more than ten per centum (10%) of its stock qualifies in all respects as an individual applicant...."

The same section provides that no retail license shall be issued to a natural person unless he is a citizen of the United States.

Treaties between the United States and foreign countries take priority over state law and, hence, nationals of countries having

reciprocal trade treaties with the United States are not subject to the above prohibition set forth in R.S. 33:1-25. Re Londa, Bulletin 693, Item 8. However, no such treaty with Portugal presently exists.

Silvia's interest in the licensed business of defendant corporation at the times specified in the charges was a full one-third interest.

Jose Barbas admittedly also originally held a one-third interest in the corporate defendant-licensee. He apparently is fully qualified to hold a license in New Jersey and no reason appears why his interest should not have been fully disclosed.

Satisfactory proof having been presented that, in May 1949, Rodrigues purchased the entire interest of Barbas and that, on February 6, 1950, Rodrigues purchased all the interest of Silvia except a ten per cent interest which Silvia may, under the law, retain, I find that the illegal situation has been corrected.

Defendant has no prior adjudicated record. No aggravating circumstances appearing, I shall suspend the license for forty-five days, the minimum suspension in front cases when one or more of the undisclosed interest is disqualified from holding a license by reason of non-citizenship. Re Prupis, Bulletin 794, Item 13.

Accordingly, it is, on this 14th day of March, 1950,

ORDERED that Plenary Retail Consumption License C-705, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Farmer's Bar & Grill, 50-52 Cornelia Street, Newark, be and the same is hereby suspended for a period of forty-five (45) days, commencing at 2:00 a.m. March 20, 1950, and terminating at 2:00 a.m. May 4, 1950.

ERWIN B. HOCK
Director.

6. APPELLATE DECISIONS - SMITH v. NEWARK.

LOUIS AND MARGARET SMITH,)
Appellants,)
-vs-)
MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY OF)
NEWARK,)
Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

Sidney Simandl, Esq., Attorney for Appellants.
Charles Handler, Esq., by George B. Astley, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the imposition of a fifteen-day suspension of appellants' plenary retail consumption license after respondent had found them guilty of a charge alleging service of alcoholic beverages to a minor and also permitting the consumption thereof by said minor, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20. Upon the filing of the appeal, the suspension was ordered stayed until the outcome of these proceedings. R.S. 33:1-31.

The stenographic transcript of the testimony taken before the local issuing authority was admitted as part of the record of the present case. Rule 8 of State Regulations No. 15. Additional testimony was also presented at the hearing herein.

This matter was brought to the attention of the local Board by the local police officers because of an incident that happened some time after the minor girl had visited several licensed premises on the evening of August 24 and the early morning of August 25, 1949.

The minor testified that she was born on April 27, 1930. A certified copy of her birth certificate was properly received in evidence. R.S. 2:98-14. The minor testified that she visited appellants' licensed premises in the company of an adult male companion at about 12:30 a.m. on August 25, 1949; that they remained there for approximately an hour; that during their stay she drank "about two" rye highballs and ate a shrimp cocktail; that previous to their arrival at appellants' licensed premises she and her escort had visited two other licensed premises and that she had "about two" rye highballs in each place. The girl further testified that the day following her visit to appellants' tavern she was brought to the establishment but did not recognize it as the place which she had visited at the time in question. About a week later, according to the testimony of the witness, she was again brought to the appellants' tavern and at that time identified the place and Louis Smith, one of the licensees, as the person who had served her the drinks and the shrimp cocktail. In explanation of her failure to properly identify the appellants' place when brought there by police officers on August 26, 1949, she testified: "I mean, in my first statement, the first statement I made, I made a mistake. I could identify the three places from the inside; but I thought the name of the first place was Smith's. So when they took me to Smith's, which I had been in actually, it was the third place we had been in. I thought I had identified the places in the order of their occurrence that evening. I don't know why I thought that, but I assumed that. And I said, 'This is not the place.' I meant the first place we were in, which I was calling by the name of Smith's. But the first name, of the first place, was Lowe's, which does not have the shuffleboard. It had booths."

The young man in whose company the minor girl had been on the evening of August 24, 1949 and the morning of August 25, 1949, testified that he and his girl companion arrived at appellants' tavern at approximately 1:45 a.m. on the morning of August 25; that they stood in the doorway of the side entrance to the tavern; that the place was crowded at the time; that he obtained a pack of cigarettes; that his girl companion suggested, because of the crowd of people in the tavern, that they leave; and that they did not purchase anything to eat or drink at appellants' premises.

Detectives James T. Stapleton and Fred Anderson and Policewoman Catherine Brown corroborated the testimony of the minor girl, in so far as the minor's visit on the evening of August 26, 1949 to appellants' licensed premises is concerned and the girl's remark to the effect that she had not been in appellants' tavern. Detective Stapleton testified that Detective Anderson, three ABC agents and the girl were again at appellants' place of business on September 14, 1949, at which time the minor identified appellants' tavern as the place which she had visited on the morning of August 25th, and also identified Louis Smith, one of the licensees, as the person who had served the alcoholic beverages and shrimp cocktail to her. Detective Stapleton's testimony was corroborated, with reference to this latter visit to appellants' licensed premises, by Detective Anderson and the three ABC agents.

Louis Smith, one of the licensees and the person who was identified by the girl as the one who had made the service of alcoholic beverages and shrimp cocktail on the morning of August 25, 1949, testified that he did not see the girl or her male companion, whom he had previously known, at the licensed premises at the time in question. A number of patrons who had participated in a party that had been in progress during the evening and morning of August 24th and 25th, respectively, testified that they did not observe the girl on the licensed premises at any time. One patron, however, testified that he saw the girl's escort obtain a package of cigarettes from the machine.

Detective Sergeant Earl Morgan of the Irvington Police Department testified that he interviewed the minor girl on the morning of August 25th, and that she had told him at that time that she had left her house with her male escort at about 9:00 p.m. the previous evening and drove to appellants' tavern; that she had a few drinks there and left the place at about 11:00 p.m. After leaving appellants' tavern, according to the testimony of Detective Morgan, the girl stated that they drove to two other taverns and finally to a diner.

The testimony of the minor is replete with inconsistencies and admitted contradictions. No other testimony was presented to corroborate the fact that the girl had been served alcoholic beverages in appellants' licensed premises at the time in question. The girl's failure to properly identify appellants' premises on her visit there on the evening of August 26, 1949, together with the variation in her statement to Detective Morgan and her testimony before the respondent Board, further detracts from the reliability of her testimony. Although there is no reason to believe that she deliberately falsified her testimony, it may well be that she confused the appellants' tavern with several others that she had visited that evening. I am not impressed at all by the testimony of the girl's male escort. However, even if his testimony is disregarded, the sole testimony as to appellants' guilt is the unsatisfactory and uncorroborated testimony of the girl. The testimony of Louis Smith, one of the licensees, that he did not serve the girl or her companion at any time during the evening of August 24 and the morning of August 25, 1949 is supported by the testimony of various patrons who were in the tavern at the time in question.

While the local Board is to be commended for the institution and prosecution of these proceedings, the testimony of the minor at the hearing below was confused with respect to the alleged events on the dates charged. The testimony of the minor given at the appeal hearing tended to weaken further her testimony given before the Board. After reviewing the entire record, I conclude that the evidence is insufficient to sustain the determination of the respondent Board. I therefore have no alternative other than to reverse its action. Cf. Sarzynski v. Passaic, Bulletin 864, Item 9.

Accordingly, it is, on this 16th day of March, 1950,

ORDERED that respondent's action in finding the appellants guilty of the aforesaid charge and suspending their license for a period of fifteen days, which suspension was stayed during the pendency of these proceedings, be and the same is hereby reversed.

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)

OTTO WADLE)
102 - 36th Street)
Union City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-155, issued by the Board of Commissioners of the City of Union City.)

Otto Wadle, Defendant-licensee, Pro Se.
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 on his licensed premises 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 27, 1950, an inspector employed by the Division of Alcoholic Beverage Control examined twenty-four opened bottles of alcoholic beverages on defendant's premises and seized one 4/5 quart bottle of Canadian Club Blended Canadian Whisky when his field tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by the Division chemist disclosed that the contents of the seized bottle varied substantially in solids and color from the contents of genuine bottles of the same product.

Defendant and his bartender denied tampering with the contents of the seized bottle. Nevertheless, the licensee is strictly responsible for any "refills" found in his stock of liquor.

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. See Bulletin 866, Item 7.

Accordingly, it is, on this 16th day of March, 1950,

ORDERED that Plenary Retail Consumption License C-155, issued by the Board of Commissioners of the City of Union City to Otto Wadle, for premises 102 - 36th Street, Union City, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. March 27, 1950, and terminating at 3:00 a.m. April 6, 1950.

ERWIN B. HOCK
Director.

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

In the Matter of Disciplinary Proceedings against)

HARRY NAFTALIS)
1103 Broad Street)
Newark 5, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-49, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Newark.)

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Harry Naftalis, Defendant-licensee, Pro Se.
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 illicit alcoholic beverages, namely, one 4/5 quart bottle labeled "Seagram's Seven Crown Blended Whiskey" and one 4/5 quart bottle labeled "Seagram's V. O. Canadian Whisky", which bottles bore labels which did not truly describe their contents, in violation of Rule 28 of State Regulations No. 20.

On January 31, 1950, an inspector employed by the Alcohol Tax Unit, Internal Revenue Service, Treasury Department, examined 63 bottles of alcoholic beverages on defendant's premises and seized the two bottles in question 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 bottles were not genuine as labeled.

Defendant has no previous adjudicated record. I shall 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 Smith, Bulletin 827, Item 3.

Accordingly, it is, on this 17th day of March, 1950,

ORDERED that Plenary Retail Consumption License C-49, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Harry Naftalis, for premises 1103 Broad Street, Newark, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. March 27, 1950, and terminating at 2:00 a.m. April 6, 1950.

ERWIN B. HOCK
Director.

9. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 JAMES LEFFLER and STEVEN MRVICHIN
 14 Belmont Avenue
 Newark 3, N. J.,
 Holder of Plenary Retail Consumption License C-439, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS AND ORDER

 Myron P. Maurer, Esq., Attorney for Defendant-licensees.
 William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to charges alleging that they possessed on their licensed premises alcoholic beverages in bottles bearing labels which did not truly describe the contents thereof, in violation of Rule 28 of State Regulations No. 20.

On December 29, 1949, an agent of the Federal Treasury Department, Internal Revenue Service, seized on defendants' licensed premises four 4/5 quart bottles containing alcoholic beverages, labeled as follows: "Four Roses Fine Blended Whiskey", "Hunter 'First Over The Bars' Fine Blended Whiskey", "Blended Scotch Whisky of the White Horse Cellar", and "Haig & Haig Five Star Liqueur Blended Scots Whisky", when his field tests indicated a variance between the labels on the bottles and the contents thereof. An analysis by a Federal chemist established that each of said bottles contained an alcoholic beverage, in fact, diluted and not truly described on its label. See Rule 28 of State Regulations No. 20.

Defendants' attorney offers, in an attempt to mitigate the penalty to be imposed herein, that the defendants were victims of circumstances beyond their control. Licensees are responsible for any "refills" found in their stock of liquor.

Defendants have a previous record. Their license was suspended for ten days, effective April 7, 1947, by the local issuing authority after a conviction of selling alcoholic beverages to minors. The usual suspension imposed for four-bottle illicit liquor cases is twenty days. Re Sweet, Bulletin 799, Item 7. Considering the prior record, I shall suspend the license for twenty-five days and remit five days for the plea. This will leave a net suspension of twenty days.

Accordingly, it is, on this 17th day of March, 1950,

ORDERED that Plenary Retail Consumption License C-439, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to James Leffler and Steven Mrvichin, for premises 14 Belmont Avenue, Newark, be and the same is hereby suspended for a period of twenty days, commencing at 2:00 a.m. March 29, 1950, and terminating at 2:00 a.m. April 17, 1950.

ERWIN B. HOCK
Director.

10. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

THEATRE TAVERN, INC.)
308-312 Main Street)
Hackensack, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-20, issued by the City Council of the City of Hackensack.)

Defendant-licensee, by A. Guffanti, President.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it possessed on its licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 28 of State Regulations No. 20.

On January 4, 1950, an ABC agent tested 190 opened bottles of alcoholic beverages on defendant's premises and seized two 4/5 quart bottles of "Canadian Club Blended Canadian Whisky" when his field tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by the Division chemist disclosed that the contents of the seized bottles varied substantially in solids and color from the contents of an unopened bottle of the same product which was taken for comparative purposes.

The President of defendant corporation, and the bartender who was then on duty, denied tampering with the contents of the seized bottles. Nevertheless, a licensee is strictly responsible for any "refills" found in its stock of liquor.

Defendant has a prior adjudicated record. On December 9, 1942, its license was suspended by the local issuing authority for a period of five days for selling alcoholic beverages to minors, and on October 23, 1944, its license was again suspended by the local issuing authority for five days for selling alcoholic beverages to minors. However, because of the length of time which has elapsed since the prior dissimilar violation, I shall not consider the prior record in fixing a period of suspension herein. I shall suspend defendant's license for the minimum period of fifteen days, less five days' remission for the plea, leaving a net suspension of ten days. Cf. Bulletin 860, Item 7.

Accordingly, it is, on this 20th day of March, 1950,

ORDERED that Plenary Retail Consumption License C-20, issued by the City Council of the City of Hackensack to Theatre Tavern, Inc., for premises 308-312 Main Street, Hackensack, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. March 27, 1950, and terminating at 3:00 a.m. April 6, 1950.

ERWIN B. HOCK
Director.

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

In the Matter of Disciplinary Proceedings against.

FAIRLAWN INN (a corp.)
Lincoln Highway near Clyde Lane
Franklin Township (Somerset County)
P.O. R.F.D. 3, New Brunswick, N.J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Franklin, Somerset County.

Defendant-licensee, by Paul Pavlis, Treasurer.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it possessed on its licensed premises 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 February 27, 1950, an ABC agent examined 67 bottles of alcoholic beverages on defendant's licensed premises and seized a 4/5 quart bottle labeled "Fine Arts A Blend of Straight Whiskies" when his field tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by a Division chemist disclosed that the contents of the seized bottle varied substantially in proof, solids, acid and color from the contents of a genuine bottle of the same product.

Defendant has no prior adjudicated record. Under the circumstances I shall 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. See Bulletin 857, Item 7.

Accordingly, it is, on this 22nd day of March, 1950,

ORDERED that Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Franklin, Somerset County, to Fairlawn Inn (a corp.), for premises on Lincoln Highway near Clyde Lane, Franklin Township, Somerset County, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. March 27, 1950, and terminating at 2:00 a.m. April 6, 1950.

ERWIN B. HOCK
Director.

12. STATE LICENSES - NEW APPLICATIONS FILED.

Chester Helman

T/a Pine Belt Beverage Co.

N/S Georgia Tavern Rd., approx. 1/4 mile easterly from
intersection of Georgia Tavern Rd. & Route 9 L. 4

Howell Township, R.D. 1, Box 212

Farmingdale, N. J.

Application for State Beverage Distributor's License filed
March 10, 1950.

Yorke Express, Inc.

778 Jaques Ave.

Rahway, N. J.

Application filed March 15, 1950 for transfer of Transportation
License T-73 from Frederick Yorke, t/a Yorke Express, 64 Main St.,
Rahway, N. J.

Henry and Albert W. Casperaites

T/a Casper's South Jersey Express

806 Arctic Ave.

Atlantic City, N. J.

Application for Transportation License filed March 20, 1950.

Canada Dry Bottling Co. of Atlantic City

109-111 N. South Carolina Ave. & Rear 113-115 N. South Carolina Ave.

Atlantic City, N. J.

Application filed March 20, 1950 for transfer of Limited Wholesale
License WL-31 from Monmouth Distributors Inc., 12-14 Norwood
Avenue, Long Branch, N. J.

William M. Bevan

730 Water Street

Pottsville, Pa.

Application for Transportation License filed March 21, 1950.

Erwin J. Hoek

Director.