

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

BULLETIN 807

JUNE 22, 1948.

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - NICHOLS v. SPRINGFIELD TOWNSHIP (BURLINGTON COUNTY) AND SPENCER.
2. APPELLATE DECISIONS - SALMANOWITZ v. HIGHTSTOWN.
3. SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC AND OTHER BEVERAGES, FURNISHINGS AND EQUIPMENT IN RESTAURANT SPEAKEASY ORDERED FORFEITED - SPEAKEASY OPERATOR'S APPLICATION FOR RETURN OF PIANO DENIED - MUSIC MACHINE RETURNED TO OWNER WHO ESTABLISHED ITS GOOD FAITH AND ABSENCE OF KNOWLEDGE OF CHARACTER OF ESTABLISHMENT.
4. SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC AND OTHER BEVERAGES, FIXTURES AND FURNISHINGS IN SPEAKEASY IN CLUB ORDERED FORFEITED.
5. ACTIVITY REPORT FOR MAY, 1948.
6. DISQUALIFICATION - PREVIOUS PETITION DENIED - APPLICATION HEREIN GRANTED.
7. AUTOMATIC SUSPENSION (Lodi) - SELLING ALCOHOLIC BEVERAGES TO MINORS - LICENSE PREVIOUSLY SUSPENDED FOR 15 DAYS - APPLICATION TO LIFT GRANTED.
8. STATE REGULATIONS NO. 39 - CREDIT \* AMENDED AND REVISED RULES PROMULGATED.
9. STATE LICENSES - NEW APPLICATIONS FILED.

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

BULLETIN 807

JUNE 22, 1948.

1. APPELLATE DECISIONS - NICHOLS v. SPRINGFIELD TOWNSHIP (BURLINGTON COUNTY) AND SPENCER.

OTTO B. NICHOLS,

Appellant,

-vs-

TOWNSHIP COMMITTEE OF THE TOWNSHIP  
OF SPRINGFIELD (BURLINGTON COUNTY)  
and RUTH SPENCER,

Respondents

ON APPEAL  
CONCLUSIONS AND ORDER

Sidney W. Bookbinder, Esq., Attorney for Appellant.  
Powell & Parker, Esqs., by Robert W. Criscuolo, Esq., Attorneys for  
Respondent Township Committee.  
Wilbur S. Lippincott, Esq., Attorney for Respondent Ruth Spencer.

BY THE COMMISSIONER:

This is an appeal from the action of respondent Township Committee whereby it denied an application for a plenary retail distribution license filed by appellant herein and granted an application for a similar type of license filed by respondent Ruth Spencer.

No question has been raised herein as to the personal qualification of either of the applicants. Both applications were considered at a meeting of the Township Committee held on March 17, 1948. At that meeting the Township Committee voted to deny the application filed by appellant Otto B. Nichols for the stated reasons that:

- "(a) Premises are unsuitable for license;
- (b) Location not suitable;
- (c) Location of building hard to drive to or to get to;
- (d) Building not completed."

Immediately thereafter the Township Committee voted to grant the application filed by respondent Ruth Spencer. The Township Committee did not have the power to grant both applications because the population of the township, according to the 1940 Federal census, was 1,299 and, hence, only one plenary retail distribution license may be in existence in the township at the present time. P.L. 1947, c. 94.

At the hearing herein the evidence disclosed that both of the premises in question are located in close proximity to each other but on opposite sides of Highway Route 39 near Chambers Corner in the Township of Springfield. On March 17, 1948, the building owned by appellant was still in the course of construction. It appears that this building was then about 75% completed and the portion thereof to be used as licensed premises was then from 85% to 95% completed. This building is situated on a large plot of land the level of which is about ten feet above the level of Highway 39, so that it is necessary to use a long inclined driveway to reach the building. Referring to the Nichols premises, Committeeman Burr testified that "you have to go out in a field and this building is up on a hill. The last time I went by there it was a quagmire." On the other hand, the Spencer premises are located in a completed building erected on the same level as, and close to, the Highway, with sufficient space in front of the building for parking purposes. Under the circumstances the action of respondent Township Committee does not appear to be unreasonable. Cf. Giberti v. Franklin, Bulletin 150, Item 3.

Appellant alleges also that the Spencer notice of intention was improperly advertised. The notice was properly published in the Burlington Home-News, a newspaper published and circulated in Burlington County. Since no newspaper is published in Springfield Township, the advertisement complied with the provisions of R. S. 33:1-25.

Appellant attempted to prove that the father of Ruth Spencer has an interest in her license. Admittedly he owns the building and occasionally works in her licensed premises. However, the evidence produced is insufficient to overcome the sworn testimony of the licensee that no other person has an interest in her license.

For the reasons aforesaid, I shall affirm the action of respondent Township Committee.

Accordingly, it is, on this 2nd day of June, 1948,

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

ERWIN B. HOCK  
Commissioner.

2. APPELLATE DECISIONS - SALMANOWITZ v. HIGHTSTOWN.

BENJAMIN SALMANOWITZ, trading )  
as CENTRAL HOTEL, )  
Appellant, )  
-vs- )  
COMMON COUNCIL OF THE BOROUGH )  
OF HIGHTSTOWN, )  
Respondent )  
----- )

ON APPEAL  
CONCLUSIONS AND ORDER

Jacob S. Glickenhous, Esq., Attorney for Appellant.  
Robert E. Dietz, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from the respondent's refusal to renew appellant's plenary retail consumption license for premises 122 Railroad Avenue, Borough of Hightstown, for the current licensing year.

The appellant is presently operating under my order extending the term of his prior license.

The building containing the tavern is also conducted by the appellant as a hotel, general merchandise store, and a restaurant. The tavern has been licensed ever since Repeal and, although disciplinary proceedings have been twice instituted against his license, both eventuated in dismissal of the charges. See Bulletin 638, Item 6, and Bulletin 744, Item 12. Thus, the appellant's record as a licensee is clear for more than fourteen years last past.

The appellant's difficulties commenced during the war years when thousands of migratory workers were imported into the surrounding farming area for the purpose of harvesting the potato crops. Many of these migrants were classified by the respondent's witnesses as "undesirables", some with records of criminal convictions and being generally of a disorderly disposition.

The premises in question are in or near a colored section of the municipality. During the harvesting season (from July to October of each year) these migrant workers come into town on Friday and Saturday nights and a great many of them flock to the vicinity of the appellant's premises. The testimony shows that they are attracted to this area because of the availability of general supplies at the appellant's store, and because there is no restriction against parking in the vicinity. As a result, the workers park their cars there or are deposited there by their employers who drive them into town. The testimony further establishes that, directly across from the appellant's building, there is a long railroad platform where the workers congregate and seek relief from the heat of the summer evenings.

Respondent complains of alleged disorderly conditions which have existed inside and also on the outside of the appellant's premises. During the years 1944, 1945 and 1946, many complaints of disturbances on the inside of the premises came to the attention of the local police, and in each instance the offender was arrested, found guilty and either fined or jailed. In every single instance, however, the complaint emanated from the appellant personally or from someone in his employ. Some of the arrests resulted from the appellant's refusal to serve patrons an excessive amount of liquor; others because a patron had started a disturbance or had been refused service because they had previously caused trouble at the tavern. In no single instance, however, is there any evidence to indicate that the appellant acted other than as a reasonable and prudent licensee, or that he was in any wise responsible for any of the disturbances. On the contrary, it affirmatively appears that the appellant's difficulties are largely due to his efforts to so conduct his premises as to prevent or minimize the patronage of these "undesirables".

The large concentration of these migratory workers on weekend evenings on the sidewalk and street in the immediate area, as already indicated, is due in large measure to the parking facilities and the presence of the railroad platform across the street from the appellant's building. There is no evidence that these crowds are so unruly that they cannot be controlled by the local police. The major complaint appears to be that their loitering in the street causes an obstruction to traffic. This is a local enforcement problem with which the local authorities should have sufficient power to cope.

While it lies within the sound discretion of an issuing authority to determine, in the first instance, whether an applicant is worthy of a renewal of his license privileges, such exercise of discretion must be based on valid and substantial grounds. Where, as here, a license has been renewed from year to year, with no adjudicated record of any offenses during the current licensing year, common fairness dictates that the investment of a licensee in his business should not be jeopardized except on grounds which are attributable to some malfeasance or misconduct on his part. Cf. Re Vasto v. Atlantic Highlands, Bulletin 622, Item 4; Re Weber v. Lakewood, Bulletin 657, Item 3.

The evidence which seeks to fasten responsibility for the unsatisfactory conditions, created by the migratory workers, on the appellant is far from conclusive. As was said in Weber v. Lakewood, supra:

"While it is true that the determination of whether a liquor license should be renewed rests within the discretion of the issuing authority, nevertheless the exercise of such discretion must be based on reasonable and valid grounds. In this case, the deplorable situation that exists in the area in question presents a police problem that warrants drastic action on the part of respondent. It may not, however, attempt to remedy the situation by saddling the responsibility on the appellant without offering adequate affirmative proof that the conduct of his premises contributes to the

conditions requiring correction. On the record presented, I have no alternative other than to reverse the refusal to renew appellant's license."

The same determination must follow herein.

In conclusion I may point out that there is evidence that there has been some amelioration of the conditions on the exterior of the premises since the appellant has installed a large electric light on his building which brightens the immediate area at night. It further appears that the respondent, at the time of the hearings herein, was in process of adopting an ordinance restricting parking in the vicinity. This should go a long way toward solving the problem. There are undoubtedly other police measures which may be taken by the respondent, short of refusal to renew the license, that will serve the public interest in connection with the conditions complained of.

Accordingly, it is, on this 4th day of June, 1948,

ORDERED that the action of the respondent be and the same is hereby reversed, and the respondent is directed to issue to the appellant a renewal of his license for the current licensing year for which he has applied.

ERWIN B. HOCK  
Commissioner.

3. SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC AND OTHER BEVERAGES, FURNISHINGS AND EQUIPMENT IN RESTAURANT SPEAKEASY ORDERED FORFEITED - SPEAKEASY OPERATOR'S APPLICATION FOR RETURN OF PIANO DENIED - MUSIC MACHINE RETURNED TO OWNER WHO ESTABLISHED ITS GOOD FAITH AND ABSENCE OF KNOWLEDGE OF CHARACTER OF ESTABLISHMENT.

In the Matter of the Seizure )  
on April 13, 1948, of a quantity )  
of alcoholic beverages, soda, and )  
various articles of furniture and )  
fixtures and a music box, at )  
premises occupied by Charles E. )  
Smith, located on Ivy Place, )  
Potters Section, Township of )  
Raritan, County of Middlesex and )  
State of New Jersey. )

Case No. 7248

ON HEARING  
CONCLUSIONS AND ORDER

----- )  
Royal Music Company, by Edward A. Burg, Manager.  
Charles E. Smith, Pro Se.  
Harry Castelbaum, Esq., appearing for the State Department of  
Alcoholic Beverage Control.

BY THE COMMISSIONER:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes, to determine whether a quantity of alcoholic and other beverages, and various articles of furniture, fixtures, and a music box, itemized in a schedule attached hereto, seized on April 13, 1948 in a one-story building occupied by Charles E. Smith, located on Ivy Place, Potters Section, Raritan Township, Middlesex County, N. J., constitute unlawful property and should be forfeited.

It appears that the State Department of Alcoholic Beverage Control received a complaint that Smith was carrying on speakeasy activities at his small restaurant at the above address. Accordingly, an ABC agent went to the place and purchased drinks of alcoholic beverages on April 9th and April 10th, from Charles Smith.

Charles Smith did not hold a license authorizing him to sell or serve alcoholic beverages, and the premises were not licensed for the sale of alcoholic beverages.

Upon the basis of the aforesaid unlawful sales of alcoholic beverages, the ABC agent obtained a search warrant for the premises, which was executed on April 13th, in the following manner: The first agent entered the store and purchased a drink of corn liquor from Lillian Smith, wife of Charles Smith. While holding the drink, another ABC agent and local police officers entered, and disclosed their identity.

The agents seized a jar of illicit alcohol which they found in the cellar of the place, and retained the drink of liquor which the agent had in his possession. They also seized a quantity of soda, and other merchandise, a music box, and other furniture, fixtures and equipment in the place.

Mr. Smith was arrested and gave the police a signed statement, in which he declared that he was responsible for the unlawful sale of alcoholic beverages in his establishment, and that he had engaged in such activities for about two weeks.

The facts presented clearly establish that any alcoholic beverages in the place were intended for unlawful sale and hence are illicit. R. S. 33:1-1(i). The fact that, by accident or design, there was only a small amount of illicit alcoholic beverages there does not minimize the offense. Such illicit alcoholic beverages, together with the other personal property seized therewith in the restaurant, constitute unlawful property, subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66. See also Seizure Case No. 7044, Bulletin 760, Item 8.

When the matter came on for hearing pursuant to R.S. 33:1-66, Royal Music Company entered an appearance and sought return of the music machine, and Charles Smith appeared and sought return of a piano, one of the articles seized.

At such hearing, Charles Smith frankly admitted that he had sold alcoholic beverages unlawfully, but expressed a desire to recover the piano for his wife. I am authorized to return property subject to forfeiture where it is established to my satisfaction that the owner acted in good faith and unknowingly violated the Law. R.S. 33:1-66(e). Whether or not I could grant Smith's request if the piano was used solely in their household, for personal enjoyment, need not be decided, since it appears that the piano was part and parcel of the attractions offered to patrons of Smith's restaurant. Under such circumstances, the piano will not be returned either to Smith or his wife. Cf. Seizure Case No. 6898, Bulletin 687, Item 1; Seizure Case No. 7088, Bulletin 760, Item 7.

The evidence presented on behalf of the music company is that it placed the machine in Smith's restaurant in January 1946, and that it did not know or have any reason to suspect that Smith was carrying on speakeasy activities there. It does not appear that Smith had a reputation as a liquor law violator or was ever arrested or convicted for an offense of that nature.

Smith's establishment was in fact a restaurant, and nothing has been developed to indicate that the music company should have suspected that he was carrying on speakeasy activities there. Hence, the music machine will be returned to claimant. See Seizure Case 7088, supra.

Accordingly, it is DETERMINED and ORDERED that if, on or before the 20th day of June, 1948, Royal Music Company pays the costs of seizure and storage of the music machine seized in the case, it will be returned to such company; and it is further

DETERMINED and ORDERED that the balance of the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property, and that the same be and hereby is forfeited in accordance with 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 State Commissioner of Alcoholic Beverage Control.

Dated: June 9, 1948.

ERWIN B. HOCK  
Commissioner.

SCHEDULE "A"

- 1 - bottle containing corn liquor
- 1 - qt. jar 1/2 full of alcohol and water
- 144 - bottles of soda
- 1 - Wurlitzer Music Box, Serial No. 701042, Model 600A (and currency therein)
- 1 - Upright piano
- 1 - National Cash Register
- 1 - glass showcase
- 1 - weighing scale
- 5 - lbs. of candy
- 3 - cartons of cigarettes

4. SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC AND OTHER BEVERAGES, FIXTURES AND FURNISHINGS IN SPEAKEASY IN CLUB ORDERED FORFEITED.

In the Matter of the Seizure on May 28, 1947, of a quantity of home made wine and other alcoholic beverages, soda, fixtures, furnish- ings and equipment at 136 South Day Street, in the City of Orange, County of Essex and State of New Jersey.	)	Case No. 7139
	)	
	)	ON HEARING
	)	CONCLUSIONS AND ORDER.
	)	

-----  
Joseph E. Magrino, Esq., Attorney for the Italian-American Citizens League, Inc.  
Harry Castelbaum, Esq., appearing for the State Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes, to determine whether a quantity of home made wine and other alcoholic beverages, soda, fixtures, furnishings and equipment described in a schedule attached hereto, seized on May 28, 1947, at 136 South Day Street, Orange, N. J., constitutes unlawful property and should be forfeited.

On May 27, 1947 an ABC agent entered the club quarters of the Italian American Citizens League at the above address to check suspected illegal liquor activities there. The club did not hold any license authorizing it to sell or serve alcoholic beverages and the premises were not licensed for the sale of alcoholic beverages.

Nazzareno Di Stefano was in charge of the premises, which consisted of a meeting room; a room with a bar, back bar, Pepsi Cola cooler, beer, soda, gallon jugs of wine, cigars, cigarettes, and two receptacles for cash; a card room; and a kitchen.

When the agent asked Di Stefano for a bottle of beer, Di Stefano told him that he could only sell to members of the club. Nevertheless, after some further conversation, Di Stefano volunteered to, and did sell the agent a bottle of beer. The agent left without disclosing his identity.

On May 28th the agent returned. Di Stefano, and four or five men, were seated at a table in the meeting room. One of the men was drinking a bottle of beer. Di Stefano refused to sell the agent any beer, reminding him that he had told him the previous day that he only sold to members. The agent then left, but returned shortly thereafter with another ABC agent and a local police officer. The officers disclosed their identity and obtained a written statement from Di Stefano concerning the sale of alcoholic beverages at the place.

According to this statement, Di Stefano, a member of the organization, was employed to tend bar and clean the place; sold beer, wine, whiskey and soda to club members only; turned over the receipts of such sales to the president of the club, which paid Di Stefano \$20.00 a week. Di Stefano further declared that the man drinking the bottle of beer had purchased it from him.

On the basis of these facts, the ABC agents concluded that whatever alcoholic beverages were in the place were intended for unlawful sale and therefore seized 83 bottles of beer, 2 bottles of whiskey, a 5-gallon jug of wine and 4 - 1-gallon jugs of wine which were in the barroom, and 3 barrels of home made wine and a wine press which were in a bin in the cellar. They also seized the cash receipts, stock of merchandise, bar, furniture, fixtures, and equipment in the place.

According to the ABC agents, the president of the organization, when questioned shortly after the seizure, told them that Di Stefano was employed as caretaker and to serve members with food and drink; that the organization bought 5 or 6 cases of beer a week and that some wine and whiskey was supplied by the members; that the organization made its own wine until about four years ago when ABC agents made a raid at the premises and arrested Charles Rinaldi, who was then the caretaker and is still a member of the club. The president claimed that the organization supplied the members with alcoholic beverages without payment although they paid for the soda, cigars and other items served to them by Di Stefano.

When the matter came on for hearing pursuant to R. S. 33:1-66, counsel entered an appearance for the organization, which seeks return of its equipment and furnishings.

Di Stefano testified at such hearing that he told the ABC agents that he sold alcoholic beverages to club members only and claimed that he gave the ABC agent a bottle of beer but that the agent left twenty cents in payment on the bar.

The president of the club testified that Di Stefano was employed to serve the members with items which could be sold, and to serve alcoholic beverages which could not be sold but which were to be provided by the club without charge; and that the caretaker had overstepped his authority.

It is urged that the reputable and eminent members of the community which comprise the membership of the club would not authorize or tolerate the illegal sale of alcoholic beverages there and, hence, that the caretaker overstepped his authority. However, it is significant that this organization made a similar claim that it purchased alcoholic beverages for free distribution to its members at the hearing following the raid and the seizure at the premises in 1940. This claim was contrary to the evidence and rejected. The pattern in the instant case is the same. Moreover, it is doubtful whether the finances of the organization, as given by the president, were sufficient to permit it to supply its members with alcoholic beverages

without cost. I am satisfied that the organization engaged in the unlawful sale of alcoholic beverages.

It may be that an organization, although otherwise of high character, may feel that it is compelled to have alcoholic beverages available for sale to its members as an added incentive to attendance even though it holds no license. However, no matter how praiseworthy its intention, no club or similar organization can resort to the sale of alcoholic beverages without a license, even if limited to members only. Cf. Seizure Case No. 7131, Bulletin 800, Item 2.

I am satisfied from the evidence that the alcoholic beverages seized in this case were intended for unlawful sale and are therefore illicit. R. S. 33:1-1(i). Such illicit alcoholic beverages and the other personal property seized therewith on the premises are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2 and R. S. 33:1-66.

In view of the past record of the organization, it obviously cannot claim that it acted in good faith or unknowingly violated the law, which is the only ground upon which I am authorized to return property subject to forfeiture. R. S. 33:1-66(e). Forfeiture must therefore follow as a matter of course.

Accordingly, it is DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto, 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 State Commissioner of Alcoholic Beverage Control.

ERWIN B. HOCK  
Commissioner.

Dated: June 9, 1948.

SCHEDULE "A"

- 1 - 30-gallon barrel of wine
- 2 - 50-gallon barrels of wine
- 4 - 1-gallon jugs of wine
- 1 - 5-gallon jug of wine
- 1 - bottle of vermouth
- 1 - bottle of whiskey
- 1 - bottle of wine
- 83 - bottles of beer
- 1 - Pepsi Cola Cooler, General Electric
- 1 - wooden bar
- 1 - beer cooler
- 1 - peanut vending machine and currency therein
- 569 - bottles of soda
- 168 - empty beer bottles
- 39 - beer, wine and whiskey glasses
- 1 - Philco Radio
- 1 - carton with cigars, playing cards and cigarettes
- 1 - wine press
- 1 - wine press gate and parts
- \$8.40 in currency
- 1 - piece of rubber hose

June 4, 1948

5. ACTIVITY REPORT FOR MAY 1948

ARRESTS:

Total number of persons arrested	-----	-----	17
Licensees and employees	-----	5	
Bootleggers	-----	12	

SEIZURES:

Motor Vehicles - cars	-----	-----	1
Stillis - 50 gallons or under	-----	-----	2
Wash - gallons	-----	-----	106.00
Distilled alcoholic beverages - gallons	-----	-----	3.40
Wine - gallons	-----	-----	357.40
Brewed malt alcoholic beverages - gallons	-----	-----	32.93

RETAIL LICENSEES:

Premises inspected	-----	-----	847		
Premises where alcoholic beverages were gauged	-----	-----	683		
Bottles gauged	-----	-----	11,421		
Premises where violations were found	-----	-----	48		
Violations found	-----	-----	68		
Type of violations found:					
Unqualified employees	-----	27	Improper beer taps	-----	3
Other mercantile business	-----	9	Regulations #38 sign not posted	-----	1
Gambling devices	-----	6	Disposal permit required	-----	1
Probable fronts	-----	5	Price pamphlet not displayed	-----	1
Prohibited signs	-----	5	Other violations	-----	10

STATE LICENSEES:

Premises inspected	-----	-----	9
License applications investigated	-----	-----	245

COMPLAINTS:

Complaints assigned for investigation	-----	-----	403
Investigations completed	-----	-----	386
Investigations pending	-----	-----	215

LABORATORY:

Analyses made	-----	-----	120
"Shake-up" cases (alcohol, water and artificial color) - bottles	-----	-----	10
Liquor found to be not genuine as labeled - bottles	-----	-----	9

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made	-----	-----	15
Persons fingerprinted for non-criminal purposes	-----	-----	205
Identification contacts made with other enforcement agencies	-----	-----	220
Motor vehicle identifications via N. J. State Police Teletype	-----	-----	14

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	-----	-----	25		
Violations involved:					
Sale during prohibited hours	-----	13	Permitting brawls on premises	-----	2
Sale to minors	-----	6	Sale to non-members by clubs	-----	2
Permitting females to tend bar	-----	2	Permitting bookmaking on premises	-----	1
Cases instituted at Department					
Violations involved:					
Sale to minors	-----	7	Possessing contraceptives on	-----	1
Sale to intoxicated persons	-----	4	premises	-----	1
Permitting immoral activity on premises	-----	3	Licensee working while drunk	-----	1
Conducting business as a nuisance	-----	3	Sale to non-members by clubs	-----	1
Furthering illegal activity	-----	2	Unqualified employees	-----	1
Possessing illicit liquor	-----	2	Fraud end front	-----	1
Cases brought by municipalities on own initiative and reported to Department					
Violations involved:					
Sale during prohibited hours	-----	3	Sale to minors	-----	1
Permitting brawls on premises	-----	2		-----	

CANCELLATION PROCEEDINGS instituted at Department

Violations involved:	-----	-----	2
Club licensee lacking requisite possession of quarters	-----	-----	1
License issued in violation of State Limitation Law	-----	-----	1

HEARINGS HELD AT DEPARTMENT:

Total number of hearings held	-----	-----	35		
Appeals	-----	5	Seizures	-----	5
Disciplinary proceedings	-----	18	Tax revocation	-----	1
Eligibility	-----	4	Applications for license	-----	2

PERMITS ISSUED:

Total number of permits issued	-----	-----	888		
Social affairs	-----	377	Disposal of alcoholic beverages	-----	114
Solicitors	-----	155	Miscellaneous	-----	101
Employment	-----	141		-----	

6. DISQUALIFICATION - PREVIOUS PETITION DENIED - APPLICATION HEREBIN GRANTED.

In the Matter of an Application )  
to Remove Disqualification )  
because of a Conviction, )  
Pursuant to R. S. 33:1-31.2. )

CONCLUSIONS  
AND ORDER

Case No. 670.  
-----)

BY THE COMMISSIONER:

In a prior proceeding, decided on July 12, 1946, I denied relief to petitioner at that time, but granted permission to him to file a new petition for relief on or after March 4, 1948. Re Case No. 527, Bulletin 719, Item 9. Pursuant to such permission, petitioner filed a new petition on March 30, 1948.

At a hearing afforded petitioner on April 14, 1948, it was disclosed by petitioner's testimony, and corroborated by a separate investigation by this Department, that petitioner while on his mother's licensed premises made a loan of money to a patron and obtained a wrist watch as security therefor. It was my understanding, due to a typographical error in the record, that this transaction took place on January 4th or 5th, 1948, and because of said recent date of the occurrence I concluded that petitioner was not entitled to relief. Re Case No. 670, Bulletin 803, Item 2. My attention has now been directed to the fact that the "watch" incident actually had taken place more than a year prior to the filing of petitioner's new petition, namely, on January 4th or 5th, 1947.

After reconsideration of the matter, I am now satisfied that petitioner has been adequately penalized for his misconduct. Therefore, I shall grant petitioner the relief that he now seeks.

Accordingly, it is, on this 8th day of June, 1948,

ORDERED that petitioner's statutory disqualification because of the crimes of which petitioner was convicted, be and the same is hereby removed in accordance with the provisions of R. S. 33:1-31.2.

ERWIN B. HOCK  
Commissioner.

7. AUTOMATIC SUSPENSION - SELLING ALCOHOLIC BEVERAGES TO MINORS - LICENSE PREVIOUSLY SUSPENDED FOR 15 DAYS - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by )

GROUCHY OSCAR INCORPORATED )  
Block No. 122-A, Route No. 6 )  
Lodi, N. J., )

ON PETITION  
O R D E R

To Lift the Statutory Automatic )  
Suspension of a License, Pursuant )  
to R. S. 33:1-31.1. )

-----  
Louis A. Mounier, Jr., Esq., Attorney for Petitioner.

BY THE COMMISSICNER:

It appears from the petition filed herein that on June 3, 1948, William H. Koth, President of Grouchy Oscar Incorporated, was found guilty in the Criminal Judicial District Court of the County of Bergen on charges of selling alcoholic beverages to minors and was sentenced to pay a fine of \$100.00, which fine has been paid. On June 9, 1948, an agent of the Department of Alcoholic Beverage Control picked up the license held by said corporation, and no business has been conducted under the license since that time.

It appears from the records of the Department of Alcoholic Beverage Control that on November 17, 1947, the Mayor and Council of the Borough of Lodi suspended the license held by said corporation for a period of fifteen days after it had pleaded non vult in disciplinary proceedings to charges alleging that it had sold alcoholic beverages to minors. As a result of said suspension the licensed premises were closed from December 1, 1947 to December 16, 1947.

The indictment in the criminal proceedings and the charges in the disciplinary proceedings were based upon the same facts. The conviction of the president of the corporation in the criminal proceedings has resulted in the automatic suspension of the license held by the corporation for the balance of its term. R.S. 33:1-31.1. The petition herein prays that the automatic suspension of the license may be lifted.

The case concerns the sale of alcoholic beverages to four minors and, under the circumstances, the suspension heretofore imposed by the local issuing authority appears to be adequate. Hence the relief sought herein will be granted.

Accordingly, it is, on this 9th day of June, 1948,

ORDERED that the automatic suspension of License C-23, held by Grouchy Oscar Incorporated for premises on Block No. 122-A, Route No. 6, Lodi, be and the same is hereby lifted, and said license is hereby restored to full force and operation, effective immediately.

ERWIN B. HOCK  
Commissioner.

8. STATE REGULATIONS NO. 39 - CREDIT - AMENDED AND REVISED RULES  
PROMULGATED.

June 18, 1948.

TO ALL NEW JERSEY LICENSEES:

During the period which has elapsed since State Regulations No. 39 (Extension of Credit) were promulgated on March 1, 1945, the Commissioner has watched closely the effect of the operation of the Regulations. Discussions from time to time with the wholesale and retail branches of the industry have disclosed a general agreement that the Regulations have accomplished their primary purpose. Excepting in isolated instances, serious and troublesome problems stemming from the practice of loading up retailers beyond their capacities to pay have been substantially eliminated.

However, the Commissioner has recognized, in the light of experiences gained in the administration of Credit Regulations, that there are imperfections in the Regulations, making for inequities and unfair practices on the part of certain licensees, both wholesalers and retailers. The time for correction has arrived.

A few wholesalers have on occasion disregarded the requirements with respect to the reporting of delinquents. Some retail licensees have been erroneously and unjustly placed in default and, in some instances, wholesalers have neglected promptly to report payments of defaults so that retailers may be removed from the default list without delay. It has been revealed further that certain wholesalers have extended credit to delinquent retailers during the period of default and have taken refuge in the fact that Rule 6 of the Regulations heretofore in effect stated that they could not "knowingly" sell such licensees in default. The offending wholesalers' excuse has been that they did not know because they did not subscribe to one of the agency services which reported delinquent retailers.

Accordingly, under amended and revised Rules of Regulations No. 39, provision is made for an official Default List to be published under the authority of the Commissioner. The Default Lists will be mailed Wednesday of each week to every holder of a State license who sells to retailers and will set forth the names of retail licensees to be treated as in default effective the following Monday for the calendar week. The manufacturers and wholesalers will be charged with actual knowledge that the defaulting retailers listed in the official Default Lists are in default and no excuses will be accepted because of lack of clerical help, oversights or any other reason.

On the side of retail licensees, two particularly dangerous practices have developed. Some retailers have become habitual delinquents, constantly reported in default by one wholesaler or another. It is inevitable that a retailer constantly in default to wholesalers becomes beholden and tied to vendors, and ceases to be the master of his own establishment. In an effort to extricate himself, he may resort to practices in the conduct of his business which are violative of control laws and regulations and harmful to the public welfare generally. Accordingly, paragraph (d) of new Rule 4 provides that a retail licensee who is reported in default on four or more separate occasions, occurring during four or more different weeks within any license year, may not purchase alcoholic beverages even for cash while any defaults continue. The same restriction applies if there should be any further default in the same license year. Particular attention is directed to the provision that if any retail licensee is in default on June 30, 1948, that will be considered the first default for the license period beginning July 1, 1948.

It appears that some retail licensees have remained in default for excessively long periods and, in fact, presently there are more than

130 retail licensees who have been in default for a particular purchase continuously since 1947. It is obvious that if the retailer is to survive, he must be charged with responsibility to keep free of long term obligations. Accordingly, paragraph (e) of new Rule 4 has been promulgated to provide that a retailer who remains in default for a particular purchase continuously for a period of six months may not purchase alcoholic beverages even for cash while the default continues. It is not the purpose of the Rule to penalize retailers who may honestly suffer economic distress and are unable to meet their obligations, but firm measures must be employed against those who, for ulterior motives, refuse to take reasonable steps to remove themselves from the Default List over excessively long periods.

Pursuant to the authority granted in R. S. 33:1-39, the following amended, revised and new Rules of Regulations No. 39 are hereby promulgated:

REGULATIONS NO. 39

EXTENSION OF CREDIT BY MANUFACTURERS AND WHOLESALERS TO  
RETAIL LICENSEES.

Rule 1. No manufacturer or wholesaler shall sell or offer for sale to any retail licensee any alcoholic beverages, and no retail licensee shall purchase or offer to purchase from any manufacturer or wholesaler any alcoholic beverages except for payment upon delivery of such alcoholic beverages or on credit terms which require that payment therefor be made within a period not in excess of thirty days after date of delivery.

Nothing in these regulations shall require any manufacturer or wholesaler to extend credit to any retail licensee or to sell to any retail licensee upon any credit terms except within the credit terms specifically herein limited.

Rule 2. For the purpose of these regulations:

(a) A retail licensee shall be in default if he has failed to make payment for alcoholic beverages within thirty days after delivery to him of such alcoholic beverages.

(b) "Payment" means the full legal discharge of the debt by cash or its equivalent, including ordinary and recognized means for discharge of indebtedness excepting notes, pledges or other promises to pay at a future date and excepting credit memoranda issued for the purpose of circumventing these regulations. A check not promptly deposited for collection or a check dishonored on presentation for payment shall not be deemed payment.

(c) "Payment in cash" means full, legal discharge of a debt by delivery of cash, money order, certified check, bank check, cashier's check or treasurer's check. Ordinary checks may not be accepted as payment of a defaulted account.

(d) A retail licensee shall continue to be in default from the time he becomes in default until he shall make full payment in cash for all alcoholic beverages delivered to him more than thirty days prior to payment therefor.

Rule 3. On Wednesday of each week (or on the next business day thereafter in the event that Wednesday is a legal holiday) the State Commissioner of Alcoholic Beverage Control (hereinafter referred to as the "Commissioner") shall cause to be published and mailed to each manufacturer and wholesaler a Default List setting forth the names and addresses of the retail licensees reported and continuing in default as of the preceding Saturday at 5:00 p.m. Such weekly Default List shall become effective on the Monday following its publication.

Rule 4. (a) No manufacturer or wholesaler shall sell or deliver any alcoholic beverages except for payment in cash on delivery to any retail licensee who is at the time of delivery listed on the Default List.

(b) No retail licensee who is at the time listed on the Default List shall purchase or accept delivery of any alcoholic beverages except for payment in cash on delivery.

(c) No manufacturer or wholesaler shall sell or deliver any alcoholic beverages to any retail licensee whose name is listed as having been in default on four or more separate occasions during any license year (July 1st to the following June 30th) or as being in single default for more than six months continuously so long as such listing continues.

(d) No retail licensee whose name is listed as having been in default on four or more separate occasions during any license year shall purchase or accept delivery of any alcoholic beverages from any manufacturer or wholesaler until all such defaults shall have been corrected by payment in cash. For special cause shown, a retail licensee may be excepted from such listing notwithstanding that he may have been in default on four or more separate occasions during a license year.

(e) No retail licensee whose name is listed as having permitted any single default reported after June 30, 1948 to continue for a period of more than six months shall purchase or accept delivery of any alcoholic beverages from any manufacturer or wholesaler until such default shall have been corrected by payment in cash. For special cause shown, a retail licensee may be excepted from such listing notwithstanding that he may have been continuously in single default for a period of more than six months.

(f) If a retail licensee is in default on June 30th (commencing June 30, 1948) of any license year, that shall be considered the first default for the following license year for the purpose of paragraphs (c) and (d) of this Rule.

Rule 5. (a) Each manufacturer or wholesaler, excepting manufacturers or wholesalers of malt alcoholic beverages only, shall give written warning notice, personally or by first-class mail, to each retail licensee indebted to him for the purchase of alcoholic beverages, not earlier than ten (10) days and not later than five (5) days before the expiration of the credit period provided in Rule 1. The warning notice shall contain the following statement:

"Pursuant to Rule 5(a) of State Regulations No. 39, you are hereby given advance notice that payment for alcoholic beverages delivered to you on \_\_\_\_\_, invoiced in the amount of \$ \_\_\_\_\_, has not as yet been made in full. Unless full payment is made by (here insert date when the credit period expires), a notice of default must be filed against you with the State Commissioner of Alcoholic Beverage Control. Any single default brings into operation the restrictions of Rule 4 of said Regulations which provides that a retail licensee in default may purchase only for cash. Your attention is also directed to the provisions of Rule 4 that in the event of four separate default listings in one license year or continuous listing of a single default for more than six months, a retail licensee may not purchase for cash or otherwise until his name is removed from the Default List."

(b) Each manufacturer or wholesaler shall, within three (3) days after a retail licensee becomes in default to such manufacturer or wholesaler under Rules 1 and 2, file with the Commissioner a notice of default in the following form:

"Pursuant to Rule 5(b) of Regulations No. 39, notice is hereby given that a default in payment for purchase of alcoholic beverages has occurred as follows:

Name of Licensee \_\_\_\_\_  
 Address \_\_\_\_\_  
 Date of Delivery \_\_\_\_\_  
 Amount Unpaid \_\_\_\_\_"

Manufacturers and wholesalers required to serve warning notices on retail licensees shall add the following certification:

"The undersigned certifies that a warning notice as required by Rule 5(a) was sent to said retail licensee on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_."

(c) When a retail licensee ceases to be in default to a manufacturer or wholesaler, such manufacturer or wholesaler shall, within three (3) days thereafter, file with the Commissioner a notice to that effect. The notice shall state the name and address of the retail licensee, the date of delivery in respect to which the default existed, the amount paid to terminate the default, and the date and form of such payment.

(d) On or before Wednesday of each week each manufacturer or wholesaler who has filed with the Commissioner pursuant to Rule 5(b) a notice of default occurring during the preceding calendar week ending Saturday at 5:00 p.m., shall mail by first-class mail to the retail licensee named therein a copy of such notice of default containing the following additional notice over the signature of such manufacturer or wholesaler:

**"NOTICE TO RETAIL LICENSEE:** The original of the foregoing notice of default having been filed with the Commissioner of Alcoholic Beverage Control, Rule 4 of Regulations No. 39 prohibits you from accepting delivery of any alcoholic beverages from any manufacturer or wholesaler except for cash, commencing Monday, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, until you have paid in full the amount of default shown in this notice and your name has been removed from the Default List."

(e) If a notice of default and a notice of payment of such default are received by the Commissioner during the same calendar week, the default shall be listed in the Default List to be published the following Wednesday, and the notice of payment shall be given effect in the Default List to be published the succeeding week.

(f) Manufacturers or wholesalers who are hereinabove required to file notices of default and notices of payment shall be chargeable with a proportionate cost of publishing and mailing the weekly Default List pursuant to Rule 3 hereof.

(g) Notices required to be filed with the Commissioner pursuant hereto shall be 8 inches in width and 5 inches in length. They shall be available for inspection at the Commissioner's offices during regular business hours.

Rule 6. Each delivery of alcoholic beverages by a manufacturer or wholesaler to a retail licensee shall be accompanied by an invoice of sale bearing the name of the retail licensee, the names, types and quantities of the products to be delivered, the price and terms of sale, and the place and date of actual delivery. One copy of such invoice shall be signed by the retail licensee or his agent, showing acceptance of the merchandise, and shall be retained by the manufacturer or wholesaler; the other copy shall be retained by the retail licensee.

Where delivery of alcoholic beverages to a retail licensee is made not by the manufacturer or wholesaler, but by a licensed transporter, the delivery may be accompanied, in lieu of an invoice of sale, by a delivery or transit slip, a copy of which shall be kept at the licensed premises of the retail licensee for a period of one year from the date thereof and shall be available for inspection by representatives of the Department of Alcoholic Beverage Control. Where a delivery or transit slip, in lieu of an invoice of sale, accompanies a delivery to a retail licensee, the manufacturer or wholesaler shall mail by first-class mail to the retail licensee a copy of the invoice of sale bearing the information required in the first paragraph of this Rule not later than the next business day following the date of delivery.

Copies of all invoices of sale 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 Commissioner shall have granted written permission to keep them at a place outside of the State designated by him, and shall be available for inspection by representatives of the Commissioner.

Rule 7. The foregoing rules shall become effective June 30, 1948.

Dated: June 18, 1948.

ERWIN B. HOCK  
Commissioner.

9. STATE LICENSES - NEW APPLICATIONS FILED.

Commercial Solvents Corporation  
196-202 Blanchard St.  
Newark, N. J.

Application for 1948-49 Plenary Wholesale License filed  
June 11, 1948.

The Great Atlantic & Pacific Tea Company  
420 Lexington Ave.  
New York, N. Y.

Application for 1948-49 Transportation License filed June 11, 1948.

George B. Chelius, Jr., Paul J. Brienza, James Durkin and  
George A. Kelley, t/a George B. Chelius, Jr. and Associates  
Room 622, 11 Commerce St.  
Newark, N. J.

Application filed June 18, 1948 for 1948-49 Limited Wholesale  
License.

*Erwin B. Hock*

Commissioner.