

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

BULLETIN 707

APRIL 24, 1946.

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

BULLETIN 707

APRIL 24, 1946.

1. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT DISMANTLED STILL AND APPURTENANT PERSONAL PROPERTY ORDERED FORFEITED - GARAGE HOUSING ILLICIT STILL ORDERED PADLOCKED FOR SIX MONTHS.

In the Matter of the Seizure )	Case No. 6930
on December 16, 1945 of a )	
still at 682-684 North Seventh )	
Street, in the City of Newark, )	ON HEARING
County of Essex and State of )	CONCLUSIONS AND ORDER
New Jersey: )	
----- )	

Harry Castelbaum, Esq., appearing for the Department of Alcoholic Beverage Control.

This matter has been heard pursuant to the provisions of Title 33, Chapter 2 of the Revised Statutes, to determine whether a dismantled still and appurtenant personal property, itemized in schedule hereinafter set forth, seized at 682-684 North Seventh Street, Newark, N. J., constitutes unlawful property and should be forfeited, and further to determine whether the premises should be padlocked.

On December 16, 1945, upon information that a still or still parts were stored in a garage in the rear of the above premises, ABC agents went to the garage and there found a dismantled still.

The still was not registered with the Commissioner of Alcoholic Beverage Control, as required by R. S. 33:2-1. Hence, such still and other personal property seized therewith constitute unlawful property and are subject to forfeiture. In addition, the premises are subject to padlocking. R. S. 33:2-3, R. S. 33:2-5.

When the matter came on for hearing pursuant to R. S. 33:2-4, no one appeared either to oppose forfeiture of the personal property or padlocking.

The agents report that Mrs. Annie Jackson was the tenant of the dwelling and the garage. Jerry Vitiello was the owner of the premises. According to the agents, Mrs. Jackson told them that she permitted James Randazzo to use the garage and yard upon his representation that he intended to store some articles in the garage as well as repair automobiles there. About two weeks before the seizure, Mrs. Jackson noticed that a lock had been placed on the garage door, which previously had been unlocked, and about a week later instructed her son-in-law to seek out Randazzo and tell him to remove his property from her garage.

Mrs. Jackson probably took this course because she had reason to suspect that the still was in the garage, inasmuch as the agents were able to detect a distinct odor of alcohol when they approached the garage.

Mrs. Jackson has resided in the dwelling for many years and is reported to be a law-abiding person. However, if she suspected that the illicit still was in her garage, she should have notified the law enforcement authorities. Hence, she should not be entirely relieved of the padlocking penalty, but under all the circumstances it will be limited to padlocking of the garage where the still was found. It would be unduly harsh to force her to vacate her dwelling.

Accordingly, it is DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" hereinafter set forth, constitutes unlawful property and that the same be and hereby is forfeited, in accordance with the provisions of R. S. 33:2-5, 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 Department of Alcoholic Beverage Control; and it is further

ORDERED, that the garage located on the premises known as 682-684 North Seventh Street, in the City of Newark, County of Essex and State of New Jersey, being the building in which the illicit still was seized, shall not be used or occupied for any purpose whatsoever, for a period of six months, commencing the 15th day of May, 1946.

ERWIN B. HOCK  
Deputy Commissioner.

Dated: April 12, 1946.

SCHEDULE "A"

- 1 - load of vat staves and bottoms
- 3 - lengths of hose
- 1 - pump
- 2 - electric motors
- 1 - blower
- 1 - cooler
- 5 - sections copper columns
- 1 - dephlegmator
- 56 - steel hoops
- 1 - copper cooker
- 1 - copper pipe
- 1 - empty can
- 1 - galvanized tank
- 1 - sheet metal column
- miscellaneous pipes and fittings

2. DISCIPLINARY PROCEEDINGS - PURCHASE OF ALCOHOLIC BEVERAGES BY RETAIL LICENSEE OTHER THAN FROM A NEW JERSEY MANUFACTURER OR WHOLESALER, IN VIOLATION OF RULE 15 OF STATE REGULATIONS NO. 20 - SALE OF ALCOHOLIC BEVERAGES TO SOCIAL CLUB FOR THE PURPOSE OF RESALE, IN VIOLATION OF R. S. 33:1-2 AND RULE 12 OF STATE REGULATIONS NO. 20 - SALE AND DELIVERY OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS, IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR A PERIOD OF 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

ARTHUR PIPHER & FRED DIMARCO  
T/a RUSTIC TAVERN  
Cornell Ave. & Marlton Pike  
Delaware Township  
P.O. Merchantville, N. J.,

CONCLUSIONS  
AND ORDER

-----  
Holders of Plenary Retail Consump-  
tion License C-19 issued by the  
Township Committee of the Township  
of Delaware.

William T. Cahill, Esq., Attorney for Defendant-licensees.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

Defendants have pleaded non vult to charges alleging, in substance, that:

- (1) Between January 15, 1944 and December 19, 1944, they purchased alcoholic beverages for resale from persons who were not the holders of a New Jersey manufacturer's or wholesaler's license, in violation of Rule 15 of State Regulations No. 20;
- (2) Between July 1, 1943 and July 27, 1945, they sold alcoholic beverages to Riverton Golf and Country Club, Inc.
- (3) for the purpose of resale, in violation of R.S. 33:1-2, and delivered alcoholic beverages to said Club for delivery, by gift or otherwise, to the Club's customers in the course of its business, in violation of Rule 12 of State Regulations No. 20;
- (4) Between August 16, 1943 and July 27, 1945, they sold and delivered to said Club alcoholic beverages at retail, in original containers, for consumption off the licensed premises before 9:00 a.m. on weekdays and on Sundays, in violation of Rule 1 of State Regulations No. 38.

Arthur Pipher, one of the licensees, has been serving in the armed forces of the United States since October 1943, and hence has not been directly connected with any of the violations referred to herein subsequent to that date. Prior to his induction into service, Arthur Pipher was a member of Riverton Golf and Country Club, Inc. Fred DiMarco was, for at least part of the time mentioned in the charges, the treasurer of said Club.

On August 2, 1945, ABC agents seized a quantity of alcoholic beverages and other property in the premises conducted by Riverton

Golf and Country Club, Inc. when it appeared that the Club had been selling alcoholic beverages without a license, in violation of the Alcoholic Beverage Law (R. S. 33:1-2; R. S. 33:1-50).

During the course of the investigation that followed this seizure it appeared that defendants herein, during the period of time mentioned in charge (1), had purchased alcoholic beverages from other retailers and thereafter sold the alcoholic beverages without profit and as an accommodation to the Club. It also appeared that during the times mentioned in charges (2) and (3) defendants had sold, in the regular course of business, other alcoholic beverages to the Club, which alcoholic beverages had subsequently been resold by the Club. It also appeared that, during the period mentioned in charge (4), beer had been delivered from defendants' premises to the Club before 9:00 a.m. on weekdays and on Sundays.

In alleged mitigation defendant Fred DiMarco states that, for a period of years prior to the seizure, Riverton Country Club, Inc. had been selling alcoholic beverages to its members under a book system whereby, apparently, each member paid for the alcoholic beverages with a stub taken from a book instead of paying for the alcoholic beverages by cash. DiMarco states that he and his partner were advised by reputable counsel that this procedure was legal and did not constitute a sale of alcoholic beverages. DiMarco admits that during the liquor shortage he purchased alcoholic beverages from other retailers and that he resold these and other alcoholic beverages to the Club, but denies that he or his partner had any knowledge that the alcoholic beverages were to be resold by the Club. Defendant-licensees should have recognized the erroneous character of the alleged legal advice. Every delivery of an alcoholic beverage otherwise than by purely gratuitous title is a sale of alcoholic beverages. R. S. 33:1-1(w).

As to penalty: Defendants have been operating as retail licensees for eight years and have no prior record. Defendant DiMarco has cooperated fully with the agents of the Department of Alcoholic Beverage Control, and has entered a plea of non vult herein on behalf of the partnership. In fixing a period of suspension herein I have accepted as true the explanation that the violations alleged in charges (2) and (3) resulted from the erroneous advice of counsel, and that defendants had no intention of selling alcoholic beverages to the Club for the purposes of resale. There appears, however, to be no valid excuse for the violations set forth in charges (1) and (4).

Under all the circumstances I must suspend defendants' license for a period of twenty-five days, with a remission of five days because of the plea at the hearing, making a net suspension of twenty days.

Accordingly, it is, on this 15th day of April, 1946,

ORDERED, that Plenary Retail Consumption License C-19, issued by the Township Committee of the Township of Delaware to Arthur Pipher and Fred DiMarco, t/a Rustic Tavern, for premises at Cornell Ave. and Marlton Pike, Delaware Township, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. April 24, 1946, and terminating at 3:00 a.m. May 14, 1946.

ERWIN B. HOCK  
Deputy Commissioner.

3. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary  
Proceedings against

JULIAN STERLING  
T/a THE OASIS  
Sylvan Ave. & Stephens Place  
Englewood Cliffs  
P. O. Coytesville, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump-  
tion License C-8, issued by the  
Mayor and Council of the Borough  
of Englewood Cliffs.

Julian Sterling, Defendant-licensee, Pro se.  
Harry Castelbaum, Esq., appearing for Department of Alcoholic  
Beverage Control.

Defendant has pleaded non vult to a charge that he possessed illicit alcoholic beverages at his licensed premises, in violation of R. S. 33:1-50.

On March 8, 1946 an investigator of the State Department of Alcoholic Beverage Control seized a 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky" when his field test disclosed that the contents thereof were not genuine as labeled. Subsequent analysis by the Department chemist verified the fact and leads to the conclusion that the bottle had been at least partly refilled with another brand of whisky.

The defendant denies any knowledge of or personal connection with the "refilling". The gravamen of the offense is possession. Cf. Re Barrale, Bulletin 705, Item 5 and cases cited. Retail licensees are not permitted to refill bottles. Re Leda, Inc., Bulletin 678, Item 1.

In the absence of a prior adjudicated record and any other aggravating circumstances, I shall suspend the license for the minimum period of fifteen days. Re Rudolph, Bulletin 680, Item 1.

Accordingly, it is, on this 16th day of April, 1946,

ORDERED, that Plenary Retail Consumption License C-8, issued by the Mayor and Council of the Borough of Englewood Cliffs to Julian Sterling, t/a The Oasis, for premises Sylvan Avenue & Stephens Place, Englewood Cliffs, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 4:00 a.m. April 22, 1946, and terminating at 4:00 a.m. May 7, 1946.

ERWIN B. HOCK  
Deputy Commissioner.

4. DISCIPLINARY PROCEEDINGS - CHARGE OF SALE OF ALCOHOLIC BEVERAGES TO MINORS, IN VIOLATION OF R. S. 33:1-77 AND RULE 1 OF STATE REGULATIONS NO. 20, DISMISSED - DEPARTMENT FAILED TO SUSTAIN THE BURDEN OF PROOF.

In the Matter of Disciplinary Proceedings against )  
 )  
 MR. ARTHUR PIPHER & FRED DiMARCO )  
 T/a RUSTIC TAVERN )  
 Cornell Ave. & Marlton Pike )  
 Delaware Township )  
 P. O. Merchantville, N. J., )  
 )  
 Holders of Plenary Retail Consumption License C-19, issued by the )  
 Township Committee of the )  
 Township of Delaware. )  
 ----- )

CONCLUSIONS AND ORDER

William T. Cahill, Esq., Attorney for Defendant-licensee.  
 Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

Defendants plead not guilty to charges alleging sale and service of alcoholic beverages on Monday, January 28, 1946 and in the early morning of Tuesday, January 29, 1946, to John --- and Andre ----, minors, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

Admittedly the two minors in question, and Walter Keckhut, who is of full age, were in defendants' premises early on the morning of January 29, 1946. John --- testified that he consumed three glasses of Carstairs and Andre --- testified that he consumed five glasses of Carstairs. Keckhut substantially corroborated their testimony. Upon cross-examination, Andre was confronted with a statement, signed by him, containing alleged answers to questions propounded by a physician who examined him on the morning of January 29, 1946. Andre was purported to have said, according to the contents of the statement, that he had consumed three glasses of "beer" during the time in question. Although both minors deny that they had been drinking any alcoholic beverages elsewhere earlier on the same evening, Police Officer Howard Albertson, Jr., of Haddonfield, who investigated an accident in which the boys were involved on the morning of January 29th, testified that the boys told him "they had a couple of beers" and "they had been riding around; they didn't know how many places they had been to."

Defendants produced witnesses who testified that they were present at the time the minors were in the licensed premises. The bartender, Louis DiMarco, testified that he had served one alcoholic beverage drink to Keckhut, but that he refused to serve the minors because they appeared to him to be under twenty-one years of age. The bartender said that the three young men left the premises after arguing with him. Harry L. Cranmer, Chairman of the Township Committee of the Township of Delaware, wherein the defendants' premises are located, testified that he was in the back room of the premises when his attention was called to an argument at the bar. Cranmer testified that he went to the bar and found that several youths were arguing because the bartender had refused to serve them a drink. This testimony is corroborated by F. Stanley Bleakly, who had spoken to Cranmer about the altercation, by Frank Jones, a Delaware Township policeman, who was sitting at the bar a few seats from the youths, and by Samuel R. McGill, a Delaware Township official, who was sitting at the bar next to Jones. Cranmer and Jones testified that the boys left defendants' premises after the argument and that they did not return.

On the one hand, there is the testimony of the minors and their companion to the effect that they had been sold and served alcoholic beverages at the time in question. Cross-examination and the testimony of Police Officer Albertson destroyed to a great extent the value of the testimony which they gave on direct examination. On the other hand, there is the positive and unshaken testimony of four citizens, produced by defendant, in addition to the testimony of the bartender, Louis DiMarco, which is in agreement that the youths were refused service of alcoholic beverages by the bartender.

This is a serious charge. After carefully considering all the testimony, I conclude that the Department has not sustained the burden of proof in establishing the guilt of the defendants. Hence, I shall dismiss the charges brought herein.

Accordingly, it is, on this 15th day of April, 1946,

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

ERWIN B. HOCK  
Deputy Commissioner.

5. DISQUALIFICATION - APPLICATION TO LIFT - FACTS EXAMINED - APPLICATION TO LIFT GRANTED CONDITIONALLY.

In the Matter of an Application )  
to Remove Disqualification be- )  
cause of a Conviction, Pursuant )  
to R. S. 33:1-31.2. )  
Case No. 504. )  
----- )

CONCLUSIONS  
AND ORDER

Petitioner herein, pursuant to the provisions of R.S. 33:1-31.2, seeks removal of the statutory disqualification resulting from his convictions of crime involving moral turpitude which prevent him from holding a liquor license or from being employed by a licensee.

Petitioner is forty-five years of age. Prior to 1930 petitioner was convicted of various offenses, including loitering, possession of narcotics, fornication and disorderly conduct. He asserts that when he came out of service during the First World War he "was a narcotic". In 1930 petitioner was convicted of attempted extortion and conspiracy and sentenced to State Prison for three years. This crime definitely involves moral turpitude. He was discharged from prison in 1933.

During 1934 and 1935, petitioner was twice convicted as a disorderly person and once for assault and battery. He was fined small sums in each case and in one case received an additional sentence of fifty days in the County Jail.

In 1940, petitioner was found guilty of buying a revolver without a permit and was placed on probation for three years and fined 50¢ a week. He has since been discharged from probation. Since 1940 there is no record of his being involved in any further trouble.

At the time of the last offense he was in the employ of his brother, a licensee. Petitioner claims he did not know he was disqualified from being engaged in such employment. This matter was referred to in Bulletin 421, Item 1. Petitioner states that since 1940 he was employed as a taxi driver for about three years and then accepted employment in a razor blade factory, where he remained until last September, when he was forced to give up this position because of his health. Since that time he has been unemployed, living on unemployment compensation received by his wife, who had been employed in a defense plant and was laid off shortly after V-J Day. Petitioner testified that for the past two weeks he has been receiving unemployment compensation insurance, his wife's insurance having terminated.

Petitioner states that because of his present condition of health he is unable to work in a factory and on a number of occasions attempted to secure other employment, without success. However, he states that he has had one or two opportunities to be employed by a licensee. He further testified that he was married shortly before his last difficulty and that for the past six years he has been law-abiding.

Three witnesses, who have lived in the same neighborhood as petitioner for the past six years, testified favorably as to his present conduct. Petitioner's wife, who testified at a subsequent hearing as to his means of livelihood, stated that he had been an excellent husband since her marriage to him and had tried very hard to take good care of her. She feels positive that if he is given another opportunity he would continue to behave himself.

Ordinarily, in the face of such a record, I would be skeptical as to giving petitioner another opportunity. It appears to me, however, that the petitioner's marriage has had a profound effect upon him and to have been the turning point for the better so far as he is concerned. Petitioner has had a good record for the past six years. I am inclined to give him another opportunity. I feel, however, that at the present time the removal of his disqualification should be limited only to permit him to become an employee of a licensed establishment.

Accordingly, it is, on this 16th day of April, 1946,

ORDERED, that the petitioner's statutory disqualification because of the convictions disclosed herein be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2, to the extent that he may be employed by a liquor licensee.

ERWIN B. HOCK  
Deputy Commissioner.

6. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against )  
 )  
 WILLIAM B. LANCE, JR. )  
 T/a BILL'S CHATEAU )  
 Main Road )  
 Randolph Township )  
 P. O. Mt. Freedom, N. J., )  
 )  
 Holder of Plenary Retail Consumption License C-10, issued by the )  
 Township Committee of the Township )  
 of Randolph. )  
 ----- )

CONCLUSIONS AND ORDER

William B. Lance, Jr., Defendant-licensee, Pro se.  
 Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

Defendant has pleaded non vult to a charge that he possessed illicit alcoholic beverages at his licensed premises in violation of R. S. 33:1-50.

On March 20, 1946 an inspector of the State Department of Alcoholic Beverage Control seized a 4/5 quart bottle labeled "Old Taylor Kentucky Straight Whiskey" and a 4/5 quart bottle labeled "James E. Pepper Kentucky Straight Bourbon Whiskey" when his field tests disclosed that the contents thereof were not genuine as labeled. Subsequent analysis by the Department chemist verified the findings of the inspector. The analysis warrants the conclusion that each bottle had been either partly refilled with another whiskey or diluted with some other liquid.

The defendant denied any knowledge of or personal connection with the "refilling". The gravamen of the offense is possession. Cf. Re Barrale, Bulletin 705, Item 5, and cases cited. Retail licensees are not permitted to refill bottles. Re Leda, Inc., Bulletin 678, Item 1.

Defendant has no previous adjudicated record. In the absence of aggravating circumstances, I shall suspend the license for the minimum period of fifteen days. Re Nurse, Bulletin 680, Item 7.

Accordingly, it is, on this 17th day of April, 1946,

ORDERED, that Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Randolph to William B. Lance, Jr., t/a Bill's Chateau, for premises on Main Road, Randolph Township, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. April 29, 1946, and terminating at 2:00 a.m. May 14, 1946.

ERWIN B. HOCK  
 Deputy Commissioner.

7. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against  
 MICHAEL J. COLUCCI  
 446-448 North 5th St.  
 Newark 7, N. J.,  
 Holder of Plenary Retail Consumption License C-959, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.  
 -----)

CONCLUSIONS AND ORDER

Giuliano & Giuliano, Esqs., by Anthony Giuliano, Esq.,  
 Attorneys for Defendant-licensee.  
 Edward F. Ambrose, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant has pleaded non vult to a charge alleging that he possessed illicit alcoholic beverages at his licensed premises, in violation of R. S. 33:1-50.

On February 21, 1946, an investigator of the State Department of Alcoholic Beverage Control seized a 4/5 quart bottle labeled "Four Roses A Blend of Straight Whiskies", when his field test disclosed that the contents thereof were not genuine as labeled. Subsequent analysis by the Department chemist verified the finding of the investigator and leads to the conclusion that the said bottle had been wholly or partly refilled with another alcoholic beverage.

The defendant denies any knowledge of or personal connection with the "refilling". The gravamen of the offense is "possession". A retail licensee is not permitted to refill bottles; Re Leda, Inc., Bulletin 678, Item 1; nor is he permitted to have such "refills" at his licensed premises. Re Barrale, Bulletin 705, Item 5.

In the absence of a prior adjudicated record and any other aggravating circumstances, I shall suspend the license for the minimum period of fifteen days. Re Rudolph, Bulletin 680, Item 1.

Accordingly, it is, on this 17th day of April, 1946,

ORDERED, that Plenary Retail Consumption License C-959, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Michael J. Colucci, for premises 446-448 North 5th Street, Newark, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. April 22, 1946, and terminating at 2:00 a.m. May 7, 1946.

ERWIN B. HOCK  
 Deputy Commissioner.

8. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against )  
 )  
 EDWARD PIETROWSKI )  
 T/a SEVEN GABLES )  
 1005 South Stiles Street )  
 Linden, N. J., )  
 Holder of Plenary Retail Consumption License C-47, issued by the )  
 Municipal Board of Alcoholic Beverage Control of the City of )  
 Linden. )

CONCLUSIONS AND ORDER

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 Louis P. Brenner, Esq., Attorney for Defendant-licensee.  
 William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant pleads non vult to a charge alleging that he possessed one 4/5 quart bottle labeled "Four Roses A Blend of Straight Whiskies" and one 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky", which bottles contained alcoholic beverages not genuine as labeled, in violation of R. S. 33:1-50.

During the course of an inspection of the defendant's licensed premises on March 8, 1946, an ABC investigator seized the two bottles of whisky in question after preliminary analysis indicated the contents thereof not to be genuine as labeled. Subsequent analysis by the departmental chemist of the contents of the bottles disclosed variations in color, acids and proof when compared with an analysis of genuine samples.

Defendant disclaimed all knowledge of the violation. It is well established, however, that a licensee must be held strictly accountable for any "refills" found in his stock of liquor. Cf. Re Kurien, Bulletin 517, Item 2.

Defendant has no previous adjudicated record. The license will be suspended for a period of fifteen days. Cf. Re Delaney, Bulletin 680, Item 12.

Accordingly, it is, on this 18th day of April, 1946,

ORDERED, that Plenary Retail Consumption License C-47, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to Edward Pietrowski, t/a Seven Gables, for premises 1005 South Stiles Street, Linden, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. April 25, 1946, and terminating at 2:00 a.m. May 10, 1946.

ERWIN B. HOCK  
 Deputy Commissioner.

9. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR A PERIOD OF 15 DAYS.

In the Matter of Disciplinary Proceedings against )  
 )  
 THE PANDA (a corporation) )  
 990 Frelinghuysen Ave. )  
 Newark 5, N. J., )  
 )  
 Holder of Plenary Retail Consumption License C-180, issued by the )  
 Municipal Board of Alcoholic Beverage Control of the City of )  
 Newark. )  
 ----- )

CONCLUSIONS AND ORDER

David M. Satz, Esq., Attorney for Defendant-licensee.  
 Harry Castelbaum, Esq., appearing for Department of Alcoholic Beverage Control.

Defendant corporation has pleaded not guilty to charges alleging that on February 4, 1946 it possessed illicit alcoholic beverage on its licensed premises in violation of R. S. 33:1-50.

An agent of the Department of Alcoholic Beverage Control testified that, on February 4, 1946, he visited the licensed premises of the defendant for the purpose of testing its open stock of liquor. He further stated that while engaged in testing twenty-three bottles one 4/5 quart bottle of Schenley Reserve Whiskey appeared to him to be questionable. The licensee did not have another sealed bottle of whiskey of the same brand for the purpose of comparison, so the agent took the questionable bottle with him for the purpose of having a test made. The agent further testified that an officer of defendant corporation stated that they could offer no explanation except that a porter "might have done it".

The analysis, made by the Department's chemist, of the contents of the seized bottle disclosed 452.4 grams of solids per 100 liters whereas the amount of solids in genuine samples of the same product never exceeded 140 grams per 100 liters. The accuracy of the chemist's tests is admitted by defendant. The chemist expressed the opinion that the increase in solids could not be due to natural causes and stated that "something has to be added to it".

A representative of the corporation testified that while he was not present at the time of the original visit of the agent, nevertheless he was in on the following day when the agent again appeared. At that time, he stated, nothing of a questionable nature was found.

Upon the testimony produced, I can reach no other conclusion but that the seized bottle bore a label which did not truly describe its contents. The beverage contained therein must be deemed prima facie an illicit beverage. R. S. 33:1-88 (P. L. 1939, c. 177). No evidence offered by defendant overcame this presumption and, hence, I find that defendant is guilty as charged. Re Barrale, Bulletin 705, Item 5. Licensee has no prior record. I shall suspend its license for the minimum period of fifteen days. Re Nurse, Bulletin 680, Item 7.

Accordingly, it is, on this 18th day of April, 1946,

ORDERED, that Plenary Retail Consumption License C-180, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to The Panda (a corporation), for premises 990 Frelinghuysen Avenue, Newark, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. April 25, 1946, and terminating at 2:00 a.m. May 10, 1946.

ERWIN B. HOCK  
Deputy Commissioner.

10. APPELLATE DECISIONS - CARTERET LIQUOR DEALERS ASSOCIATION v. CARTERET - DISCONTINUED.

CARTERET LIQUOR DEALERS )  
ASSOCIATION, )  
 )  
Appellant, )  
 )  
-vs- )  
 )  
MAYOR AND COUNCIL OF THE )  
BOROUGH OF CARTERET, )  
 )  
Respondent )  
-----

ON APPEAL  
O R D E R

Benedict W. Harrington, Esq., Attorney for Appellant.  
Nathaniel A. Jacoby, Esq., Attorney for Respondent.

This is an appeal from the action of respondent in adopting, on March 6, 1946, an amendment to an ordinance, which amendment grants to respondent the right to issue additional plenary retail consumption and plenary retail distribution licenses in the Borough of Carteret.

The parties to this appeal have stipulated and agreed in writing that the matter be discontinued and the appeal dismissed. The dismissal of this appeal does not prevent the filing of an appeal, in accordance with the provisions of R. S. 33:1-22, upon the subsequent issuance of any license. Since no reason appears to the contrary,

It is, on this 18th day of April, 1946,

ORDERED, that the within appeal be and the same is hereby dismissed.

ERWIN B. HOCK  
Deputy Commissioner.

11. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN LICENSE APPLICATION CONCEALING MATERIAL FACT, IN VIOLATION OF R.S. 33:1-25 - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR A PERIOD OF 10 DAYS.

DISCIPLINARY PROCEEDINGS - PERMITTEE AIDED AND ABETTED LICENSEE IN FALSIFICATION OF LICENSE APPLICATION - PERMITTEE HELD PROHIBITED INTEREST IN CORPORATE LICENSE - ~~EMPLOYMENT PERMIT~~ REVOKED.

In the Matter of Disciplinary Proceedings against )

TEDRAYDOT, INC. )  
4319 Bergenline Avenue )  
Union City, N. J., )

Holder of Plenary Retail Consumption License C-52 issued by the Board of Commissioners of the City of Union City. )  
----- )

In the Matter of Disciplinary Proceedings against )

DOROTHY L. MONTANYE )  
936 West End Avenue )  
New York, N. Y., )

Holder of Employment Permit No. 3332, issued by the State Commissioner of Alcoholic Beverage Control. )  
----- )

CONCLUSIONS AND ORDERS

Anthony Giuliano, Esq., Attorney for Defendant-licensee and Defendant-permittee.  
Anthony Meyer, Jr., Esq., appearing for Department of Alcoholic Beverage Control.

Defendant corporate licensee, through its attorney, pleads non vult to a charge alleging that it listed, in its application for a plenary retail consumption license, Theodore F. Davis as holder of 28 shares of stock; Raymond S. Montanye 1 share of stock, and Dorothy L. Montanye 1 share of stock, whereas in truth and in fact Theodore F. Davis, Raymond S. Montanye and Dorothy L. Montanye were the real and beneficial owners of ten shares of stock apiece; such false statement being in violation of R. S. 33:1-25.

Defendant-permittee pleads non vult to the charges alleging, in effect, that (a) she aided and abetted Tedraydot, Inc. and its president in its falsification of its license application, and (b) she held a prohibited interest in the corporation's license, because, despite the fact that she is a non-resident of the State of New Jersey, she was the real and beneficial owner of more than ten per cent. of the shares of stock of said corporation.

On September 24, 1945, defendant corporation applied for a person-to-person transfer of a plenary retail consumption license then held by one Paul Hunziker. Said transfer was granted by the municipal issuing authority on October 4, 1945.

The file discloses that both Raymond S. Montanye and Dorothy L. Montanye, his sister, were then residents of the State of New York and were, therefore, disqualified from holding more than 10% of the stock of the corporation because of their non-residence. R.S.33:1-25

Raymond S. Montanye became a bona fide resident of New Jersey on October 19, 1945 and has produced satisfactory evidence that the ten shares of stock heretofore beneficially owned by Dorothy L. Montanye, but issued to Theodore F. Davis, have been purchased by and properly transferred to Raymond S. Montanye. Theodore F. Davis is now the holder of ten shares of stock instead of twenty-eight shares as shown in the original application for transfer, and Raymond S. Montanye is now the holder of twenty shares of the stock of defendant corporation

Ordinarily, disciplinary proceedings instituted against licensees which involve "front" situations continued or created after January 1, 1946 shall subject their licenses to at least a minimum suspension of thirty days. Re Nicomini, Bulletin 686, Item 7. Raymond S. Montanye has apparently been fully qualified to hold more than 10% of the capital stock in defendant corporation since October 19, 1945. The facts in the case were fully disclosed to an ABC investigator prior to January 1, 1946. The fact that the present proceedings were not commenced until after January 1, 1946 does not warrant a greater suspension than that imposed in cases decided prior to Re Nicomini, supra.

Since there is no previous record and the "front" situation has now been corrected, I shall suspend the defendant's license for a period of ten days. Re Budowsky, Bulletin 692, Item 12.

Defendant-permittee, Dorothy L. Montanye, surrendered her permit after the institution of the within disciplinary proceedings. The employment permit was obtained by misrepresentation of facts in the application filed by her with the State Department of Alcoholic Beverage Control. Under the circumstances I shall revoke the permit issued to defendant, Dorothy L. Montanye.

Accordingly, it is, on this 18th day of April, 1946,

ORDERED, that Plenary Retail Consumption License C-52, issued by the Board of Commissioners of the City of Union City to Tedraydot, Inc., for premises 4319 Bergenline Avenue, Union City, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. April 29, 1946, and terminating at 3:00 a.m. May 9, 1946; and it is further

ORDERED, that Employment Permit No. 3332, issued to Dorothy L. Montanye by the State Commissioner of Alcoholic Beverage Control, be and the same is hereby revoked, effective immediately.

ERWIN B. HOCK  
Deputy Commissioner.

12. DISCIPLINARY PROCEEDINGS - ORDER SUSPENDING LICENSE STAYED PENDING APPLICATION FOR WRIT OF CERTIORARI (SEE BULLETIN 707, ITEM 9).

In the Matter of Disciplinary Proceedings against  
THE PANDA (a corporation)  
990 Frelinghuysen Avenue  
Newark 5, N. J.,  
Holder of Plenary Retail Consumption License C-180, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

O R D E R

It appearing that, by Conclusions and Order herein dated April 18, 1946, Plenary Retail Consumption License C-180, for premises 990 Frelinghuysen Avenue, Newark, was suspended for a period of fifteen days, commencing at 2:00 a.m. April 25, 1946, and terminating at 2:00 a.m. May 10, 1946; and

It further appearing that said licensee has declared its intention to apply to a Justice of the Supreme Court for a writ of certiorari to review the said Conclusions and Order and to prosecute the writ, if granted, with due diligence; and

It further appearing to my satisfaction that said licensee would suffer serious harm if a stay is not granted pending application to a Justice of the Supreme Court for said writ;

It is, on this 22nd day of April, 1946,

ORDERED, that the effect of the Order dated April 18, 1946 be and the same is hereby stayed until a further order is entered herein on condition, however, that application for a writ of certiorari shall be made to a Justice of the Supreme Court within fifteen (15) days from the date hereof, and thereafter prosecuted with diligence.

ERWIN B. HOCK  
Deputy Commissioner.

13. DAYLIGHT SAVING TIME — ~~EFFECTIVE~~ THROUGHOUT THE STATE FROM LAST SUNDAY IN APRIL UNTIL LAST SUNDAY IN SEPTEMBER — CHAPTER 97 OF THE LAWS OF 1946.

On April 17th the Governor approved Chapter 97 of the Laws of 1946, which amends Section 1:1-2.3 of the Revised Statutes to read:

"1:1-2.3. The standard time of this State shall be the time of the seventy-fifth meridian west from Greenwich, and wherever time is named within this State, in any manner whatsoever, it shall be deemed and taken to be such standard time except that the time of this State shall be one hour in advance of such prescribed time from the last Sunday in April until the last Sunday in September and except where otherwise expressed."

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

From midnight on Saturday, April 27th, and throughout the five-month Daylight Saving period, the time will be one hour in advance of the present Eastern Standard Time. To illustrate: As of midnight, Saturday, April 27th, clocks are to be turned ahead one hour. If the regulations of "Municipality X" require closing between the hours of 2:00 a.m. and 7:00 a.m., that municipality's licensees must close when the changed clock-time reaches 2:00 a.m. and remain closed until the changed clock-time reaches 7:00 a.m.

Dated: April 24, 1946.

*Erwin B. Hock*  
Deputy Commissioner.