

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 888

NOVEMBER 9, 1950.

TABLE OF CONTENTS

ITEM

1. ACTIVITY REPORT FOR OCTOBER 1950.
2. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1950 TO OCTOBER 1, 1950 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R. S. 33:1-19.
3. FAIR TRADE - NOTICE OF COMPLETE PUBLICATION.
4. DISCIPLINARY PROCEEDINGS (North Brunswick) - FALSE ANSWER IN APPLICATION CONCERNING TRUE OWNERSHIP OF STOCK - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF A LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO APPLY FOR LIFTING OF SUSPENSION AFTER 90 DAYS IF SITUATION CORRECTED.
5. DISQUALIFICATION - PREVIOUS ORDER REMOVING DISQUALIFICATION VACATED BECAUSE OF FALSE TESTIMONY AT ORIGINAL HEARING.
6. SEIZURE - FORFEITURE PROCEEDINGS - STOCK OF ALCOHOLIC BEVERAGES, FIXTURES AND FURNISHINGS IN HOTEL FORMERLY LICENSED ORDERED FORFEITED BECAUSE OF UNLAWFUL SALE OF ALCOHOLIC BEVERAGES THEREIN - MUSIC BOX AND VENDING MACHINE RETURNED TO INNOCENT CLAIMANT.
7. CANCELLATION PROCEEDINGS (Raritan Township, Middlesex County) - CLUB LICENSE - CLUB NOT IN ACTIVE OPERATION FOR AT LEAST THREE YEARS PRIOR TO DATE OF APPLICATION - LICENSE CANCELLED.
8. DISCIPLINARY PROCEEDINGS (Franklin Lakes) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Camden) - ILLICIT LIQUOR - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Maple Shade) - ALLOWING LICENSED PREMISES TO BE USED IN CONNECTION WITH ILLEGAL ACTIVITY (SLOT MACHINES) RESULTING IN A CONVICTION IN CRIMINAL PROCEEDINGS - FOURTH VIOLATION (ALL PRIOR VIOLATIONS OCCURRED MORE THAN FIVE YEARS AGO) - LICENSE SUSPENDED FOR 30 DAYS.
11. STATE LICENSES - NEW APPLICATIONS FILED.

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

BULLETIN 888

NOVEMBER 9, 1950.

I. ACTIVITY REPORT FOR OCTOBER 1950

| | | |
|---|-----|---|
| ARRESTS: | | |
| Total number of persons arrested - - - - - | | 26 |
| Licensees and employees - - - - - | 8 | |
| Bootleggers - - - - - | 18 | |
| SEIZURES: | | |
| Motor vehicles - cars - - - - - | | 3 |
| Stills - over 50 gallons - - - - - | | 2 |
| - 50 gallons or under - - - - - | | 3 |
| Alcohol - gallons - - - - - | | 31.60 |
| Mash - gallons - - - - - | | 2,090.00 |
| Distilled alcoholic beverages - gallons - - - - - | | 14.57 |
| Brewed malt alcoholic beverages - gallons - - - - - | | 30.46 |
| RETAIL LICENSEES: | | |
| Premises inspected - - - - - | | 863 |
| Premises where alcoholic beverages were gauged - - - - - | | 909 |
| Bottles gauged - - - - - | | 16,588 |
| Premises where violations were found - - - - - | | 79 |
| Violations found - - - - - | | 86 |
| Type of violations found: | | |
| Unqualified employees - - - - - | 13 | Disposal permit necessary - - - - - |
| Reg. #38 sign not posted - - - - - | 9 | Improper beer taps - - - - - |
| Prohibited signs - - - - - | 4 | Other mercantile business - - - - - |
| Probable fronts - - - - - | 3 | Other violations - - - - - |
| STATE LICENSEES: | | |
| Premises inspected - - - - - | | 33 |
| License applications investigated - - - - - | | 7 |
| COMPLAINTS: | | |
| Complaints assigned for investigation - - - - - | | 445 |
| Investigations completed - - - - - | | 422 |
| Investigations pending - - - - - | | 106 |
| LABORATORY: | | |
| Analyses made - - - - - | | 101 |
| "Shake-up" cases (alcohol, water and artificial color) - bottles - - - - - | | 5 |
| Liquor found to be not genuine as labeled - bottles - - - - - | | 4 |
| IDENTIFICATION BUREAU: | | |
| Criminal fingerprint identifications made - - - - - | | 24 |
| Persons fingerprinted for non-criminal purposes - - - - - | | 151 |
| Identification contacts made with other enforcement agencies - - - - - | | 100 |
| Motor vehicle identifications via N. J. State Police teletype - - - - - | | 4 |
| DISCIPLINARY PROCEEDINGS: | | |
| Cases transmitted to municipalities - - - - - | | 16 |
| Violations involved: | | |
| Sale during prohibited hours - - - - - | 9 | Failure to afford view into premises during prohibited hours 2 |
| Permitting gambling on premises (cards, pool-selling) 3 | | Permitting lottery activity on premises (baseball pool) - - - - - |
| Permitting bookmaking on premises - - - - - | 2 | Sale outside scope of license - - - - - |
| Sale to minors - - - - - | 2 | Possessing chilled beer (DL licensee) - - - - - |
| | | Permitting brawls on premises - - - - - |
| Cases instituted at Division - - - - - | | 20 |
| Violations involved: | | |
| Possessing illicit liquor - - - - - | 6 | Possessing contraceptives on premises - - - - - |
| Fraud and front - - - - - | 4 | Peddling alcoholic beverages from vehicle 1 |
| Permitting immoral activity on premises 2 | | Illegal activity in connection with licensed premises - - - - - |
| Delivery without bona fide invoices - - - - - | 2 | Solicitor aiding & abetting wash sale - - - - - |
| Retailer bottling without a license. - - - - - | 1 | Unauthorized transportation - - - - - |
| Permitting hostesses on premises - - - - - | 1 | Mislabeling beer taps - - - - - |
| Conducting business as a nuisance - - - - - | 1 | Sale to non-members by clubs - - - - - |
| Retailer soliciting from house to house 1 | | Failure to file notice of change in application-1 |
| Permitting prostitutes on premises - - - - - | 1 | |
| Cases brought by municipalities on own initiative and reported to Division - - - - - | | 2 |
| Violations involved: | | |
| Sale to minors - - - - - | 1 | |
| Sale during prohibited hours - - - - - | 1 | |
| CANCELLATION PROCEEDINGS instituted at Division - - - - - | | 1 |
| Violation involved: Club's lack of continuous possession of club quarters for three years prior to application. | | |
| HEARINGS HELD AT DIVISION: | | |
| Total number of hearings held - - - - - | | 39 |
| Appeals - - - - - | 2 | Seizures - - - - - |
| Disciplinary proceedings - - - - - | 18 | Tax revocation - - - - - |
| Eligibility - - - - - | 8 | |
| PERMITS ISSUED: | | |
| Total number of permits issued - - - - - | | 1,399 |
| Employment - - - - - | 120 | Social affairs - - - - - |
| Solicitors - - - - - | 71 | Special wine - - - - - |
| Disposal of alcoholic beverages - - - - - | 134 | Miscellaneous - - - - - |
| | | 95 |

Dated: November 1, 1950.

ERWIN B. HOCK, DIRECTOR

2. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1950 TO OCTOBER 1, 1950 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19

C L A S S I F I C A T I O N O F L I C E N S E S

| County | Plenary Retail Consumption | | Plenary Retail Distribution | | Club | | Limited Retail Distribution | | Seasonal Retail Consumption | | Number Surrendered Expired | Number Licenses in Effect | Total Fees Paid |
|------------|----------------------------|----------------|-----------------------------|--------------|------------|-------------|-----------------------------|-------------|-----------------------------|-------------|-------------------------------|---------------------------|-----------------|
| | No. Issued | Fees Paid | No. Issued | Fees Paid | No. Issued | Fees Paid | No. Issued | Fees Paid | No. Issued | Fees Paid | | | |
| Atlantic | 487 | \$ 203,879.18 | 70 | \$ 25,500.00 | 18 | \$ 1,675.00 | | | | | | 575 | \$ 231,054.18 |
| Bergen | 815 | 297,400.00 | 296 | 78,927.00 | 68 | 6,621.78 | 60 | \$ 2,701.30 | 5 | \$ 1,297.41 | | 1244 | 386,947.49 |
| Burlington | 186 | 72,325.00 | 30 | 8,300.00 | 38 | 5,400.00 | 1 | 25.00 | | | | 255 | 86,050.00 |
| Camden | 456 | 217,236.93 | 82 | 31,575.00 | 63 | 6,047.06 | | | 1 | 375.00 | | 602 | 255,234.99 |
| Cape May | 133 | 65,750.00 | 11 | 3,700.00 | 15 | 1,586.03 | | | | | | 159 | 71,036.03 |
| Cumberland | 81 | 34,800.00 | 14 | 3,650.00 | 29 | 3,910.00 | | | | | | 124 | 42,360.00 |
| Essex | 1377 | 760,439.45 | 349 | 201,850.00 | 99 | 13,313.42 | 33 | 1,650.00 | | | 1 | 1857 | 977,252.87 |
| Houcester | 107 | 34,650.00 | 13 | 2,950.00 | 14 | 1,389.32 | | | | | | 134 | 38,989.32 |
| Hudson | 1559 | 676,032.92 | 298 | 117,810.00 | 77 | 9,310.96 | 72 | 3,075.00 | | | | 2006 | 806,228.88 |
| Hunterdon | 79 | 24,350.00 | 6 | 1,850.00 | 5 | 600.00 | | | | | | 90 | 26,800.00 |
| Mercer | 425 | 255,000.00 | 51 | 20,600.00 | 55 | 7,710.14 | | | 1 | 107.50 | | 532 | 283,417.64 |
| Middlesex | 634 | 300,422.94 | 71 | 21,695.00 | 68 | 6,419.52 | 5 | 175.00 | | | | 778 | 328,712.46 |
| Monmouth | 548 | 274,395.00 | 112 | 38,450.00 | 33 | 3,812.26 | 11 | 410.00 | 30 | 12,902.21 | | 734 | 329,969.47 |
| Morris | 353 | 118,515.00 | 95 | 30,200.00 | 40 | 4,012.67 | 6 | 300.00 | 5 | 862.50 | | 500 | 153,890.17 |
| Ocean | 185 | 102,959.28 | 44 | 18,685.00 | 14 | 1,500.00 | | | | | | 243 | 123,144.28 |
| Passaic | 881 | 360,663.23 | 166 | 51,030.00 | 34 | 4,271.30 | 15 | 696.16 | | | | 1096 | 416,660.69 |
| Paterson | 50 | 19,000.00 | 7 | 1,300.00 | 11 | 1,100.00 | | | | | | 68 | 21,400.00 |
| Somerset | 185 | 75,065.00 | 36 | 9,760.00 | 22 | 2,495.89 | | | | | | 243 | 87,320.89 |
| Sussex | 173 | 45,955.00 | 17 | 3,355.00 | 9 | 534.86 | 1 | 50.00 | 1 | 225.00 | | 201 | 50,119.86 |
| Union | 547 | 291,586.40 | 138 | 56,750.00 | 63 | 7,275.00 | 28 | 1,361.95 | | | | 776 | 356,973.35 |
| Warren | 151 | 41,805.00 | 17 | 3,307.50 | 30 | 2,906.05 | | | 2 | 255.44 | | 200 | 48,273.99 |
| Totals | 9412 | \$4,272,230.38 | 1923 | \$731,244.50 | 805 | \$91,891.26 | 232 | \$10,444.41 | 45 | \$16,025.06 | 1 | 12417 | \$5,121,835.60 |

FRWIN B. HOCK, Director.

Respectfully submitted, John H. Michelson, Deputy Director.

3. FAIR TRADE - NOTICE OF COMPLETE PUBLICATION.

November 6, 1950

The next official publication of minimum resale prices pursuant to Fair Trade rules (Revised Regulations No. 30) will become effective on January 1, 1951. Prices to be listed must be filed with the office of this Division not later than November 20, 1950. The publication will be a complete pamphlet in accordance with Rule 3 of Regulations No. 30, providing for issuance of quarterly complete publications.

In submitting price listings it is important to note the following:

1. The importance of listing all brands of alcoholic beverages (including malt beverages) is emphasized in light of Rule 6 of Revised Regulations No. 30 which prohibits price advertising of any brand not listed in Fair Trade.
2. It is suggested that close attention be given to the importance of a fair and adequate markup for the retailer.
3. Only manufacturers and wholesalers owning brands or wholesalers having specific written authorization of the owner of brands, may file price listings for publication in minimum resale price pamphlets.
4. Where listers of brands choose to publish a permissive case lot discount, the phrase "Discount of _____% permitted on case lot purchases" should be used.
5. True copies of labels or photostats of labels of brands listed in Fair Trade must be submitted with the price listings, if such labels have not been previously submitted.
6. Price listings may be submitted by letter in the same form as heretofore but must bear a statement certifying the existence of a Fair Trade contract between the manufacturer or wholesaler and a licensed New Jersey retailer. It is important to note that copies of such Fair Trade contracts need no longer be filed with the Division.

Notification of the proportionate share of aggregate expenses involved in the publication of the complete pamphlet will be made to participating companies as soon as the pamphlet is mailed to all retail licensees.

ERWIN B. HOCK
Director.

- 4. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN APPLICATION CONCERNING TRUE OWNERSHIP OF STOCK - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF A LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO APPLY FOR LIFTING OF SUSPENSION AFTER 90 DAYS IF SITUATION CORRECTED.

In the Matter of Disciplinary)
 Proceedings against)
 C. O. CLUB, INC.)
 Corner Wood Ave. & Georges Road)
 North Brunswick)
 P.O. RFD 4, New Brunswick, N.J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-6, issued by the)
 Township Committee of the Township)
 of North Brunswick.)

 Simon A. Bahr, Esq., Attorney for Defendant-licensee.
 William F. Wood, Esq., appearing for Division of Alcoholic Beverage
 Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charges:

- "1. In your application dated June 1, 1949, filed with the Township Committee of North Brunswick, upon which you obtained your current plenary retail consumption license, you, after listing your stockholders in answer to Question 22 as Charles Oliveri (45 shares or 45%), Emma Oliveri (45 shares or 45%) and Elizabeth Tyska (10 shares or 10%), falsely stated 'No' in answer to Question 23, which asks: 'Has any....individual other than the stockholders hereinbefore set forth any beneficial interest, directly or indirectly, in the stock held by said stockholders?', whereas in truth and fact Tony Oliveri was the real and beneficial owner of one-half of your stock; said false statement being in violation of R.S. 33:1-25.
- "2. From December 3, 1945 until on or about February 14, 1950, you knowingly aided and abetted Tony Oliveri to exercise, contrary to R.S. 33:1-26, the rights and privileges of your successive plenary retail consumption licenses; thereby yourself violating R.S. 33:1-52."

It appears from the record in the instant case that on December 3, 1945, the defendant corporate-licensee was granted a transfer of the plenary retail consumption license that is now the subject of these proceedings. It also appears that, at the time of purchase of the business establishment, Anthony Oliveri advanced the sum of \$2,500.00 toward the purchase price of the business and the real property in which it was conducted. His brother, Charles Oliveri, also contributed the sum of \$2,500.00 toward the purchase price of the said property and business; the balance of the purchase price being in the form of a mortgage given to the seller by the corporation.

It further appears that, at the time the aforementioned business was purchased and the license transferred to the corporation, Anthony Oliveri was disqualified from becoming a stockholder in the corporation because of a criminal record. Hence, no stock was issued to him. Instead, forty-five of the one hundred outstanding shares were issued to Charles Oliveri, forty-five to the latter's wife, Emma, and ten to Elizabeth Tyska, a qualifying shareholder. Anthony Oliveri thereafter made application to the State Commissioner (now Director) to have his disqualification removed by virtue of R.S. 33:1-31.2. As a result of the petition filed with the State Commissioner (now Director), a hearing was held at the Department (now Division) of Alcoholic

Beverage Control and, as a result thereof, an order was entered on February 15, 1946, that Anthony Oliveri's statutory disqualification because of his criminal convictions be removed. Immediately thereafter, according to the statement obtained during the course of the investigation and also from the testimony given by Anthony Oliveri in the instant hearing, the latter was employed as a bartender by defendant corporate-licensee. He remained in the nominal capacity of a mere employee until February 14, 1950, at which time twenty-five shares of stock were assigned to him and twenty-five to his wife, Ann Oliveri. He was then elected as vice-president and a director, and Ann was elected secretary and a director of the corporation.

The question presented is whether Anthony Oliveri, by contributing \$2,500.00 toward the purchase price of the licensed business when purchased, obtained an undisclosed interest in the corporation or whether the sum advanced was, as he contended at the hearing, a loan to his brother, Charles Oliveri.

In the sworn statement given by Anthony Oliveri, he was asked whether or not the \$2,500.00 which he advanced to the corporation in 1945 was an investment in the business, and he answered, "Yes, to buy the place." Furthermore, when asked why he did not appear as a stockholder, he answered, "In 1931 I was in some trouble and was disqualified to hold a license or to be employed in a tavern. In February 1946 my disqualification was lifted by the Commissioner of Alcoholic Beverage Control and I started to tend bar ***." In the testimony given in the instant hearing, Anthony Oliveri was asked on direct examination, "Did you at the time that the money was transferred in 1945, did you have any intentions at that time of buying an interest in the business?", and his answer was, "Well, just at that time, I don't remember what month -- I mean, after I had a loan of \$2,500.00 to buy the place, I figured that I should be a part-owner in the business."

Charles Oliveri in a sworn statement said, when asked whether he and his brother had an equal interest in the business which was started in 1945, "Yes, but my brother did not appear because of some trouble he had. He was straightened out in 1946 but we neglected to transfer the stock to him until February 1950."

Anthony Oliveri testified that the \$2,500.00 "loaned" to his brother, Charles Oliveri, at the time the defendant corporate-licensee purchased the licensed premises, represented consideration for the twenty-five shares of stock transferred to him and twenty-five shares to his wife, Ann Oliveri.

After careful review of the evidence presented in the instant case, I am satisfied that Anthony Oliveri had at all times an undisclosed interest in the liquor license.

I find defendant-licensee guilty of both charges preferred herein.

Ordinarily, where a person for whom the "front" was created has been convicted of a crime, but has obtained an order removing his statutory disqualification, a suspension of the license for a period of thirty days would be warranted. Re Benson, Bulletin 742, Item 6. In the instant case, however, this rule does not apply. Anthony Oliveri testified on January 24, 1946, at a hearing at this Department (now Division), which resulted in an order of the Commissioner (now Director), dated February 15, 1946, removing his statutory

disqualification because of his convictions of crime involving moral turpitude, that he had no interest in the defendant's license. This testimony was false because it is apparent that, from the time the license was actually transferred to defendant corporate-licensee in 1945, Anthony Oliveri was the real and beneficial owner of one-half of the corporate stock.

This fraud upon the then Commissioner of Alcoholic Beverage Control, knowingly perpetrated by the said Anthony (Tony) Oliveri, resulted in an order concurrent herewith cancelling the removal of his disqualification and leaving him still disqualified by conviction of crime involving moral turpitude, as set out in said order.

While it is true that defendant has no prior adjudicated record, the seriousness of the charge might well warrant an outright revocation of the license. I am inclined, however, not to penalize the other stockholders of the corporate-licensee, believing that they were not parties to Anthony (Tony) Oliveri's fraud in securing the removal of his disqualification. Anthony (Tony) Oliveri is disqualified from having any interest in a liquor license or in the business conducted thereunder. The illegal situation set forth herein cannot continue. I shall suspend the license for the balance of the term. If and when the illegal situation is corrected by the disposal of the interest of Anthony (Tony) Oliveri in the corporation, and satisfactory proof thereof is furnished me, I shall entertain a petition to reinstate the said license prior to its expiration; providing, however, that no order lifting the suspension and reinstating the license will be entered effective prior to the service of a ninety-day suspension. Re Clinton Cut Rate Drugs, Inc., Bulletin 538, Item 3.

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

ORDERED that Plenary Retail Consumption License C-6, issued for the 1950-51 licensing period by the Township Committee of the Township of North Brunswick to C. O. Club, Inc., for premises Corner Wood Ave. & Georges Road, North Brunswick, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. October 26, 1950; and it is further

ORDERED that, if and when the illegal situation is corrected, application may be made to me to vacate the suspension herein imposed; provided, however, that in no event will the suspension be lifted until at least ninety (90) days have elapsed from the effective date of the suspension herein imposed.

ERWIN B. HOCK
Director.

5. DISQUALIFICATION - PREVIOUS ORDER REMOVING DISQUALIFICATION VACATED BECAUSE OF FALSE TESTIMONY AT ORIGINAL HEARING.

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

O R D E R
ON ORDER TO SHOW CAUSE

Case No. 502.

-----)
Simon A. Bahr, Esq., Attorney for Tony Oliveri.

BY THE DIRECTOR:

The petitioner in this case was convicted of a crime involving the element of moral turpitude in October 1931. So far as is here pertinent, such conviction rendered the petitioner ineligible to have any interest in a liquor license issued in this state or in the business conducted thereunder. See R.S. 33:1-25, 26. Pursuant to the authorization of the Alcoholic Beverage Law (R. S. 33:1-31.2) the petitioner's statutory disqualification was removed by order dated February 15, 1946. See Case No. 502.

Among other things, the entry of such order was predicated upon the petitioner's sworn testimony, given on January 24, 1946 at the hearing held in connection with the removal proceedings, that he had no interest in the business of the C. O. Club, Inc., which corporation has been the holder of a plenary retail consumption license in this state since December 3, 1945.

It was recently brought to the attention of this Division that such testimony was false and that, in truth and fact, the petitioner has been the "real and beneficial owner of one-half of the corporate stock" of the said licensee ever since it first became the holder of a liquor license. See the decision in the disciplinary proceedings instituted against C. O. Club, Inc., decided simultaneously herewith. It is, of course, self-evident that, if the petitioner had truthfully disclosed his unlawful interest in the licensed business at the hearing held on January 24, 1946, his statutory disqualification would not have been removed and the order of February 15, 1946 would not have been entered.

The instant proceedings are now before me pursuant to notice served upon the petitioner to show cause why the order entered in this cause on February 15, 1946 should not be vacated because of the petitioner's fraudulent testimony as aforesaid. Cf. Handlon v. Town of Belleville, 4 N. J. 99 (Sup. Ct. 1950). In response to this notice, the petitioner appeared with counsel and rested his entire case upon the record submitted in connection with the disciplinary proceedings heretofore referred to against the corporate licensee.

There is no need to repeat herein the evidence which is set forth in the cited case. I am satisfied from such evidence that the petitioner knowingly perpetrated a fraud upon the Division (then Department) when he gave his false testimony as aforesaid. It necessarily follows that the order entered herein on February 15, 1946 must be vacated. The petitioner thus remains disqualified under the Alcoholic Beverage Law from holding a liquor license, having any interest in any business conducted thereunder, and from being employed by any licensee in this state.

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

ORDERED that the order entered herein on February 15, 1946 be and the same is hereby vacated and annulled.

ERWIN B. HOCK
Director.

6. SEIZURE -- FORFEITURE PROCEEDINGS - STOCK OF ALCOHOLIC BEVERAGES, FIXTURES AND FURNISHINGS IN HOTEL FORMERLY LICENSED ORDERED FORFEITED BECAUSE OF UNLAWFUL SALE OF ALCOHOLIC BEVERAGES THEREIN-- MUSIC BOX AND VENDING MACHINE RETURNED TO INNOCENT CLAIMANT.

In the Matter of the Seizure on)
March 10, 1950, of a quantity of)
alcoholic beverages and various)
fixtures and furnishings and)
equipment at 215 Main Street, in)
the Borough of Keansburg, County)
of Monmouth, and State of New)
Jersey.)

Case No. 7594

ON HEARING
CONCLUSIONS AND ORDER

-----)
Edward C. Stokes, Esq., Attorney for George MacDonald.
Rosario S. Mazzola, Esq., Attorney for Blue Vending Cigarette and
Music Service, Inc.
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, to determine whether a quantity of alcoholic beverages and various other personal property more particularly described in a schedule attached hereto, seized on March 10, 1950, in George MacDonald's hotel located at 215 Main Street, Keansburg, New Jersey, constitute unlawful property and should be forfeited.

The hotel was licensed for the sale of alcoholic beverages from Repeal in 1933 until June 21, 1948, with the license first issued to George MacDonald, then transferred to his wife Rose MacDonald, and from July 1, 1944, through the licensing year 1947-48 again issued to George MacDonald. On June 21, 1948, the license was revoked for serious misconduct of the licensed business, including a record of previous offenses. The details of such misconduct are set forth in the Conclusions and Order revoking the license reported in Re MacDonald, Bulletin 809, Item 4. It appears therein that, while Rose MacDonald was the licensee with her husband George MacDonald in charge of the licensed premises, the license was suspended on two occasions in 1944 for violation of the local "hours of sale" ordinance; that thereafter, in 1945, while the license was held by George MacDonald, the license was suspended for a similar offense, and subsequently revoked in June 1948 because of lewdness and immoral activities, sale "after hours" and a serious brawl on the licensed premises, as well as for operating the licensed business in such a manner as to become a nuisance. The revocation of the license rendered George MacDonald ineligible to hold any other liquor license for a period of two years after June 21, 1948, the effective date of the revocation. R. S. 33:1-31.

Despite this unsavory record and lack of a license, sales of alcoholic beverages were made at such hotel in February and March 1950, as will hereafter be seen, and the seizure followed.

When the matter came on for hearing pursuant to R. S. 33:1-66, Mr. MacDonald appeared with counsel. MacDonald denied that he personally sold alcoholic beverages without a license, or was aware of any such sales by his employee, and sought return of the seized property. An appearance was also entered for Blue Vending Cigarette and Music Service, Inc., which sought return of a music machine and a cigarette vending machine.

It appears from the evidence presented that an ABC agent purchased alcoholic beverages at the hotel on February 25, February 28, March 4 and March 10, 1950. On the latter date a second agent also purchased alcoholic beverages at the hotel. The agent observed other persons at the place served with alcoholic beverages on February 25 and March 4. George MacDonald personally sold alcoholic beverages on February 25, and was present on February 28 and March 4 when his employee John (also referred to as Jack) Hannan sold alcoholic beverages at the hotel. MacDonald was absent on March 10 when Hannan sold alcoholic beverages to the two agents.

On March 10, ABC agents seized unconsumed drinks of beer and whiskey in front of the two agents; a partly full bottle of whiskey found in a raincoat hanging on a coat-rack near the bar (being the bottle from which Hannan had served the agents); three quart bottles of beer (two full and one partly full) in an ice-box near the bar; approximately five cases of quart bottles of beer in the kitchen (some of the beer being stored in another ice-box); a number of highball and whiskey glasses which were behind the bar; a quantity of whiskey (including whiskey of the same brand as the bottle found in the raincoat) in MacDonald's bedroom on an upper floor of the hotel; many cases of alcoholic beverages in other rooms on such upper floors, and the fixtures and equipment on the ground floor of the hotel.

MacDonald arrived while the seizure was in progress and told the agents that the alcoholic beverages found on the upper floors of the hotel represented his stock of liquor on hand when his license was revoked in 1948, and were stored by him for ultimate sale; that he hoped to obtain another liquor license but, if he was unable to do so, he intended to apply to this Division for a permit to dispose of such alcoholic beverages to another licensee.

MacDonald was advised by the agents of Hannan's sale of alcoholic beverages, and he was brought into the room where they were taking a written statement from Hannan. The agents informed MacDonald that Hannan had stated that he had been in MacDonald's employ for about seven years -- first as a bartender and presently as cook and counter-man; that MacDonald owned all of the alcoholic beverages in the place and received all moneys from the sale of such beverages, and that it was the practice to keep a bottle of whiskey in the raincoat. MacDonald made no response whatsoever.

At the hearing MacDonald admitted that Hannan was in his employ, and that the partly full bottle of whiskey found in the raincoat came from his stock in his bedroom. He denied that he sold alcoholic beverages to the agent on February 25, and claimed that he did not see Hannan sell alcoholic beverages at any time and was unaware of such sales. MacDonald did not produce Hannan as a witness on his behalf, although it appears that he was on friendly terms with Hannan and that Hannan was readily available for such purpose.

I do not accept MacDonald's uncorroborated statement that he did not sell alcoholic beverages or have knowledge of such sales by Hannan on the dates in question because of the positive evidence to the contrary and, further, that it is inconsistent with the general perspective of the case.

In this connection it is highly significant that MacDonald had on display behind his bar a current Federal retail liquor dealer's stamp issued to him; such as is required under Federal law from every retail dealer in liquor (USCA, Title 26, pars. 3250, 3253, 3271). It reasonably can be assumed that persons who procure retail liquor dealers' Federal tax stamps do so for a purpose, and that it is more likely that the holder of such a stamp will sell intoxicating liquor than a

person who, if he sells such liquor, will be subject to both State and Federal prosecution. Jung v. City of Winona, 71 F. Supp. 558 (D. C. Minn. 1947).

Indeed, when a person is accused of selling alcoholic beverages without a license in violation of state law, possession of such a stamp is admissible as cogent evidence of an intent to sell alcoholic beverages. USCA, Title 26, par. 3276, Note 9. See also Chapman v. Boynton, 4 F. Supp. 43 (D. C. Kan. 1933).

MacDonald did not present any evidence to contradict the testimony of the ABC agents that Hannan sold alcoholic beverages on the three dates mentioned. One witness, a resident of the hotel who says he was in the barroom on all three occasions, testified, on MacDonald's behalf, that he did not observe Hannan sell any alcoholic beverages. This evidence is inconclusive inasmuch as this witness says that he was listening to the radio on each occasion and paid little, if any, attention to what took place there; that it is possible that he did not observe the sale of alcoholic beverages to the agent because he paid no attention.

I find as a fact, on the basis of all of the evidence presented, that George MacDonald sold alcoholic beverages to the agent on February 25 at the hotel, and that John (Jack) Hannan sold alcoholic beverages to one agent on February 28 and March 4, and to two agents on March 10, 1950, on MacDonald's behalf.

The unlicensed sale of alcoholic beverages, as aforesaid, renders those beverages, and the other alcoholic beverages seized, which were possessed for like purpose, illicit. R.S. 33:1-2; 33:1-1(i). These illicit alcoholic beverages, and all other personal property seized in the hotel, are subject to seizure and forfeiture. R. S. 33:1-1(y); R.S. 33:1-66.

I have the discretionary authority to relieve a person from forfeiture if he establishes to my satisfaction that he acted in good faith and unknowingly violated the law. R.S. 33:1-66(e). I am not satisfied that MacDonald acted in good faith and unknowingly violated the law because it is clear, from the circumstances above recited, that such is not the fact.

The Blue Vending Cigarette and Music Service, Inc. has established that it is the owner of a music box and a cigarette vending machine which were seized in MacDonald's hotel, and presented evidence that such machines had been placed therein September 1949 in response to a telephone call. The persons who delivered and serviced the machines testified that there were no alcoholic beverages visible on their visits, and that they had no reason to suspect that alcoholic beverages were being sold there unlawfully.

Persons who dealt with MacDonald in the regular course of business and placed their equipment in this hotel did not do so at their peril, in so far as forfeiture proceedings are concerned, merely because MacDonald's license was revoked. It was an old established hotel, where a restaurant or luncheonette was apparently conducted after revocation of the license. Under the circumstances, the mere presence of the old bar does not in itself signify that alcoholic beverages were being sold. There is no other evidence to indicate that the employees of the claimant had any reason to suspect that such was the fact. I, therefore, find that the claimant acted in good faith and did not know, or have any reason to suspect, that alcoholic beverages were being sold in the hotel. I shall, therefore, return the music machine and cigarette vending machine to such claimant on payment of the costs of their seizure and storage.

Accordingly, it is DETERMINED and ORDERED that, if on or before the 6th day of November, 1950, Blue Vending Cigarette and Music Service, Inc. pays the costs of seizure and storage of the music machine, and cigarette machine, such machines will be returned to it; and it is further

DETERMINED and ORDERED that the balance of the seized property, including the cash receipts and currency in the various vending and amusement machines, 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.

ERWIN B. HOCK
Director.

Dated: October 23, 1950.

SCHEDULE "A"

Approximately 250 cases of 4/5 quarts, quarts and other sizes of various brands of alcoholic beverages

- 59 - quarts of beer
- 2 - bottles of beer
- 274 - bottles of near beer and soda
- 1 - Rowe cigarette machine and currency therein
- 1 - coin operated scale and currency therein
- 1 - Symphonola Music Box - Model 18800, Serial No. 99711
- 1 - pin ball machine
- 1 - GE wall clock
- 1 - 50 ft. bar
- 16 - bar stools
- 11 - tables
- 28 - chairs
- 1 - Neuhaus piano
- 3 - National Cash Registers No. S257914AA, No. 1040766W, No. 2872576
- 5 - large mirrors and back bar
- 2 - refrigerator units Models C1217K1500, C2995K2603
- 2 - Monel metal sinks and drain pans
- 1 - beer cooler
- 1 - tile and metal drain
- 1 - 24 inch cooler keg
- 1 - metal deep freeze
- 1 - bridge lamp
- 1 - electric soup shelf
- 1 - Magic Electric Toaster
- 1 - 3 burner Silex coffee maker
- 1 - Magic Kitchen grill
- 1 - air compressor
- 1 - Norge washing machine Model 7W18P, Serial No. 33166
- 1 - Frigidaire
- 1 - meat slicer Serial No. 5148079
- 1 - steam table
- 1 - electric Westinghouse ironer
- Miscellaneous dishes and other restaurant equipment
- Miscellaneous foodstuffs
- \$80.83 in cash

7. CANCELLATION PROCEEDINGS - CLUB LICENSE - CLUB NOT IN ACTIVE OPERATION FOR AT LEAST THREE YEARS PRIOR TO DATE OF APPLICATION - LICENSE CANCELLED.

In the Matter of Cancellation)
Proceedings against)

HILLSIDE SWIMMING POOL ASSN., INC.)
Woodland Avenue)
Raritan Township (Middlesex County))
P.O. Plainfield, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-4, issued by)
the Board of Commissioners of Raritan)
Township (Middlesex County).)

Howard Carter, Jr., Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant was served with notice, dated October 11, 1950, to show cause why its current Club License CB-4, issued by the Board of Commissioners of Raritan Township, Middlesex County, for premises at Woodland Avenue, for 1950-51 period, should not be suspended, revoked or cancelled and declared null and void for the following reason:

"Said license was improvidently issued in violation of Rules 3 and 4 of State Regulations No. 7, in that your club had not been in active operation in the State of New Jersey and had not been in exclusive possession and use of a clubhouse or club quarters for at least three (3) years continuously immediately prior to the submission, on June 6, 1950, of your application for license."

On October 19, 1950, the Division was notified by letter, dated October 16, 1950, from the attorney for said club that he did not propose to appear on the return date of the hearing in order to contest the matter in question.

The application for the club license discloses that since the defendant club was organized on April 28, 1948, it obviously neither has been in existence nor has been in exclusive possession and use of club quarters for the last past three years. It follows that its club license was improvidently issued and must be immediately cancelled. See Rules 3 and 4 of State Regulations No. 7.

Accordingly, it is, on this 30th day of October, 1950,

ORDERED that the order to show cause why Club License CB-4, issued to Hillside Swimming Pool Assn., Inc. by the Board of Commissioners of Raritan Township (Middlesex County), for premises Woodland Avenue, Raritan Township (Middlesex County), should not be cancelled and declared null and void, be and the same is hereby made absolute; and it is further

ORDERED that operation, if any, under the aforementioned license must cease forthwith, and the license certificate itself must be surrendered to the Board of Commissioners of Raritan Township (Middlesex County) for cancellation.

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)

AUGUST HILBIG)
T/a CRYSTAL LAKE INN)
High Mountain Rd. near Colonial Rd.)
Franklin Lakes)
P.O. RFD, Oakland, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Franklin Lakes.)

August Hilbig, 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 27 of State Regulations No. 20.

On September 8, 1950, an ABC agent tested 48 opened bottles of alcoholic beverages on defendant's licensed premises and seized one 4/5 quart bottle labeled "Blended Scotch Whisky Johnnie Walker Red Label" when his field test indicated that the contents of said bottle were apparently different from a genuine sample of the same product. Subsequent analysis by the Division chemist established that said bottle contained an alcoholic beverage different from that described on its label. See Rule 27 of State Regulations No. 20.

Defendant has no prior record. I shall suspend defendant's license for fifteen days. Re Rudolph, Bulletin 680, Item 1. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 30th day of October, 1950,

ORDERED that Plenary Retail Consumption License C-1, issued by the Borough Council of the Borough of Franklin Lakes to August Hilbig, t/a Crystal Lake Inn, for premises High Mountain Rd. near Colonial Rd., Franklin Lakes, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. November 6, 1950, and terminating at 3:00 a.m. November 16, 1950.

ERWIN B. HOCK
Director.

9. 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)

PETER D. KOSZARECKI)
T/a BELLEVIEW INN)
2001 Broadway)
Camden, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-23, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

Frank M. Lario, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe the contents thereof, in violation of Rule 27 of State Regulations No. 20.

On July 11, 1950, an agent of the U. S. Treasury Department, Internal Revenue Service, Alcohol Tax Unit, seized in defendant's licensed premises two quart bottles labeled "Calvert Reserve Blended Whiskey" when his field tests indicated a variance between the label on each of the said bottles and the respective contents thereof. Subsequent analysis by the Federal Chemist established that the contents of neither of said bottles conformed with the description on the labels. See Rule 27 of State Regulations No. 20.

Defendant's only prior adjudicated record consists of a five-day suspension in June 1939 by the local issuing authority after a finding of guilty to a charge of selling alcoholic beverages during prohibited hours. Because of the lapse of time, the prior suspension will not be considered in aggravation of the present case. I shall suspend the license for fifteen days. Remitting five days because of the plea will leave a net suspension of ten days. See Bulletin 886, Item 7.

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

ORDERED that Plenary Retail Consumption License C-23, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Peter D. Koszarecki, t/a Belleview Inn, 2001 Broadway, Camden, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 a.m. October 30, 1950, and terminating at 7:00 a.m. November 9, 1950.

ERWIN B. HOCK
Director.

10. DISCIPLINARY PROCEEDINGS - ALLOWING LICENSED PREMISES TO BE USED IN CONNECTION WITH ILLEGAL ACTIVITY (SLOT MACHINES) RESULTING IN A CONVICTION IN CRIMINAL PROCEEDINGS - FOURTH VIOLATION (ALL PRIOR VIOLATIONS OCCURRED MORE THAN FIVE YEARS AGO) - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against)

SPRING HILL COUNTRY CLUB)
S-41 Highway & Fellowship Rd.)
Maple Shade, N. J.,)

CONCLUSIONS AND ORDER

Holder of Club License CB-1, issued by the Township Committee of the Township of Maple Shade.)
-----)

Spring Hill Country Club, Defendant-licensee, by Joseph M. Evans, Secretary, Treasurer and Manager.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On or about August 24 and 30, 1950, you allowed, permitted and suffered your licensed premises and licensed business to be used in furtherance and aid of and in connection with an illegal activity or enterprise resulting in a conviction in a criminal prosecution, in that two twenty-five cent, one ten cent and two five-cent slot machines were maintained in an unlicensed portion of your licensed building accessible from the licensed portion, with respect to which machines your manager Joseph M. Evans was convicted on or about September 21, 1950 in the County Court of Burlington County, Law Division (Criminal) of the crime of having and keeping slot machines contrary to R. S. 2:135-2 in your licensed building on August 30, 1950; in violation of Rule 4 of State Regulations No. 20."

On August 24, 1950, a member of the State Police visited the premises of the defendant-licensee and observed five slot machines which were located in a rear room of the premises. On August 30, 1950, the same person returned to the premises in question and again found the five slot machines in the rear room of the premises. On the evening of August 30, 1950, four officers of the State Police raided the club premises and seized and thereafter confiscated the five slot machines found therein. The room in which the slot machines were found, although adjoining the premises of the club, was not included as part of the licensed premises.

On September 6, 1950, Joseph M. Evans, Secretary and Treasurer of the defendant-licensee, pleaded non vult in a county court to keeping of slot machines for gambling (R. S. 2:135-2), and as a result thereof was fined \$400.00.

Defendant-licensee has a previous adjudicated record. Effective February 8, 1939, its license was suspended for twenty days for possession of slot machines; effective June 7, 1939, its license was suspended for fifteen days for possession of slot machines; and, effective July 30, 1945, its license was suspended for thirty days for an "hours" violation, sales to non-members, and fraud in application in failing to reveal prior suspensions. The aforesaid suspensions were imposed by the local issuing authority.

This is a fourth violation. Considering, however, that the last suspension of defendant's license occurred more than five years ago and was the result of dissimilar violations, and that the two other suspensions occurred more than ten years ago, I shall, under all the circumstances including a consideration of the plea entered herein, suspend defendant's license for a period of thirty days.

Accordingly, it is, on this 31st day of October, 1950,

ORDERED that Club License CB-1, issued by the Township Committee of the Township of Maple Shade to Spring Hill Country Club, S-41 Highway & Fellowship Rd., Maple Shade, be and the same is hereby suspended for thirty (30) days, effective at 2:00 a.m. November 6, 1950, and terminating at 2:00 a.m. December 6, 1950.

ERWIN B. HOCK
Director.

11. STATE LICENSES - NEW APPLICATIONS FILED.

Thomas D. Henrich and George H. Stirnweiss, t/a Henrich & Stirnweiss Distributors, New Brunswick Freight Terminal, Baldwin St. and Jersey Avenue, New Brunswick, N. J.

Application filed October 31, 1950 for Limited Wholesale License.

Boyce Motor Lines, Inc. (Transportation License)
241-243-245-247-249-251-253 Colden St.
Jersey City, N. J.

Application for additional warehouse at Municipal Dock, Foot of Burnet St., New Brunswick, N. J., filed November 6, 1950.

Erwin B. Hock

Director.