

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

BULLETIN 369

DECEMBER 22, 1939

1. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - REASONS WHY  
HARSH PENALTIES ARE NECESSARY.

December 18, 1939

Arthur C. Malone  
City Clerk  
Hoboken, N. J.

My dear Mr. Malone:

I have before me staff report and your letters of November 29th and December 5th re disciplinary proceedings conducted against

- |                       |                                 |
|-----------------------|---------------------------------|
| 1. Edwin R. Pilsum    | 2. Frank Carone and Marcantonio |
| 301 Washington Street | Segreto                         |
| Rev. 1781             | 61 - 14th Street Mun.Rev. 145   |

I note that Pilsum, charged with possession of three bottles of whiskey the contents of which did not conform to label specifications, had his license suspended for six days; and that Carone and Segreto, charged on municipal initiative with employment of a minor without special permit in violation of State law, and service of alcoholic beverages to a minor in violation of State regulation, had their license suspended for ten days.

Please express to the members of the Board of Commissioners my appreciation for their conduct of both proceedings and particularly for the penalty imposed in the Carone and Segreto case.

I do wish, however, that the penalty in the Pilsum case had been in accord with the recommended thirty-day minimum for possession of illicit alcoholic beverages. I understand that the licensee claimed that a departed bartender was responsible for tampering with the whiskey. That is all well and good but, even if true, is neither defense nor reason why less than the minimum suspension should be imposed. The problem of refills is the greatest besetting control authorities today as well as the liquor industry itself and which will eventually kill it unless dropped dead in its tracks by the imposition of heavy penalties, however harsh in an individual case. Admittedly it is harsh to hold the boss responsible for the acts of his servants. It is only done as a matter of public policy. That's why if one were run over by a bus, he'd sue the person or company that owns and operates the bus and not its driver. We would be in a sorry plight if the owner could escape liability by saying: "I didn't do it. It was my driver. He did it. I've fired him. But you can't touch me." But the law holds him liable just the same. So with refills by a bartender. See Re Jacobs, Bulletin 315, item 8; Re Tumen, Bulletin 316, item 8.

Your Board has recognized the public policy involved by finding the licensee guilty in spite of his attempt to escape liability by blaming the barkeeper and by inflicting a six day suspension which is no paltry penalty. For this I am grateful. It's a good step in the right direction. I am writing you,

therefore, only to urge that in future cases your Board use a gun of still larger caliber so as to crush the refill practice by the devastating effect of a 30 day penalty and so induce a fear complex as a deterrent to others. The practice is growing. New cases come to light most every day. Chances are taken because, if caught, penalties are but moderate. It can be broken up if penalties are so harsh it doesn't pay to take chances. I shall value the cooperation of your Board to this end. Please thank them for what they have already done.

Cordially yours,  
D. FREDERICK BURNETT,  
Commissioner.

2. SEIZURES - CONFISCATION PROCEEDINGS - LIEN DISALLOWED AND PROPERTY FORFEITED.

In the Matter of the Seizure	)	Case 5527
of a Nash Coupe and twenty-one	)	
5-gallon cans of alcohol found	)	ON HEARING
therein, on Route 36, Township	)	CONCLUSIONS AND ORDER
of Raritan, County of Monmouth	)	
and State of New Jersey.	)	
-----	)	

Philip Barbash, Esq., Attorney for Automobile Banking Corporation.  
Harry Castelbaum, Esq., Attorney for the State Department of  
Alcoholic Beverage Control.

BY THE COMMISSIONER:

On August 1, 1939 State Troopers, on discovering Louis Lampione transporting twenty-one 5-gallon cans of alcohol in Frank Otto's automobile in Raritan Township, arrested Lampione and seized the car and alcohol.

The alcohol was presumably bootleg since, although fit for beverage purposes, it bore no tax stamp. P. L. 1939, c. 177. Moreover, the car was not licensed to transport any liquor or alcohol. R. S. 33:1-2, 50.

Hence, on both scores, the alcohol and the car constitute unlawful property. R. S. 33:1-1(i), (y); Re Seizure Case 5455, Bulletin 349, Item 4.

Under the Alcoholic Beverage Law, the State Commissioner, when determining whether seized unlawful property shall be forfeited, may, in his discretion, recognize the bona fide and valid property rights therein of innocent persons who have acted in good faith and without knowledge of or reason to suspect the illegal activity with which such property was connected. R. S. 33:1-66.

As to the alcohol: Since there is no claimant, no reason appears why it should not be forfeited.

As to the automobile: Nobody has appeared to claim it, but the Automobile Banking Corporation alleges a bona fide lien on the automobile under a conditional sale agreement.

In February 1939 the A. B. C. Credit Corporation, an affiliate of the Automobile Banking Corporation, financed one Michael

Ressa in the purchase of a car, and assigned its contract in the matter to the Automobile Banking Corporation. Thereafter, in April 1939, the Automobile Banking Corporation permitted Ressa to sell the automobile to Frank Otto on Otto's assumption of the unpaid balance. In July 1939 Otto traded the automobile in and purchased a new one, the A. B. C. Credit Corporation financing the deal for him for \$773.82 and again assigning its contract to the Automobile Banking Corporation. No payment was ever made in reduction of the \$773.82, the seizure occurring less than two weeks after the deal was consummated.

The only question as to the claim of the Automobile Banking Corporation is whether the A. B. C. Credit Corporation, its affiliate and the assignor of its contract, made reasonable investigation of Otto.

Mortimer Anspach, assistant secretary of the A. B. C. Credit Corporation, testified that, when Ressa's car was transferred to Otto in April 1939, Otto gave a home address in Brooklyn and stated that he, as a partner in a junk yard in that Borough, had an income between \$60.00 and \$70.00 a week (the witness also quoted Otto as saying \$75.00 per week); that Otto also gave him a personal reference and further informed him that the Commercial Credit Corporation (located in the same building as the A. B. C. Credit Corporation) was then financing him in the payment of another car which he had already purchased. Anspach further testified that, on telephoning the reference, he was informed that Otto was all right; that he also telephoned James McCabe, one of the unit managers of the Commercial Credit Corporation, and verified with him the facts given by Otto and also that Otto was an "account" in good standing there (having purchased a car in December 1938 under its financing for \$726.30, with \$40.65 to be paid monthly); that, when the A. B. C. Credit Corporation in July 1939 financed Otto's purchase of the seized automobile, it checked a new reference given by Otto and also rechecked with the Commercial Credit Corporation.

Otto, however, seems to be a "mystery man." Investigation by this Department indicates that he actually never lived at the Brooklyn address and is in no wise connected with the junk yard.

Despite the A. B. C. Credit Corporation's alleged check with Otto's references and with the Commercial Credit Corporation, I am not satisfied that, under the circumstances, it made a reasonable check on Otto either when permitting him to take over Ressa's account in April 1939 or when financing him in the purchase of his new car in July 1939. On both occasions it knew that it was financing Otto in the purchase of a pleasure car when, at the same time, he owned another such car which he had but recently purchased and which was also being financed by a credit company. Such fact called upon the A. B. C. Credit Corporation to take step of caution to learn Otto's need and purpose in buying a second financed pleasure car.

As was well stated by McCabe, of the Commercial Credit Corporation, when asked what his company would have done had it been approached in such a case for the financing of the second automobile -

"....we would have to be informed of the use to which the car would be put and the necessity of having two cars....."

Since the A. B. C. Credit Corporation made, so far as appears, no effort whatsoever to obtain such information either from Otto or elsewhere, I find that, under the circumstances, it failed to make reasonable investigation.

Moreover, I am not convinced that the present claimant is presenting a true picture as to the steps it took in checking on Otto. Although Anspach, the sole witness who appeared on its behalf, testified that he contacted the personal references given by Otto, investigation by this Department indicates the contrary. Furthermore, Anspach's testimony as to what McCabe told him over the telephone when he contacted McCabe was, in several material respects, refuted by McCabe.

Hence, the claim of the Automobile Banking Corporation, the affiliate and assignee of the A. B. C. Credit Corporation, is disallowed.

Accordingly, it is ORDERED that the alcohol and automobile seized in this case and described in Schedule "A" are hereby forfeited in accordance with the provisions of R. S. 33:1-66, and that the automobile be retained for the use of hospitals and State, County and municipal institutions, and that the alcohol be retained for the same use or destroyed in whole or in part at the direction of the Commissioner.

D. FREDERICK BURNETT,  
Commissioner.

Dated: December 15, 1939.

SCHEDULE "A"

- 21 - 5-gallon cans of alcohol
- 1 - Nash coupe, Serial H52932,  
Engine H-E-52432, 1939 N. Y. Registration 6C-32-82

3. BOTTLES - REFILLING LIQUOR BOTTLES WITH TURPENTINE - NOT PROHIBITED BY ALCOHOLIC BEVERAGE LAW OR STATE REGULATIONS BUT THERE ARE OTHER QUESTIONS INVOLVED.

Commissioner:

We are in the paint business and in the course of a year we use considerable old bottles which we fill with such liquids as turpentine and linseed oil, but of late it has become very hard to get old bottles.

Would it be permissible to use liquor bottles for the above mentioned liquids inasmuch as they would not be able to be used for anything else after turpentine or linseed oil have been in them.

Yours very truly,  
Foss & Company

December 18, 1939

Foss & Company,  
Vineland, N. J.

Gentlemen:

There is nothing in the New Jersey Alcoholic Beverage Law or the State Regulations prohibiting the refilling of whiskey bottles with turpentine or linseed oil.

Whether such refilling is in violation of the Federal law or regulations is a matter as to which you should inquire from the United States Treasury Department, Bureau of Internal Revenue, Alcohol Tax Unit, Post Office Building, Newark, N. J.

Whether such refilling is in violation of the New Jersey Bottle Law (R. S. 56:3-14 et seq.), in the event that the bottles have the brand name of the liquor blown in the glass, is a matter as to which you should consult your own attorney.

Very truly yours,  
D. FREDERICK BURNETT,  
Commissioner.

4. DISCIPLINARY PROCEEDINGS - NEWARK LICENSEES - EMPLOYMENT OF WIFE TO TEND BAR CONTRARY TO LOCAL REGULATION - 3 DAYS ON CONFESSION OF GUILT.

In the Matter of Disciplinary )  
Proceedings against )

PHILIP BEYER,  
294 Belmont Avenue,  
Newark, New Jersey, )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-866, issued by the )  
Municipal Board of Alcoholic )  
Beverage Control of the City of )  
Newark. )  
- - - - - )

Sidney Simandl, Esq., Attorney for the Licensee.  
Stanton J. MacIntosh, Esq., Attorney for Department of  
Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge that on or about October 7, 1939, between 12:20 A.M. and 1:00 A.M., and on or about October 18, 1939, between 9:20 P.M. and 9:50 P.M., he allowed and employed his wife to tend bar, sell and serve alcoholic beverages to patrons on his licensed premises, in violation of Section (a) of Newark Resolution No. 4889, adopted by the Board of Commissioners on May 24, 1939.

The usual penalty for such violation is five days. However, by entering his plea in ample time prior to hearing, the Department has been saved time and expense.

Accordingly, it is, on this 18th day of December, 1939,

ORDERED, that Plenary Retail Consumption License C-866, heretofore issued to Philip Beyer by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for three (3) days, effective January 2, 1940 at 3:00 A.M.

D. FREDERICK BURNETT,  
Commissioner.

5. DISCIPLINARY PROCEEDINGS - NEWARK LICENSEES - EMPLOYMENT OF WIFE TO TEND BAR CONTRARY TO LOCAL REGULATION - 3 DAYS ON CONFESSION OF GUILT.

In the Matter of Disciplinary )  
Proceedings against )

JOHN MASSALONGO, )  
171½ Verona Avenue, )  
Newark, New Jersey, )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-492, issued by the )  
Municipal Board of Alcoholic Bever- )  
age Control of the City of Newark. )  
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Stanton J. MacIntosh, Esq., Attorney for Department of )  
Alcoholic Beverage Control.

John Massalongo, Pro Se.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge that on or about October 25, 1939, between 7:10 P.M. and 7:45 P.M., he allowed and employed his wife to tend bar, sell and serve alcoholic beverages to patrons on his licensed premises, in violation of Section (a) of Newark Resolution No.4889, adopted by the Board of Commissioners on May 24, 1939.

The usual penalty for such violation is five days. However, by entering his plea in ample time prior to hearing, the Department has been saved time and expense.

Accordingly, it is, on this 18th day of December, 1939,

ORDERED, that Plenary Retail Consumption License C-492, heretofore issued to John Massalongo by the Municipal Board of Alcoholic Beverage Control of the City of Newark, be and the same is hereby suspended for three (3) days, effective January 2, 1940 at 3:00 A. M.

D. FREDERICK BURNETT,  
Commissioner.

6. SEIZURES - CONFISCATION PROCEEDINGS - BONA FIDE CLAIMS ALLOWED  
AND OTHER PROPERTY FORFEITED - CREAMERY PADLOCKED.

In the Matter of the Seizure of	)	
a still and three motor vehicles	)	
on the Di Toro (De Toro) Farm,	)	Case #5120
located on the Naughtright-Bartley	)	On Hearing
Road, in the Township of Washington,	)	
County of Morris, and State of New	)	CONCLUSIONS AND ORDER
Jersey.	)	

----- )

Rosa Di Toro (DeToro), Pro Se.  
Fred Di Toro (DeToro), Pro Se.  
Paul Carducci, Pro Se.  
Abraham Merin, Esq., Attorney for the Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

On November 7, 1938, investigators of this Department seized a large illicit alcohol still, a Chevrolet sedan, and two trucks, as described in Schedule "A" annexed hereto, which they found on Rosa Di Toro's (De Toro) farm, located on the Naughtright-Bartley Road, in the Township of Washington, Morris County. The still was being operated in a building formerly used as a creamery. Andrew De Luca, who was in the building, attempted to escape, but was apprehended and arrested. Amodio Di Toro and Rosa Di Toro, his wife, who reside in the farm house, were also arrested.

No one contested the fact that the still was being illegally operated on the premises. The still, appurtenant paraphernalia, and all personal property found on the farm constitute unlawful property, and are subject to forfeiture.  
R.S. 33:2-2.

However, Paul Carducci, owner of the Chevrolet sedan, and Fred Di Toro, the owner of the two trucks, request their return, claiming that they are innocent of wrongdoing.

As to Paul Carducci: He testified that he was nineteen years of age, a grandson of Amodio and Rosa Di Toro, and for two years past had resided with them on the farm, helping his grandfather in his florist business; that this was his first car, purchased by him some five or six months before the seizure for \$25.00, which he had saved up out of the money given him by his grandparents.

There is no evidence that Carducci was connected in any way with the operation of the still. I am satisfied of his innocence and since his motor vehicle is not per se contraband, and was apparently not used in connection with the still, the motor vehicle will be returned to him, provided that on or before the 15th day of January, 1940, he pays the costs of its seizure and storage. R.S. 33:2-7.

As to Fred Di Toro's trucks: The gist of his testimony is that he is the son of Amodio and Rosa Di Toro, and resided on the farm with them between 1929 and 1937; that until 1934 he helped his parents to manufacture cheese in the creamery; that after 1934 his parents turned over the cheese business to him, and he purchased the trucks for use in that business; that in 1937, he obtained employment in Hackettstown as an automobile mechanic, gave up the cheese business, and moved to Netcong, leaving his trucks on the farm for his father's use in the florist business. He stated that after he left the farm, he visited his parents weekly, generally on Sunday, and was informed on one of his visits that they had rented the creamery. He testified that he did not know that the tenant had installed the still.

There is likewise no evidence that Fred Di Toro was in any way connected with the operation of the still, or that his trucks were used in conjunction with the still activities. He merely followed a natural impulse to help his father when, no longer having any need for the trucks, he left them for his father's use. He too has satisfied me of his innocence and consequently he stands on the same footing as his nephew, Paul Carducci. Hence, his trucks will be returned to him provided that on or before the 15th day of January, 1940, he pays the costs of their seizure and storage.

As to padlocking: The farm, owned and occupied by the Di Toros for the past twenty-one years, contains about seven or eight acres of land upon which there is a farm house, a barn, the creamery, and three greenhouses in which Amodio Di Toro grows flowers, upon which he depends for a livelihood.

The Di Toros claim that the creamery had been rented on November 1, 1938 to a tenant for cheese manufacture purposes and that they did not know that the illicit still had been installed. However, it is obvious from the size of the still and the many activities attendant upon its operation, that from their residence on the premises they had ample opportunity to observe what was going on in the creamery only a few hundred feet distant. I am satisfied that the still could not have been operated without their knowledge.

The evidence shows that the Di Toros are in poor financial circumstances and own no other property; that it is the family homestead and their eviction will not only deprive them of a roof over their heads but will also deprive them of their livelihood. They testified that previously they had never been arrested. Both now have a criminal record by reason of their arrest and conviction on the criminal charges resulting from the seizure. In view of the foregoing, I think it will be a sufficient deterrent if padlocking is limited to the creamery building.

Accordingly, it is ORDERED that the property set forth in Schedule "A" (excepting the motor vehicles), be and is hereby forfeited, 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 Commissioner.



It is further ORDERED that the creamery building in which the illicit still was found, on the Di Toro Farm, located on the Naughtright-Bartley Road, in the Township of Washington, County of Morris, and State of New Jersey, shall not be used or occupied for any purpose whatsoever for a period of six months, commencing the 15th day of January, 1940.

D. FREDERICK BURNETT,  
Commissioner.

Dated: December 15, 1939.

SCHEDULE "A"

- 1 - copper cooker
  - 1 - copper column
  - 5 - galvanized vats with mash
  - 1 - galvanized dephlegmator
  - 5 - galvanized receiving tanks
  - 1 - galvanized condenser and coil
  - 2 - wooden vats
  - 1 - copper preheater
  - 1 - steam boiler
  - 2 - galvanized condensers
  - 1 - Worthington steam pump
  - 16 - bags sugar
  - 29 - bags of coke
  - 3 - 50 gallon drums of molasses
  - 19 - 5 gallon cans of alcohol
  - 21 - empty 5-gallon cans
  
  - 1 - Chevrolet Truck, Engine #T-2092, 1938 New Jersey Registration X56928
  
  - 1 - Chevrolet Sedan, 1938, New Jersey Registration V27402
  
  - 1 Willys Truck, 1938 New Jersey Registration X44380
- Miscellaneous personal property.

7. SEIZURES - CONFISCATION PROCEEDINGS - FORFEITURE RELIEVED UPON  
TAKING OUT SPECIAL PERMIT TO VALIDATE RETROACTIVELY THE UNLAWFUL  
TRANSPORTATION.

In the Matter of the Seizure of )	No. 5006
Emil Canova's Buick Sedan in the )	
vicinity of 29 Dumont Avenue, in )	ON HEARING
the Borough of Dumont, County of )	CONCLUSIONS AND ORDER
Bergen and State of New Jersey. )	
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Emil Canova, Pro Se.  
Harry Castelbaum, Esq., for the State Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

On September 6, 1938, the Chief of Police of Dumont observed the delivery of four quarter barrels of beer to the licensed premises of Charles Geiger at 29 Dumont Avenue. It appeared that the beer had been ordered by Geiger from Canova Products Co., the holder of a plenary winery license and a State beverage distributor license, but that it had been transported in a Buick sedan owned and driven by Emil Canova, an employee of Canova Products Co. The Buick sedan bore no transit insignia and was therefore seized by the Chief of Police and the case subsequently adopted by this Department.

Thereafter, Emil Canova, as principal, and Saint Paul-Mercury Indemnity Company of Saint Paul, as surety, executed a bond in the penal sum of \$1500.00 and reclaimed the Buick sedan.

At the hearing, Emil Canova appeared and urged that he should be relieved of the forfeiture of the Buick sedan because he had acted in good faith and had not consciously intended to violate the law.

Testimony shows that Canova is the receiving and shipping clerk for Canova Products Co.; that Geiger requested immediate delivery of the beer; that none of the four trucks of Canova Products Co. was available, whereupon Canova decided to make the delivery in his own car because of Geiger's urgent need of the beer.

The transportation of alcoholic beverages in violation of the Alcoholic Beverage Law renders the vehicle subject to confiscation. R. S. 33:1-66(c). While I am convinced from the evidence that Emil Canova made an honest mistake prompted by his desire to satisfy the customer, the explanation is not an excuse but merely goes to the extent of the penalty to be imposed.

The records of both Canova Products Co. and of Emil Canova are clear except for the instant matter.

Under the circumstances, Emil Canova may be relieved of the forfeiture of the Buick sedan provided that on or before January 18, 1940, he pays the costs involved in the seizure thereof and applies for and completes all steps necessary to obtain a special permit to validate retroactively the unlawful transportation and pays the fee therefor, which will be Twenty-five dollars (\$25.00).

Accordingly, it is ORDERED that Emil Canova, as principal, and Saint Paul-Mercury Indemnity Company of Saint Paul, as surety, be and they hereby are released from any liability to the State

Commissioner of Alcoholic Beverage Control on their joint bond No. SW-16-27-38, heretofore executed on September 9, 1938, in the sum of Fifteen hundred dollars (\$1500.00) in favor of D. Frederick Burnett, Commissioner, on condition, however, that Emil Canova, on or before January 18, 1940, shall pay the costs involved in the seizure and shall apply for and complete all steps necessary to obtain such special permit and pay the aforesaid fee therefor.

D. FREDERICK BURNETT,  
Commissioner.

Dated: December 18, 1939.

8. SEIZURES - CONFISCATION PROCEEDINGS - FORFEITURE RELIEVED UPON  
TAKING OUT SPECIAL PERMIT TO VALIDATE RETROACTIVELY THE  
UNLAWFUL TRANSPORTATION.

In the Matter of the Seizure of )  
Harry Winckler's Chevrolet Coach )  
on Grant Avenue, in the Borough )  
of Highland Park, County of )  
Middlesex and State of New )  
Jersey. )  
- - - - - )

No. 5075

ON HEARING  
CONCLUSIONS AND ORDER

David Castelbaum, Esq., Attorney for Harry Winckler and  
Spitzer's, Inc.  
Abraham Merin, Esq., for the State Department of Alcoholic  
Beverage Control.

BY THE COMMISSIONER:

On October 10, 1938, investigators of this Department observed the transportation of a case of beer in Highland Park by Harry Winckler in his Chevrolet Coach which bore no transit insignia. Apprehended by the investigators, he admitted that he was about to deliver the beer to a customer of his employer Spitzer's, Inc., a retail licensee of Highland Park. The investigators thereupon seized the beer and the Chevrolet Coach pursuant to R. S. 33:1-66.

Thereafter, Harry Winckler, as principal, and Fidelity and Deposit Company of Maryland, as surety, executed a bond in the penal sum of Twelve Hundred Dollars (\$1200.00) and reclaimed the Chevrolet Coach. The beer that was seized was retained by the Department pending collective seizure hearing.

At the hearing, Winckler appeared and sought to be relieved of his liability under the bond for the reason that he claimed that he did not consciously intend to violate the law, and offered to present proof in mitigation.

Testimony shows that the customer who ordered the beer insisted that delivery be made by a certain hour and that the manager directed Winckler to make delivery in his unlicensed vehicle.

The transportation of alcoholic beverages in violation of the Alcoholic Beverage Law renders the beverages and the vehicle subject to confiscation. Ignorance of the law and good intentions do not excuse the violation but may be considered in mitigation. The instant violation has already been punished so far as the licensee Spitzer's, Inc. is concerned, its license having

been suspended for one day by the issuing authority of Highland Park because of said violation. The record of Harry Winckler is otherwise clear and therefore payment of a fee for a special permit to validate the unauthorized transportation would seem to be sufficient punishment.

Under the circumstances, Harry Winckler may be relieved of the forfeiture of the Chevrolet Coach provided that, on or before the 18th day of January, 1940, he pays the costs involved in the seizure thereof and applies for and completes all steps necessary to obtain a special permit to validate retroactively the unlawful transportation and pays the fee therefor, which will be Twenty-five Dollars (\$25.00).

Accordingly, it is ORDERED that Harry Winckler, as principal, and Fidelity and Deposit Company of Maryland, as surety, be and they hereby are released from any liability to pay to the State Commissioner of Alcoholic Beverage Control the full retail value of said Chevrolet Coach on their joint bond (bearing no serial number), heretofore executed on October 13, 1938, in the sum of Twelve Hundred Dollars (\$1200.00) in favor of D. Frederick Burnett, Commissioner, on condition, however, that Harry Winckler, on or before January 18, 1940, shall pay the costs involved in the seizure and apply for and complete all steps necessary to obtain such special permit and pay the aforesaid fee therefor.

D. FREDERICK BURNETT,  
Commissioner.

Dated: December 18, 1939.

9. DONATIONS - CONTRIBUTION BOXES IN LIQUOR ESTABLISHMENTS TO RAISE MONEY FOR "MARCH OF DIMES" CAMPAIGN - APPROVED.

December 20, 1939

Mr. Samuel R. Morton,  
City Clerk,  
Rahway, N. J.

Dear Mr. Morton:

I have your letter of December 15 and am glad to grant you permission to place, in retail liquor establishments, coin boxes for the collection of funds for the now famous annual "March of Dimes" campaign, inspired by the President, against the scourge of infantile paralysis.

May the dimes be many, and their help effective!

Cordially yours,  
D. FREDERICK BURNETT,  
Commissioner.

10. DISCIPLINARY PROCEEDINGS - JERSEY CITY LICENSEES -  
MISCELLANEOUS OFFENSES AND SEVERAL STURDY PENALTIES.

December 18, 1939.

Joseph E. Colford,  
City Clerk,  
Jersey City, N. J.

My dear Mr. Colford:

I have before me staff report and your certifications of November 21st re disciplinary proceedings conducted by Commissioner Casey against

- |   |  |
|---|--|
| 1. Jeffries Alexander<br>280 Jackson Avenue<br>Rev. 1772 (File X-3313(a))             | 6. Orthodox Chrissos<br>465 Grove Street<br>Mun. Rev. 140        |
| 2. Otto Keenal<br>238 Old Bergen Rd.<br>Rev. 1773 (File X-3314(a))                    | 7. Morris Feinstein<br>125 Essex Street<br>Mun. Rev. 141         |
| 3. Dominick J. Brown and Mary Law<br>372 Pacific Avenue<br>Rev. 1716 (File X-1146(a)) | 8. Louis Solow<br>76 Kearney Avenue<br>Mun. Rev. 142             |
| 4. Stefan Laski<br>262 Johnston Avenue<br>Rev. 1787 (File #5495)                      | 9. Universal Tavern, Inc.<br>317 Baldwin Avenue<br>Mun. Rev. 143 |
| 5. John A. LeMore<br>74 Orient Avenue<br>Rev. 1799 (File X-2068(m))                   |  |

I note that Alexander and Keenal, charged with sale of alcoholic beverages on Primary Election Day last past, had their licenses suspended for two days; that Brown and Law, charged with accepting bets on horse races, had their license suspended for thirty days; that Laski, charged with sale of alcoholic beverages to five minors and permitting them to play pinocle for drinks, had his license suspended for thirty days; that LeMore, charged with permitting numbers writing and failure to facilitate an investigation, had his license suspended thirty days; that Chrissos, Feinstein, Solow and Universal Tavern, Inc., all charged on municipal initiative with sale of alcoholic beverages on Sunday during prohibited hours, had their licenses suspended for three days.

Please express to the Board of Commissioners my appreciation for their conduct of all the proceedings and the substantial suspensions imposed against Brown and Law, Laski and LeMore.

Very truly yours,

D. FREDERICK BURNETT,  
Commissioner.

13. DISCIPLINARY PROCEEDINGS - NON-BEVERAGE ALCOHOL - SALE WITHOUT PERMIT - THE FIRST CASE.

In the Matter of Disciplinary )  
 Proceedings against )  
 PULASKI CITIZENS CLUB, INC., )  
 310-312 Elm Street, )  
 Perth Amboy, N. J., )  
 Holder of Plenary Retail Consump- )  
 tion License C-94, issued by the )  
 Board of Commissioners of the City )  
 of Perth Amboy. )  
 ----- )

CONCLUSIONS  
 AND ORDER

Francis N. Reys, Esq., Attorney for Pulaski Citizens Club, Inc.  
 Samuel B. Helfand, Esq., Attorney for the State Department of  
 Alcoholic Beverage Control.

BY THE COMMISSIONER:

This licensee has pleaded guilty to a charge of selling alcohol at its licensed premises on August 21, 1939, without first having obtained a permit so to do from this Department, contrary to R. S. Title 33, Chapter 1, as supplemented by Chapter 173, P. L. 1939.

This is the first case to be prosecuted under said legislation. Until experience dictates otherwise, the minimum penalty will be fixed at ten (10) days.

However, by entering this plea in ample time before the day fixed for the hearing, the Department has been saved the time and expense of proving its case. By analogy to practices heretofore established, this license will, therefore, be suspended for five days instead of ten.

Accordingly, it is, on this 19th day of December, 1939,

ORDERED, that plenary retail consumption license C-94, heretofore issued to Pulaski Citizens Club, Inc. by the Board of Commissioners of the City of Perth Amboy, be and the same is hereby suspended for a period of five (5) days, effective January 2, 1940, at 2:00 A. M.

D. FREDERICK BURNETT,  
 Commissioner.

## 12. DISCIPLINARY PROCEEDINGS - FAIR TRADE - SALES AT CUT RATES.

In the Matter of Disciplinary )  
 Proceedings against )

RICHARD W. NEUMANN,  
 T/a Dick's Rond de Vue,  
 3402 Cove Road,  
 Pennsauken Township, N. J., )

CONCLUSIONS  
 AND ORDER

Holder of Plenary Retail Consump- )  
 tion License C-13, issued by the )  
 Township Committee of Pennsauken )  
 Township. )  
 - - - - - )

Richard W. Neumann, Pro Se.  
 Charles Basile, Esq., Attorney for the State Department of  
 Alcoholic Beverage Control.

BY THE COMMISSIONER:

The licensee has pleaded guilty to a charge of selling  
 liquor at less than the Fair Trade price at the licensed premises  
 on October 5, 1939, in violation of Rule 6 of State Regulations  
 No. 30.

The usual penalty for this violation is ten days.

By entering this plea in ample time before the day fixed  
 for hearing, the Department has been saved the time and expense of  
 proving its case. The license will, therefore, be suspended for  
 five (5) days instead of ten (10) days.

Accordingly, it is, on this 19th day of December, 1939,

ORDERED, that Plenary Retail Consumption License C-13,  
 heretofore issued to Richard W. Neumann, T/a Dick's Rond de Vue,  
 by the Township Committee of Pennsauken Township, be and the same  
 is hereby suspended for a period of five (5) days, effective  
 January 2, 1940, at 3:00 A. M.

D. FREDERICK BURNETT,  
 Commissioner.

13. ADVERTISING - BY NEW JERSEY LICENSEES IN OUT-OF-STATE PAPERS -  
 NOTHING IN THE NEW JERSEY LAWS OR REGULATIONS TO PROHIBIT BUT  
 QUERY AS TO THE LAWS OF OTHER STATES.

Dear Commissioner:

Will you kindly advise me whether it is permissible for  
 the holder of a liquor license under the Laws of the State of New  
 Jersey to advertise in an out of State paper?

Very truly yours,  
 Lillian M. Fass

December 18, 1939

Lillian M. Fass, Esq.,  
Perth Amboy, N. J.

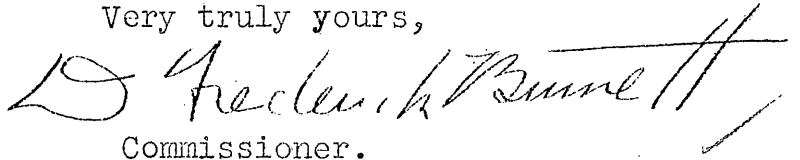
Dear Miss Fass:

There is nothing in the New Jersey Law or the rules and regulations of this Department which would prohibit a New Jersey liquor licensee from advertising in an out of State paper.

However, such publication may perhaps be in violation of the laws of the State in which the publication is to be made. For example, I am advised by the counsel for the State Liquor Authority that Section 102, Subdivision 1(a) of the New York State Alcoholic Beverage Control Law prohibits the advertising of liquor in that State, except by the holders of liquor licenses issued by the State of New York.

I suggest that you write to the Liquor Authority of the State in which your client intends to advertise so as to avoid violating the law of a foreign State.

Very truly yours,

  
Commissioner.

New Jersey State Library