

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

BULLETIN 813

AUGUST 18, 1948.

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

August 18, 1948

BULLETIN 813

1. APPELLATE DECISIONS - COOPERATE SERVICE CO. v. NEWARK ET AL.

COOPERATE SERVICE CO.
(a corporation),

Appellant,

-vs-

MUNICIPAL BOARD OF ALCOHOLIC
BEVERAGE CONTROL OF THE CITY
OF NEWARK, and LAUREL LIQUOR
CORP.,

Respondents.

ON APPEAL
CONCLUSIONS AND ORDER

Miss Lillian Clawans, by Robert C. Gruhin, Esq., Attorney for
Appellant.

Thomas L. Parsonnet, Esq., by George B. Astley, Esq., Attorney for
Respondent Municipal Board.

Samuel Weitzman, Esq., Attorney for Respondent Laurel Liquor Corp.

BY THE COMMISSIONER:

This is an appeal from the action of respondent Municipal Board in granting a transfer of a plenary retail consumption license held by respondent Laurel Liquor Corp. from premises known as 7 Belmont Avenue to premises known as 250 Springfield Avenue, 90-92 Hayes Street, and 275 Fifteenth Avenue, Newark.

The petition of appeal alleges that the action of respondent Board was erroneous because there were too many liquor establishments in the vicinity of the premises to which the license was transferred and because Laurel Liquor Corp. procured the transfer of the license by misrepresentation.

In accordance with the provisions of Rule 8 of State Regulations No. 15, the case was presented upon a transcript of the testimony taken before the Municipal Board and upon additional testimony taken at the hearing herein.

It appears from the evidence that appellant is the owner of premises known as 261-261½ Springfield Avenue. The objectors who appeared at the hearing below were licensees who conducted their business in the vicinity of 250 Springfield Avenue or the owners of or tenants in property located in the vicinity of 250 Springfield Avenue. In so far as the first ground alleged in the petition of appeal is concerned, these objectors contended that the transfer was from one business section to another business section, and that the action of the Board constituted an abuse of its discretionary power because of the existence of a large number of licensed premises in the business section to which the license was transferred. A review of the testimony and the exhibits discloses that, in fact, the distance between the old premises and the new premises is slightly more than five hundred feet. Despite the assertions made by appellant and its witnesses, I am satisfied that both premises are within the same business district. This was the view taken by Chairman McDonald of the Municipal Board, who testified as follows at the hearing:

"We really weren't bringing anything new into the neighborhood.
*** It was better over where they proposed to put it than where they were."

At the hearing Mr. Crosta, a member of the Municipal Board, testified that in his opinion the transfer "didn't increase the outlets in any way in this neighborhood."

The old premises and the new premises are located in a section which may be described as being of a mixed business and residential character, with business predominating at least on Springfield Avenue.

From the evidence presented I conclude that appellant has failed to sustain the burden of proof in establishing that respondent Board abused its discretion in transferring the license from one premises to another premises within the same neighborhood. Metropolitan Liquor Corp. v. Jersey City, Bulletin 645, Item 1.

The alleged misrepresentation appears to be based upon the fact that Laurel Liquor Corp. is operating a package goods department at its new premises, whereas it represented at the hearing below that it intended to conduct a tavern at said premises. In fact, Laurel Liquor Corp. does conduct a tavern in addition to its package goods department at its new premises. At the hearing Mr. Crosta testified that there was absolutely no misrepresentation to the Board, and I can find no evidence of misrepresentation in the record. At the time the transfer was granted, prior to the effective date of P.L. 1948, c. 98, there was nothing to prevent the licensee from operating a package goods department under its plenary retail consumption license.

At the hearing below, an attorney for one of the objectors alleged that the notice of intention to apply for the transfer, as published in the newspaper, and the notice posted on the "new" premises, as required by local regulations, were defective. The notice published in the newspaper alleged that Louis Brissgel was president; Monroe Comerato, secretary and treasurer, and Marion Hoehn a director of Laurel Liquor Corp. The evidence shows that these three individuals are the sole stockholders of said corporation and, under these circumstances, the failure to recite that they were stockholders, as well as officers or directors, is not a fatal defect in the advertisement. The posted notice substantially complied with the local regulation despite omission of the name of Marion Hoehn. The same attorney apparently alleges that Monroe Comerato may be a "front" for his father, Thomas Comerato. Both father and son are apparently fully qualified to hold a license. The son admits that his father gave him the money with which he purchased the stock of the corporation, but a gift by a father to a son is not unusual and the son testified that his father has no interest in the stock which stands in the son's name. This evidence is clearly insufficient to establish a "front".

Since the appellant has failed to establish that respondent Municipal Board abused its discretion in granting the transfer of the license, and there appears to be no other valid reason for reversal, I shall affirm the action of the Municipal Board in transferring the license from place to place.

Accordingly, it is, on this 30th day of July, 1948,

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

ERWIN B. HOCK
Commissioner.

In the Matter of the Seizure) Case No. 7114
on March 27, 1947 of a quantity)
of alcoholic beverages and fixtures,)
furnishings, equipment, and foodstuffs)
at a diner located on Route 25, Green) ON HEARING
Street Circle, in the Township of) CONCLUSIONS AND OI
Woodbridge, County of Middlesex and)
State of New Jersey.)

BY THE COMMISSIONER:

On March 28, 1947, all of the seized property, with the exception of the two bottles of whiskey, was returned to Previte upon payment by him to the State Commissioner of Alcoholic Beverage Control, under protest, of the sum of \$3,000.00, being the appraised retail value of such property, pursuant to R. S. 33:1-66.

The statute provides that the person making the payment under protest has the right to recover such sum upon establishing that the seized property was not unlawful property, by an action to be commenced within one year from the date of such payment, and not thereafter, in any court of competent jurisdiction. Previte did not institute any such action within the time limited.

The statute further provides that all monies received by the Commissioner thereunder shall be reserved during the time allowed any person an opportunity of establishing a right thereto, and shall immediately thereafter be accounted for by the Commissioner as in the case of license fees received thereunder (which are turned over to the State Treasurer). Hence, the \$3,000.00 deposited by Previte probably could be turned over to the State Treasurer without further proceedings.

However, upon the expiration of the period fixed by statute for the commencement of any suit, seizure proceedings, pursuant to R. S. 33:1-66, were instituted for the forfeiture of the seized whiskey, and the other personal property, represented by the aforesaid sum of \$3,000.00.

When the matter came on for hearing pursuant to such statute, Previte appeared with counsel.

The evidence presented establishes that ABC agents purchased drinks of whiskey from Previte at the diner on March 26, 1947, and observed other patrons likewise being served drinks of whiskey. One of the agents also purchased a 4/5 quart bottle of whiskey from Previte. On this occasion the agents left without disclosing their identity.

On March 27, 1947 the ABC agents returned to the diner and again purchased drinks of whiskey from Previte. Other ABC agents and local

police officers entered shortly thereafter, disclosed their identity, seized the whiskey and other property, and arrested Previte. Previte has since been convicted in police court for violating the local ordinance governing the sale of liquor and paid a fine of \$200.00, and was also convicted in the county court for violating the state liquor law, and paid a similar fine.

Previte testified that if a truck driver came in and asked for a drink (of liquor) he would just accommodate him "just for the sake of the business"; that it was his idea to increase business by accommodating patrons by serving them alcoholic beverages at cost.

The evidence presented amply warrants the conclusion that the two bottles of whiskey seized were intended for unlawful sale at the place. Hence such alcoholic beverages are illicit. R.S. 33:1-1(i). The illicit alcoholic beverages and other personal property seized therewith in the diner constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

Previte seeks return of all or part of the \$3,000.00 upon claim that he acted in good faith. Under R.S. 33:1-66(e) I have the discretionary authority to return property subject to forfeiture to a person who has established to my satisfaction that he acted in good faith and unknowingly violated the law.

Persons operating a speakeasy, especially at this late date, many years after Repeal, know or should know that it is illegal to sell alcoholic beverages without a license. They cannot be considered as having acted in good faith and unknowingly violated the law. It has been the uniform rule that the operator of a speakeasy cannot obtain the return of any property seized there. See Seizure Case No. 7238, Bulletin 811, Item 11, and cases cited therein.

What Previte actually seeks to establish is that he served the alcoholic beverages at cost, as an accommodation, without thought of profit on the item itself; that he is otherwise a law-abiding person, and that his finances are such that he can ill afford to suffer the loss of \$3,000.00.

Even if Previte could satisfactorily establish these facts it could not serve to relieve him of the forfeiture. As has been said time and again with relation to forfeiture of fixtures and equipment in commercial establishments where speakeasy activities have been carried on, the background of the operator of the speakeasy, the motive which prompted him to violate the law, and the effect of forfeiture upon his finances are immaterial and do not warrant relief from forfeiture of his property. See Seizure Case No. 7263, Bulletin 812, Item 2.

Accordingly, it is DETERMINED and ORDERED that the two 4/5 bottles of whiskey described in Schedule "A" attached hereto constitute 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 State Commissioner of Alcoholic Beverage Control; and it is further

DETERMINED and ORDERED that the balance of the seized property described in the aforesaid Schedule "A" constitutes unlawful property and the sum of \$3,000.00 representing the retail value thereof, paid under protest to the State Commissioner of Alcoholic Beverage Control by Anthony Previte, be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66, to be accounted for in accordance with law.

Dated: July 30, 1948.

ERWIN B. HOCK
Commissioner.

SCHEDULE "A"

- 2 - 4/5 qt. bottles of whiskey
- 1 - Cigar O-Mat machine
- 1 - cigarette machine
- 1 - water cooler
- 15 - stools
- 1 - long marble counter
- 1 - radio
- 1 - ice cream freezer
- 1 - steam table
- 1 - National Cash Register - #3962504
- 3 - coffee urns
- 1 - 2-burner gas plate
- 1 - griddle
- 1 - bread compartment (wooden)
- misc. cups, plates, bowls, etc.
- misc. linen
- misc. pots and pans
- misc. cutlery
- 25 - water glasses
- 1 - refrigerator (with foodstuffs and milk)
- 50 - bags of coffee
- 18 - boxes of cigars
- 84 - misc. cigars
- 1 - electric clock
- 106 - cartons of cigarettes
- 7 - packages of chewing tobacco
- 1 - pie rack
- 28 - tubes of Bromo Seltzer
- 4 - cans of tobacco
- 5 - boxes of matches
- 3 - Seeburg Loud Speakers
- 4 - coin boxes
- 1 - Seeburg music machine
- 3 - tables
- 10 - chairs
- 1 - electric fan
- 3 - large wooden tables
- 1 - gas burner
- 1 - small table
- 2 - sinks
- 2 - small wooden tables
- 1 - Coca Cola box
- 1 - meat slicer machine (Osborn Nat. A-1960)
- 1 - ice box
- 1 - large freezer
- 1 - Hand Sausage Machine (Inter. Edge Co.)
- 1 - electric meat grinder - 2778-P
- misc. cooking utensils
- misc. food and canned stuffs
- 3 - cases soda
- 1 - Army cot
- 1 - coal furnace
- 8 - fluorescent lights
- 7 - natural gas tanks

3. DISCIPLINARY PROCEEDINGS - PERMITTING LEWDNESS AND IMMORAL ACTIVITY ON LICENSED PREMISES - PREVIOUS RECORD - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary)
Proceedings against)

SOPHIE GREMBOWIEC)
T/a SUE'S BAR & GRILL)
97 Main Street)
Lodi, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-10 for the 1947-48)
and 1948-49 licensing periods,)
issued by the Mayor and Council)
of the Borough of Lodi.)
-----)

August A. Azzolino, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant entered a plea of not guilty to the following charge:

"On April 11, 1948, you allowed, permitted and suffered
lewdness and immoral activities in and upon your licensed
premises, in that you permitted a female to entertain and
perform in a lewd, indecent and immoral manner; in violation
of Rule 5 of State Regulations No. 20."

At the hearing, two ABC agents testified that, a short time after they entered defendant's tavern at approximately 2:00 a.m. on April 11, 1948, a woman, who answered to the name of "Frenchy", came into the licensed premises. After checking her fur coat at the bar, "Frenchy" proceeded to dance to music furnished by a juke box. According to the testimony of the investigators, "Frenchy" did a dance commonly known as the "bumps and grinds" and during a short interval held her skirt above her waist and exposed private parts of her body. Shortly thereafter, "Frenchy" did a second similar dance. It appears further from the testimony of the ABC agents that the juke box jammed after the second dance number and, although a pianist who had come into the premises played a dance number, "Frenchy" merely started a third dance but failed to complete it. The investigators testified further that, after the second number, one of them spoke to the bartender, who stated to them that they "haven't seen anything yet."

The bartender and the defendant, who admit that they were tending bar, denied that they had seen "Frenchy" do anything wrong that evening. Both further claimed that the juke box was out of order all evening and had not been repaired until the afternoon of April 11, 1948. The bartender denied that he had spoken to the ABC agents regarding the dances allegedly done by "Frenchy". Both also intimated that "Frenchy" was mentally unbalanced.

The defendant produced several other witnesses. Some of these witnesses did not arrive until after the second dance had been performed, and the other witness apparently did not observe any part of the performance.

I am satisfied that "Frenchy", a patron in the premises, performed the two dances as described by the ABC agents by permission of the licensee. Both dances, I conclude, were lewd, indecent and immoral. I find defendant guilty of the violation charged.

Licensees must take proper precautions to see that patrons do not conduct themselves in an offensive and indecent manner. Licensees who permit such practices are inviting trouble.

Defendant has a previous adjudicated record. Effective August 21, 1946, defendant's license was suspended for fifteen days as a result of being adjudged guilty of possession of illicit liquor. Under the circumstances I shall suspend defendant's license for a period of thirty days. Cf. Re DiAngelo, Bulletin 753, Item 4.

Although this proceeding was instituted during the licensing year 1947-48, it does not abate but remains fully effective against the renewal license for the licensing year 1948-49. State Regulations No. 16.

Accordingly, it is, on this 30th day of July, 1948,

ORDERED that Plenary Retail Consumption License C-10, issued by the Mayor and Council of the Borough of Lodi to Sophie Grembowiec, t/a Sue's Bar & Grill, for premises 97 Main Street, Lodi, be and the same is hereby suspended for thirty (30) days, commencing at 4:00 a.m. August 4, 1948, and terminating at 4:00 a.m. September 3, 1948.

ERWIN B. HOCK
Commissioner.

4. APPELLATE DECISIONS - LAJKOWICZ v. SOUTHAMPTON TOWNSHIP.

ANTHONY LAJKOWICZ,)

Appellant,)

-vs-)

TOWNSHIP COMMITTEE OF THE)
TOWNSHIP OF SOUTHAMPTON,)

Respondent.)

George M. Hillman, Esq., Attorney for Appellant.
Ralph W. Haines, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from the respondent's refusal to grant appellant's application for a limited retail distribution license for the 1947-48 licensing year for premises at Buddtown, Southampton Township, New Jersey.

The attorney for the appellant has made application for leave to withdraw the appeal. Since no reason appears to the contrary,

It is, on this 9th day of August, 1948,

ORDERED that the within appeal be and the same is hereby discontinued.

ERWIN B. HOCK
Commissioner.

5. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1ST 1947 TO JUNE 30TH 1948
AS REPORTED TO THE COMMISSIONER 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 Surren- dered Revoked Expired	Number Licen- ses 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	488	\$ 196,518.29	66	\$ 22,296.30	13	\$ 1,270.21						567	\$ 220,084.80
Bergen	824	295,840.00	289	75,024.60	59	6,026.31	46	\$ 1,849.05	11	\$ 2,820.80	7	1222	381,560.70
Burlington	185	71,062.94	28	7,528.76	37	5,118.64	1	25.00				251	83,735.34
Camden	455	216,508.08	83	29,610.99	65	6,389.10			4	1,350.00	8	599	253,858.11
Cape May	133	65,724.16	11	3,700.00	12	1,250.00						156	70,674.16
Cumberland	81	35,108.23	13	3,500.00	28	3,760.00						122	42,368.23
Essex	1378	759,419.39	349	199,258.00	95	12,460.82	34	1,700.00				1856	972,838.21
Gloucester	107	31,300.00	13	2,800.00	12	1,187.50						132	35,287.50
Hudson	1565	676,698.35	297	117,310.00	72	8,320.63	75	3,174.36			5	2004	805,502.34
Hunterdon	80	22,925.00	6	1,597.20	5	600.00					1	90	25,122.20
Mercer	425	187,386.58	51	14,300.00	43	5,834.78			1	99.43	1	519	207,620.71
Middlesex	636	251,321.43	71	18,460.00	48	3,982.73	4	175.00			1	758	273,939.21
Monmouth	557	271,581.87	110	36,303.80	28	3,241.93	8	308.32	55	22,224.72	30	728	333,660.60
Morris	356	116,426.94	89	27,427.08	35	3,630.62	1	25.00	11	2,456.81	8	484	149,966.44
Ocean	191	98,775.72	43	17,526.00	13	1,394.11					2	245	117,695.83
Passaic	887	345,147.95	164	47,093.77	34	4,156.14	11	500.00			4	1092	396,897.80
Salem	50	18,900.00	7	1,300.00	9	775.00						66	20,975.00
Somerset	186	67,560.00	34	7,754.66	18	1,840.00						238	77,154.66
Sussex	172	43,140.00	14	2,530.00	4	210.00			2	450.00	1	191	46,330.00
Union	547	285,800.00	142	53,262.74	59	6,674.38	19	884.10				767	346,621.22
Warren	148	41,230.00	17	3,407.50	24	2,455.00			1	324.74		190	47,417.22
Totals	9451	\$4,098,374.98	1897	\$691,991.40	713	\$80,577.90	199	\$8,640.83	85	\$29,726.50	38	12277	\$4,909,311.6

Respectfully submitted,
 John H. Michelson,
 Deputy Commissioner.

ERWIN B. HOCK, Commissioner.

6.

ACTIVITY REPORT FOR JULY 1948

August 3, 1948

ARRESTS:

Total number of persons arrested	31
Licensees and employees	3
Bootleggers	27
ABC agent impersonator	1

SEIZURES:

Still - over 50 gallons	1
- 50 gallons or under	2
Mash - gallons	150.00
Distilled alcoholic beverages - gallons	3.15
Wine - gallons	.69
Brewed malt alcoholic beverages - gallons	26.51

RETAIL LICENSEES:

Premises inspected	633
Premises where alcoholic beverages were gauged	475
Bottles gauged	7,966
Premises where violations were found	21
Violations found	34
Type of violations found:	
Unqualified employees	18
Probable fronts	6
Gambling devices	4
Improper beer taps	2
Reg. #38 sign not posted	1
Other mercantile business	1
Disposal permit necessary	1
Other violations	1

STATE LICENSEES:

Premises inspected	4
License applications investigated	25

COMPLAINTS:

Complaints assigned for investigation	269
Investigations completed	329
Investigations pending	174

LABORATORY:

Analyses made	105
"Shake-up" cases (alcohol, water and artificial color) - bottles	7
Liquor found to be not genuine as labeled - bottles	15

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made	23
Persons fingerprinted for non-criminal purposes	325
Identification contacts made with other enforcement agencies	285
Motor vehicle identifications via N. J. State Police Teletype	5

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	20
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Violations involved:

Sale to minors	9	Sale outside scope of license	1
Sale during prohibited hours	5	Sale to intoxicated persons	1
Permitting bookmaking on premises	2	Sale to non-members by clubs	1
Permitting brawls on premises	2		

Cases instituted at Department:

	13
--	----

Violations involved:

Sale during prohibited hours	4	Permitting pin ball machines	
Conducting business as a nuisance	2	on premises	1
Furthering illegal activity	2	Purchase from improper source	1
Permitting immoral activity	2	Sale below Fair Trade price	1
Possessing illicit liquor	2	Sale to intoxicated persons	1
Hindering investigation	1	Sale to non-members by club	1
Permitting hostesses on premises	1	Sale outside scope of license	1

Cases brought by municipalities on own initiative and reported to Department:

	3
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Violations involved:

Conducting business as a nuisance	1
Permitting brawls on premises	1
Sale during prohibited hours	1

HEARINGS HELD AT DEPARTMENT:

Total number of hearings held	31		
Appeals	13	Seizures	4
Disciplinary proceedings	10	Hearing on petition	1
Eligibility	3		

PERMITS ISSUED:

Total number of permits issued	5,894		
Employment	1,785	Social affairs	365
Solicitors	2,797	Special wine	75
Disposal of alcoholic beverages	207	Miscellaneous	665

ERWIN G. HOCK
Commissioner

7. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS (SUNDAY) IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

WILLIAM F. NIXON
991 Madison Avenue
Paterson 3, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-18, issued by)
the Board of Alcoholic Beverage)
Control of the City of Paterson.)
-----)

William F. Nixon, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that, on Sunday, June 20, 1948, he sold and served alcoholic beverages in violation of a local regulation which prohibits such activity between the hours of 3:00 a.m. and 1:00 p.m. on Sundays.

It appears that, on the morning in question, the defendant kept his premises open and sold alcoholic beverages until 3:30 a.m., or a period of thirty minutes past the curfew hour. Since the defendant has no previous record, the usual fifteen-day penalty will be imposed. Five days will be remitted for the plea, leaving a net suspension of ten days. Cf. Re Buonomo, Bulletin 789, Item 6.

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

ORDERED that Plenary Retail Consumption License C-18, issued by the Board of Alcoholic Beverage Control of the City of Paterson to William F. Nixon, 991 Madison Avenue, Paterson, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. August 16, 1948, and terminating at 3:00 a.m. August 26, 1948.

ERWIN B. HOCK
Commissioner.

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

In the Matter of Disciplinary Proceedings against)

CHANNING P. RITTER)
300 E. Brinkerhoff Ave.)
Palisades Park, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Palisades Park.)
-----)

Channing P. Ritter, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Department of Alcoholic Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded guilty to a charge alleging that, on July 16, 1948, he possessed an illicit alcoholic beverage at his licensed premises, to wit, a 4/5 quart bottle of "Canadian Club Blended Canadian Whisky", which was not genuine as labeled, in violation of R. S. 33:1-50.

The defendant has no previous record. The license will be suspended for a period of fifteen days, less five for the plea, leaving a net suspension of ten days. Cf. Re Guarino, Bulletin 810, Item 8.

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

ORDERED that Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Palisades Park to Channing P. Ritter, 300 E. Brinkerhoff Avenue, Palisades Park, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. August 16, 1948, and terminating at 3:00 a.m. August 26, 1948.

ERWIN B. HOCK
Commissioner.

9. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALE TO NON-MEMBERS -
PREVIOUS RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

11th WARD DEMOCRATIC ASSOCIATION)
1014 North 27th Street)
Camden, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-33,)
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 Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that, on June 26, 1948, it sold alcoholic beverages to a person not a bona fide member, or guest of a member, of its club, in violation of Rule of State Regulations No. 7.

The defendant's previous record includes a suspension imposed in February 1948 for a similar violation. See Bulletin 793, Item 1.

Under the circumstances, the penalty herein will be fixed at thirty days, less five for the plea, or a net suspension of twenty-five days.

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

ORDERED that Club License CB-33, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to 11th Ward Democratic Association, 1014 North 27th Street, Camden, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. August 16, 1948, and terminating at 2:00 a.m. September 10, 1948.

ERWIN B. HOCK
Commissioner.

10. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BELOW FAIR
TRADE MINIMUM -- PREVIOUS RECORD - LICENSE SUSPENDED FOR 15 DAYS,
LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

JOHN C. REDDICK, JR.)
T/a REDDICK'S CAFE)
3201-03-05 Pacific Avenue)
Wildwood, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-50, issued by the)
Board of Commissioners of the)
City of Wildwood.)
-----)

Irving Shenberg, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to a charge alleging that he sold
alcoholic beverages in original containers at retail for a price
below the minimum consumer price, in violation of Rule 6 of State
Regulations No. 30.

On July 23, 1948, an inspector of the State Department of Alco-
holic Beverage Control purchased at defendant's licensed premises a
quart bottle of Calvert Reserve Blended Whiskey for the price of
\$4.96. The minimum retail price of said item, as published in State
Department of Alcoholic Beverage Control Bulletin 805, effective
June 1, 1948, is \$5.00.

Defendant has a prior record. His license was suspended for
thirty days, effective March 5, 1946, after a plea of non vult to
charges that he exercised the rights of the license while in another's
name. Re Reddick, Bulletin 699, Item 1. I shall, therefore, suspend
defendant's license for fifteen days. Re Orzechowski, Bulletin 800,
Item 5. Remitting five days because of the plea will leave a net
suspension of ten days.

Accordingly, it is, on this 10th day of August, 1948,

ORDERED that Plenary Retail Consumption License C-50, issued by
the Board of Commissioners of the City of Wildwood to John C. Reddick,
Jr., t/a Reddick's Cafe, for premises 3201-03-05 Pacific Avenue,
Wildwood, be and the same is hereby suspended for a period of ten
(10) days, commencing at 3:00 a.m. August 17, 1948, and terminating
at 3:00 a.m. August 27, 1948.

ERWIN B. HOCK
Commissioner.

11. APPELLATE DECISIONS - GOLD v. PATERSON - ORDER OF REMAND.

SOL GOLD and CELIA GOLD,)
 Appellants,)
 -vs-)

ON APPEAL
 ORDER

BOARD OF ALCOHOLIC BEVERAGE)
 CONTROL OF THE CITY OF PATERSON,)
 Respondent.)

-----)
 Harold Simandl and Sidney Simandl, Esqs., by Sidney Simandl, Esq.,
 Attorneys for Appellants.
 George Surosky, Esq., Attorney for Respondent.

BY THE COMMISSIONER:

This is an appeal from respondent's refusal to grant appellants' application for renewal of a plenary retail consumption license for premises known as 14-16 Washington Street, Paterson, N. J.

Renewal of the license was denied for the stated reason that the licensed premises had been conducted in a disorderly manner. The petition of appeal alleges that respondent did not "afford appellants a hearing or opportunity to be heard". Appellants are not entitled to a hearing as a matter of right because Rule 8 of State Regulations No. 2 provides that "No hearing need be held *** if the issuing authority, on its own motion, after the requisite statutory investigation, shall have determined not to issue a license to such applicant."

However, at the hearing held herein all parties consented to the entry of an order remanding the matter to respondent for reconsideration. I assume, therefore, that respondent desires to waive the provision of the cited Rule and to afford appellants a hearing on the merits of the case.

Accordingly, it is, on this 10th day of August, 1948,

ORDERED that the above matter be and the same is hereby remanded to respondent for reconsideration.

ERWIN B. HOCK
 Commissioner.

12. DISCIPLINARY PROCEEDINGS - PERMITTING PIN BALL MACHINE ON LICENSED PREMISES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

STEVE BACOS)
 2379 Hudson Terrace)
 Fort Lee)
 P.O. Coytesville, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-13, issued by the)
 Borough Council of the Borough)
 of Fort Lee.)

-----)
 Vincent J. Aiken, Esq., Attorney for Defendant-licensee.
 William F. Wood, Esq., appearing for Department of Alcoholic
 Beverage Control.

BY THE COMMISSIONER:

Defendant has pleaded non vult to a charge alleging that he possessed on his licensed premises a pin ball machine, in violation of Rule 7 of State Regulations No. 20.

The file discloses that on June 30, 1948, an ABC agent observed the machine on the licensed premises. The defendant claimed that he did not know it was a violation to have a pin ball machine on the licensed premises. Ignorance of the provisions of the State Regulations cannot be accepted as an excuse.

The defendant has no previous adjudicated record. I shall, therefore, suspend his license for a period of ten days, less five days' remission for the plea, or a net suspension of five days. Re Pasternak, Bulletin 796, Item 1.

Accordingly, it is, on this 16th day of August, 1948,

ORDERED that Plenary Retail Consumption License C-13, issued by the Borough Council of the Borough of Fort Lee to Steve Bacos, for premises 2379 Hudson Terrace, Fort Lee, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. August 23, 1948, and terminating at 3:00 a.m. August 28, 1948.

ERWIN B. HOCK
 Commissioner.

13. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

TRENTON LODGE #105 B.P.O. ELKS
120 North Warren Street
Trenton 8, N. J.,

CONCLUSIONS
AND ORDER

Holder of Club License CB-31,
issued by the State Commissioner
of Alcoholic Beverage Control.

Joseph S. Bash, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Department of Alcoholic
Beverage Control.

BY THE COMMISSIONER:

The defendant pleaded non vult to a charge alleging that, during the afternoon of Sunday, July 11, 1948, it sold and served alcoholic beverages contrary to a local ordinance which prohibits such activity between 2:00 a.m. and 5:00 p.m. on Sundays.

The defendant has no previous record. Since no aggravating circumstances appear to have attended the violation, the usual fifteen-day penalty will be imposed. Cf. Re Corp. Mathews-Purnell Post etc., Bulletin 770, Item 3. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 17th day of August, 1948,

ORDERED that Club License CB-31, issued by the State Commissioner of Alcoholic Beverage Control to Trenton Lodge #105 B.P.O. Elks, for premises 120 North Warren Street, Trenton, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. August 23, 1948, and terminating at 2:00 a.m. September 2, 1948.

ERWIN B. HOCK
Commissioner.

14. STATE LICENSES - NEW APPLICATIONS FILED.

Virginus D. Mattia
159 Davenport Ave.
Belleville, N. J.

Application for Wine Wholesale License filed August 9, 1948.

George H. Jameson
37 North Street
Granville, N. Y.

Application for Transportation License filed August 16, 1948.

Erwin B. Hock
Commissioner.