

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1143

DECEMBER 11, 1956.

TABLE OF CONTENTS

ITEM

1. COURT DECISIONS - SPORTSMAN 300 v. NUTLEY AND DIVISION OF ALCOHOLIC BEVERAGE CONTROL - ORDER OF DIRECTOR AFFIRMED.
2. DISCIPLINARY PROCEEDINGS (Upper Freehold Township) - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS.
3. DISCIPLINARY PROCEEDINGS (Scotch Plains) - CLUB LICENSEE - SALE TO NON-MEMBERS - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
4. DISCIPLINARY PROCEEDINGS (Avon-by-the-Sea) - CHARGE ALLEGING SALES TO MINORS, DISMISSED.
5. DISQUALIFICATION - PRIOR APPLICATION DENIED - APPLICATION TO LIFT GRANTED - RELIEF WITHHELD UNTIL DECEMBER 11, 1956.
6. ACTIVITY REPORT FOR NOVEMBER 1956.
7. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - APPLICATION OF OWNER TRANSPORTER OF BOOTLEG LIQUOR FOR RETURN OF MOTOR VEHICLE DENIED - MOTOR VEHICLE AND ILLICIT LIQUOR ORDERED FORFEITED.
8. DISCIPLINARY PROCEEDINGS (Scotch Plains) - ORDER POSTPONING EFFECTIVE DATES OF SUSPENSION.
9. DISCIPLINARY PROCEEDINGS (East Newark) - GAMBLING - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Atlantic City) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS (Mullica Township) - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
12. STATE LICENSES - NEW APPLICATIONS FILED.

New Jersey State Library

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1143

DECEMBER 11, 1956.

1. COURT DECISIONS - SPORTSMAN 300 v. NUTLEY AND DIVISION OF
ALCOHOLIC BEVERAGE CONTROL - ORDER OF DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
No. A-569-55, September Term, 1956

SPORTSMAN 300, trading as)
SPORTSMAN 300,)
Appellant,)
-vs-)
BOARD OF COMMISSIONERS OF THE)
TOWN OF NUTLEY and the DIVISION)
OF ALCOHOLIC BEVERAGE CONTROL,)
Respondents.)
-----)

Argued November 13, 1956. Decided November 20, 1956.

Before Judges Clapp, Jayne, and Francis.

Mr. Sam Weiss argued the cause for appellant
(Messrs. Addonizio, Sisselman & Gordon, attorneys).

Mr. Samuel B. Helfand, Deputy Attorney General, argued
the cause for respondent Division of Alcoholic Beverage
Control (Mr. Grover C. Richman, Jr., Attorney General).

Mr. William F. Gorman argued the cause for respondent
Board of Commissioners of the Town of Nutley.

The opinion of the court was delivered

PER CURIAM:

The appellant conducts a tavern at No. 173 Franklin Avenue
in the Town of Nutley, Essex County, where it vends alcoholic
beverages in pursuance of a plenary retail consumption license.

Officiating in their capacity as the Municipal Excise
Board, the Commissioners after a complaint and hearing resolved
on March 6, 1956 that the license of the present appellant be
suspended for a period of ten days, effective March 18, 1956 at
1:00 P.M. From that action an appeal was prosecuted by the
licensee to the Director of Alcoholic Beverage Control, Depart-
ment of Law and Public Safety.

The conventional proceedings de novo were pursued in con-
formity with Rules 6 and 14 of State Regulations No. 15, and
the Director upon consideration of all the facts and circumstances
disclosed by the evidence concluded that the determination of the
municipal commissioners was not arbitrary and capricious, that it
be affirmed, and that the ten-day suspension theretofore imposed
be restored and reimposed to commence at 2:00 A.M. June 11, 1956
and terminate at 2:00 A.M. June 21, 1956.

The disciplinary proceedings against the appellant were originated by a charge dated February 10, 1956 made by the town Board of Commissioners that on January 18, 1956 and on January 19, 1956 the licensee had sold alcoholic beverages to one John Benfield, a person under the age of 21 years, and permitted the consumption thereof by the minor in the licensed premises in violation of Rule 1 of State Regulations No. 20, which reads as follows:

"RULE 1. No licensee shall sell, serve or deliver or allow, permit or suffer the sale, service or delivery of any alcoholic beverage, directly or indirectly, to any person under the age of twenty-one (21) years or to any person actually or apparently intoxicated, or allow, permit or suffer the consumption of any alcoholic beverage by any such person in or upon the licensed premises."

The evidence generates no doubt whatever that on the stated occasion Benfield was only 20 years of age and that he was served beer and wine, indeed of such a quantity as to prostrate him upon his departure from the tavern. The evidence revealed that the bartender and Benfield were personal acquaintances and warranted the reasonable inference that the bartender had previously learned from Benfield's father that his son was a minor. Thus there was an adequacy of proof that Rule 1 itself was violated.

There is, however, a statute (N.J.S.A. 33:1-77) declaring that anyone who sells any alcoholic beverage to a minor shall be guilty of a misdemeanor. The cited statute, however, contains the following proviso:

"* * * that the establishment of all of the following facts by a person making any such sale shall constitute a defense to any prosecution therefor; (a) that the minor falsely represented in writing that he or she was twenty-one (21) years of age or over, and (b) that the appearance of the minor was such that an ordinary prudent person would believe him or her to be twenty-one (21) years of age or over, and (c) that the sale was made in good faith relying upon such written representation and appearance and in the reasonable belief that the minor was actually twenty-one (21) years of age or over."

It has been the inveterate practice of the Director of the Division of Alcoholic Beverage Control to recognize the legislative intent expressed in the enactment and, by analogy, to permit the statutory proviso similarly to constitute a defense to a like charge in the disciplinary proceedings conducted in the Division. Caruso v. Jersey City, Bulletin 694, Item 1; Re Butera, Bulletin 606, Item 4; Roey v. Hock, Bulletin 758, Item 2.

The agency has not, however, considered that "a false representation in writing by the minor" was intended to embrace such writings as a driver's license, a draft card, or a social security card. We quote from the decision in Re Wedemeyer, Bulletin 1050, Item 8:

"Experience in cases similar to this indicates that for some reason licensees or their agents are reluctant to 'embarrass' a minor by requiring him to reduce to writing his name, age and address. If licensees are willing to use their own methods of determining the age of a minor, rather than follow the statute, they do so at their peril and must accept the consequences of their own neglect. It would appear no more difficult for the licensee to follow

the statutory requirement of having the patron sign a representation of his age than asking him to produce a draft card, driver's license or similar document for the licensee's purported examination. Where the licensee follows the statutory method, there is always the desirable and substantial possibility that the patron, if a minor, will refuse to commit himself to writing and will leave the establishment."

Administrative interpretations are accorded significance and are not lightly overruled. Kravis v. Hock, 137 N. J. L. 252 (Sup. Ct. 1948); Eskridge v. Division of Alcoholic Beverage Control, 30 N. J. Super. 472, 478 (App. Div. 1954).

Courts cannot ascribe to the literal import of the phraseology of the statute a broadly inflated circumference in an administrative disciplinary prosecution where the common judicial realization is that the prevention of sales of intoxicating liquor to minors not only justifies but necessitates the most rigid control. Hudson Bergen, &c., Ass'n v. Hoboken, 135 N. J. L. 502 (E. & A. 1947); In re Schneider, 12 N. J. Super. 449, 456 (App. Div. 1951); Mazza v. Cavicchia, 15 N. J. 498, 505 (1954); Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N. J. 373, 384 (1956); Guill v. Mayor and Council of City of Hoboken, 21 N. J. 574, 584 (1956).

We have no hesitancy in stating that in our opinion to constitute the statutory defense to such a prohibited sale, the accused must establish not some but all of the factual elements enumerated in the enactment relating thereto. This exculpatory requirement the appellant failed to meet by adequately supporting evidence.

In the present occurrence as described by the credible evidence there was no proof from which it could be rationally deduced that in the sale of liquor to Benfield the bartender relied in good faith upon a false representation in writing by Benfield that he was 21 years of age or over.

The decision of the Director is affirmed.

2. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD -
 LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary)
 Proceedings against)

ABE SEIDEL)

T/a OASIS)

Clarksburg-Hightstown Rd. (York Rd.))

Upper Freehold Township)

PO RFD Allentown, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption)
 License C-2 for the 1955-56 and 1956-)
 57 licensing periods, issued by the)
 Township Committee of the Township of)
 Upper Freehold.)

 Katzenbach & Salvatore, Esqs., by Frank S. Katzenbach, III,
 Attorneys for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to a charge alleging that on February 25, 1956 he sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20.

Robert ---, 19 years of age, testified that on February 25, 1956 he and four companions drove to defendant's licensed premises; that at 9 or 9:30 p.m. he entered the premises and asked the defendant for a carton of Pabst beer; that the defendant went into a room behind the bar and returned with a "six-can carton" of beer; that in payment therefor he gave defendant a five-dollar bill and received change of \$3.80; that he went to the car and joined his companions and, as a result of a discussion with them, re-entered the defendant's premises and in lieu of the six-can carton purchased a 24-bottle case of beer from the defendant, paying him an additional \$3.60 therefor. He also testified that at no time did defendant question him as to his age.

Three youths testified that they were with Robert at the time in question but remained in the parked car while he went into defendant's licensed premises; that he returned with a six-can carton of beer and as a result of a discussion Robert re-entered the defendant's premises and came back to the car with a carton containing 24 bottles of beer.

Defendant admitted that he sells the brand of beer allegedly purchased by the minor but contended that he did not know the minor nor did he sell any beer to him at the time in question. He further testified that on March 9, 1956 he first became aware that a minor allegedly had been sold beer when the youth came to his premises with ABC agents. He recalled some time thereafter that at the time he was charged with the violation "Marty Jordon" was helping him behind the bar.

H. Russell Brown and Jack Barnes, testifying on behalf of defendant, stated that they were in defendant's licensed premises on the evening of February 25, 1956 but did not see Robert at that time. Martin Jordon, referred to by defendant as the

man who helped him on the occasion in question, also testified that he was tending bar that night but did not see Robert in the premises.

I have carefully examined all the pertinent testimony adduced herein and am satisfied that the minor and his three companions described with reasonable accuracy the events which took place on the evening in question which culminated in the purchase of 24 bottles of beer in defendant's licensed premises. On March 9, 1956, while two ABC agents were in defendant's licensed premises, Robert identified the defendant as the person who sold him the case of beer on February 25, 1956.

I am not too impressed with the accuracy of the defendant's testimony concerning the occurrences on the evening of February 25, 1956 in view of the fact that he testified that he had no knowledge of the alleged violation until the ABC agents called at his premises with Robert on March 9, 1956. The other witnesses produced by defendant all agreed that the licensed premises was fairly crowded but that they did not see the minor in the premises at any time. The fact that they have no specific recollection that the minor was in the tavern does not affect the credibility of the definitive evidence of the minor to that effect.

The attorney for the defendant in his memorandum filed in this matter attacks the credibility of two of the Division's witnesses who testified they accompanied the minor to defendant's licensed premises. Although there appear to be some slight discrepancies in their testimony concerning an earlier visit to defendant's premises when the purchase of beer was denied to them, the testimony of said witnesses that Robert came out of defendant's licensed premises with six cans of beer, the ensuing discussion in the car which prompted Robert to re-enter the premises and his return therefrom with a case containing 24 bottles of beer was unshaken. This is also true of the testimony of Paul (one of Robert's companions) who remained in the car parked outside the premises. I am satisfied from the testimony of Robert that he purchased the case of beer at defendant's licensed premises.

The Hearer in this matter filed a report wherein the above facts and pertinent principles were set forth and recommended a finding of guilt. Thereafter, pursuant to Rule 6 of State Regulations No. 16, the attorney for the defendant filed exceptions and argument thereon.

I have carefully considered the entire record in this case, including the transcript of testimony, the Hearer's Report and the exceptions and argument of counsel, and I concur with the Hearer that the defendant is guilty of the charge preferred herein. I so find.

Defendant has a prior adjudicated record. Effective December 15, 1954, the local issuing authority suspended his license for five days for an "hours" violation. Until recently the minimum penalty for sale of alcoholic beverages to a 19-year-old minor was a suspension of the license for ten days (Re Szadkowski, Bulletin 1052, Item 14). However, on January 16, 1956, I announced that the minimum penalty in such cases would be increased by five days (Re Increased Penalties, Bulletin 1095, Item 1). Since the violation in the instant case occurred after that announcement and was aggravated by the quantity of alcoholic beverages sold, the defendant's license will be suspended for

twenty days for the instant violation (Re Great Cove Park, a New Jersey Corp., Bulletin 1130, Item 3). Inasmuch as the prior dissimilar record of defendant occurred within the past five years, an additional five days will be added herein, making a total suspension of defendant's license of twenty-five days.

Accordingly, it is, on this 23rd day of October, 1956,

ORDERED that Plenary Retail Consumption License C-2 (for the 1956-57 licensing period), issued by the Township Committee of the Township of Upper Freehold to Abe Seidel, t/a Oasis, for premises on Clarksburg-Hightstown Rd. (York Rd.), Upper Freehold Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 7:00 a.m. November 1, 1956, and terminating at 7:00 a.m. November 26, 1956.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALE TO NON-MEMBERS - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

SHACKAMAXON COUNTRY CLUB
Shackamaxon Drive
Scotch Plains, N. J.,

Holder of Club License CB-2,
issued by the Township Committee
of the Township of Scotch Plains.
-----)

CONCLUSIONS
AND ORDER

Joseph M. Feinberg, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On Saturday, March 17, 1956, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to persons not bona fide members of your club or bona fide guests of any such members; in violation of Rule 6 of State Regulations No. 7.

"2. On Saturday, March 17, 1956, while Investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey were conducting an investigation, inspection and examination at your licensed premises, you failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R. S. 33:1-35."

The file herein discloses that on March 17, 1956 at about 8:30 p.m., two ABC agents entered the defendant's licensed club and took seats at the bar. Shortly thereafter a bartender served them with two glasses of whiskey and soda and in payment thereof, helped himself to two dollars previously placed on the bar by one of the agents. After the agents had consumed part of

their drinks, the bartender returned to them and inquired if they were members of the club or guests of members to which the agents replied in the negative. Thereafter the agents identified themselves. The agents then were met by a "Mr. Gardine" (H. Jardine Samurene) and a Mr. Strawhecker, the manager, both of whom escorted the agents to an office.

The agents then undertook to supplement their investigation but were interrupted by the appearance of a third party who said he represented Mr. Samurene. He argued with the agents that they had a weak case, had no evidence to prove the violation and asked why they were so technical with a minor matter. While the agents were copying some pertinent data from the license certificate, he again interrupted and asked why the agents had to take this information when they had it all in Newark.

In addition, Mr. Samurene failed to cooperate with the agents by refusing to give the name of the bartender or call him into the office for questioning and later ordered the agents out of the office before their work was completed. As the agents were leaving the premises, they observed that their \$2.00 had been returned to the bar.

Counsel for the licensee has submitted a letter alleging mitigating circumstances and also has referred therein to a disciplinary case against the Echo Lake Country Club, Bulletin 931, Item 5, as authority for the penalty to be imposed herein.

I have read the letter and examined the case. It is my opinion that the cited case, unlike the case sub judice, contained proof that the club was not open to the general public. I am also of the opinion that there are no extenuating circumstances in counsel's letter which would influence me to impose less than the minimum penalty on Charge 1.

With respect to Charge 2, I believe the licensee was not totally at fault in its failure to cooperate with the agents. It appears that the agents were mostly harassed and impeded in their work by third parties over whom the licensee apparently was unable to exercise any control. I am unable to determine with certainty what connection, if any, there was between Mr. Samurene and the licensee. Counsel for the licensee states that Mr. Samurene, after certain proceedings in the Federal Court, opened the club and appointed a manager who was also the manager for the licensee. It would appear to me that the licensee occupies a part of the premises which were under the control of Mr. Samurene. Whether Mr. Samurene and his representative acted with the authority of the licensee when hindering the agents is not clear. I, however, will give the licensee the benefit of the doubt and conclude the aforesaid actions of Mr. Samurene and his alleged representative were not those of the licensee but rather those of third parties over whom the licensee had little control.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of fifteen days on Charge 1, Re Orange Lodge #135, B.P.O. Elks, Bulletin 1127, Item 5, and for an additional ten days on Charge 2, Re Lorenzo, Bulletin 1132, Item 4, making a total suspension of twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 25th day of October, 1956,

ORDERED that Club License CB-2, issued by the Township Committee of the Township of Scotch Plains to Shackamaxon Country

Club, Shackamaxon Drive, Scotch Plains, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. November 1, 1956, and terminating at 2:00 a.m. November 21, 1956.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALES TO MINORS, DISMISSED.

In the Matter of Disciplinary Proceedings against)

STRATFORD INN, A CORPORATION)
T/a STRATFORD INN)
n/w Corner Garfield & Second Aves.)
Avon-by-the-Sea, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Seasonal Retail Consumption License CS-3, issued by the Board of Commissioners of the Borough of Avon-by-the-Sea.)

Joseph N. Dempsey, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to a charge alleging that on August 11, 1956 it sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a minor and permitted the consumption of such alcoholic beverages by said minor in and upon its licensed premises; in violation of Rule 1 of State Regulations No. 20.

This proceeding was instituted on the basis of the sale on the above date in defendant's licensed premises of two glasses of beer to Theresa -- who drank such beer. ABC agents who were in the premises observed such sale and consumption of alcoholic beverages and ascertained that Theresa (who gave her age as 18) resided in New York City, and received her assurance that she would return and testify whenever notified.

At the hearing in the case the attorney who was prosecuting the case for the Division stated that a subpoena had previously been mailed to Theresa without any response, whereupon he spoke to her on two occasions over the telephone, the last time being on the date of the hearing, and that in each case she told him that, upon her mother's advice, she would not appear at the hearing. The prosecutor seemingly had no other recourse because the minor, as a non-resident, is not subject to subpoena. Her testimony is essential to prove her age. Accordingly, the prosecutor, in the presence of the defendant's attorney, moved that the charge be nolle prossed. Under the circumstances the motion will be granted.

Accordingly, it is, on this 17th day of October, 1956,

ORDERED that the charge herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
Director.

5. DISQUALIFICATION - PRIOR APPLICATION DENIED - APPLICATION TO LIFT GRANTED - RELIEF WITHHELD UNTIL DECEMBER 11, 1956.

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

CONCLUSIONS
AND ORDER

Case No. 1307.
-----)

BY THE DIRECTOR:

On May 13, 1953, the then Director denied a prior application for relief filed by the applicant herein because the Director was not then satisfied that applicant's association with the alcoholic beverage industry would not be contrary to the public interest. Decision therein was based upon the fact that applicant had been convicted of four crimes and arrested on a number of other charges between March 30, 1924 and September 22, 1943, and upon the further fact that he had then been a resident of New Jersey for only a short time prior to the hearing held therein. See Re Case No. 1040, Bulletin 971, Item 7.

Applicant filed a subsequent application for relief on August 24, 1956. At the hearing held thereon he testified that he has lived continuously at the same address in New Jersey since the hearing held in the prior case; that he has not been convicted of any crime or arrested since September 22, 1943, except that on December 11, 1951, he was arrested and fined \$100.00 in a Court in Pennsylvania for a violation of the Motor Vehicle Law of that state. He further testified that during the past five years he conducted a vending machine business, operated a restaurant, was employed for about three years as a fireman in a factory and, at the time of hearing, operated an amusement ride. He further testified that he is married and lives with his wife and child.

The Chief of Police of the municipality in which applicant resides has certified that there are no complaints or investigations pending concerning applicant.

At the hearing herein the owner of a furniture business, a police officer and a pharmacist testified that they have known the applicant for five or more years. Two other police officers testified that they have known him for at least three and one-half years. All of the witnesses testified that he has been law-abiding during the time they have known him.

Conviction of a motor vehicle violation is not a conviction of a crime. However, considering applicant's record and the prior denial of relief, I shall withhold the granting of relief in this proceeding until December 11, 1956.

Accordingly, it is, on this 18th day of October, 1956,

ORDERED that applicant's statutory disqualification, because of the convictions described in the prior case, be removed, effective December 11, 1956, in accordance with the provisions of R.S. 33:1-31.2.

WILLIAM HOWE DAVIS
Director.

6.

ACTIVITY REPORT FOR NOVEMBER 1956

ARRESTS:		
Total number of persons arrested	-----	27
Licensees and employees	-----12	
Bootleggers	-----15	
SEIZURES:		
Motor vehicles - trucks	-----	1
Stills - over 50 gallons	-----	1
- 50 gallons or under	-----	4
Mash - gallons	-----	1,356.00
Distilled alcoholic beverages - gallons	-----	6.97
Wine - gallons	-----	176.10
Brewed malt alcoholic beverages - gallons	-----	22.12
RETAIL LICENSEES:		
Premises inspected	-----	616
Premises where alcoholic beverages were gauged	-----	544
Bottles gauged	-----	9,925
Premises where violations were found	-----	31
Violations found	-----	37
Type of violations found:		
Unqualified employees	-----12	
Application copy not available	-----7	
Other mercantile business	-----4	
Reg. #38 sign not posted	-----1	
Other violations	-----13	
STATE LICENSEES:		
Premises inspected	-----	52
License applications investigated	-----	7
COMPLAINTS:		
Complaints assigned for investigation	-----	342
Investigations completed	-----	356
Investigations pending	-----	152
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made	-----	18
Persons fingerprinted for non-criminal purposes	-----	203
Identification contacts made with other enforcement agencies	-----	147
Motor vehicle identifications via N. J. State Police teletype	-----	4
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	19
Violations involved:		
Sale during prohibited hours	-----12	
Sale to minors	-----6	
Failure to close premises during prohibited hours	-----2	
Sale to non-members by club	-----1	
Permitting brawl on premises	-----1	
Permitting foul language on premises	-----1	
Sale to intoxicated person	-----1	
Cases instituted at Division	-----	9
Violations involved:		
Permitting immoral activity on premises	-----3	
Sale to minors	-----3	
Possessing illicit liquor	-----1	
Permitting hostesses on premises	-----1	
Possessing indecent matter	-----1	
Cases brought by municipalities on own initiative and reported to Division	-----	11
Violations involved:		
Sale to minors	-----7	
Permitting brawl on premises	-----2	
Sale during prohibited hours	-----1	
Sale to non-members by club	-----1	
Failure to close premises during prohibited hours	-----1	
Conducting business as a nuisance	-----1	
Employing unqualified persons	-----1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	43
Appeals	-----2	
Disciplinary proceedings	-----26	
Eligibility	-----6	
STATE LICENSES AND PERMITS ISSUED:		
Total number issued	-----	1,615
Licenses	-----1	
Employment permits	-----182	
Solicitors "	-----29	
Disposal "	-----65	
Wine permits	-----427	
Social affair permits	-----406	
Miscellaneous "	-----218	
Transit insignia	-----269	
Transit certificates	-----18	

WILLIAM HOWE DAVIS
DIRECTOR

DATED: December 5, 1956

7. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - APPLICATION OF OWNER TRANSPORTER OF BOOTLEG LIQUOR FOR RETURN OF MOTOR VEHICLE DENIED - MOTOR VEHICLE AND ILLICIT LIQUOR ORDERED FORFEITED.

In the Matter of the Seizure on) Case No. 9156
 April 8, 1956 of a one-quart)
 "Mason" jar of alcohol and a)
 Buick sedan on U. S. Route #130,) ON HEARING
 in Mansfield Township, County of) CONCLUSIONS AND ORDER
 Burlington and State of New)
 Jersey.)

 James Logan, Esq., Attorney for George A. Bradley.
 I. Edward Amada, Esq., appearing for the 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 quart jar of alcohol and a Buick sedan, described in a schedule attached hereto, seized on April 8, 1956 on U. S. Route No. 130, in Mansfield Township, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R. S. 33:1-66, George A. Bradley, the registered owner of the Buick sedan, appeared and sought its return. No one opposed forfeiture of the jar of alcohol.

The Hearer's Report setting forth the facts presented at the hearing in the case, and his recommendations thereon were mailed to counsel for George A. Bradley. No objections or exceptions to such report were filed within the time limited therefor.

I have given careful consideration to the complete record in the case, have reviewed the Hearer's Report, and make the following findings as established by the evidence presented:

On April 8, 1956 a New Jersey State Trooper stopped the Buick sedan on U. S. Route No. 130 in Mansfield Township, New Jersey, during his routine patrol of traffic on the highway. The car was being driven by George A. Bradley, its registered owner. The trooper inspected the motor vehicle and discovered the jar of alcohol in the trunk of the car. The jar did not have affixed thereto any stamp indicating the payment of the tax on alcoholic beverages. Bradley, the motor vehicle, and the alcohol were taken into custody by the trooper. Thereafter such motor vehicle and alcohol were turned over to ABC agents. A portion of the contents of the jar was analyzed by the Division chemist, who reports that it is alcohol and water fit for beverage purposes with an alcoholic content by volume of 41 percent.

The alcohol in the jar is illicit because of the absence of any tax stamp thereon. R. S. 33:1-1(1), R.S. 33:1-88. Such illicit alcohol and the motor vehicle in which it was transported and found constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

George A. Bradley testified that he purchased the jar of alcohol in Philadelphia from a man whom he cannot identify by name whom he met on the street, and who told him it was moonshine.

The Division has consistently held that a person who purchases bootleg "moonshine" cannot be regarded as having acted in good faith and to have unknowingly violated the law, irrespective of the amount purchased, and hence cannot obtain return of property subject to forfeiture under R. S. 33:1-66. Seizure Case No. 8858, Bulletin 1080, Item 10.

Accordingly, it is DETERMINED and ORDERED that the seized property, 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 shall be sold at public sale for the use of the state subject to rules and regulations to be announced at such sale or 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.

WILLIAM HOWE DAVIS
Director.

Dated: October 9, 1956.

SCHEDULE "A"

- 1 - one-quart "Mason" jar of alcohol
- 1 - Buick sedan, Serial No. 34890812, Engine No. 51204085, New York Registration Q-5553.

8. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary Proceedings against
 SHACKAMAXON COUNTRY CLUB
 Shackamaxon Drive
 Scotch Plains, N. J.,
 Holder of Club License CB-2, issued by the Township Committee of the Township of Scotch Plains.

O R D E R

Joseph M. Feinberg, Esq., Attorney for Defendant-licensee.

BY THE DIRECTOR:

An order having been entered herein on October 25, 1956, suspending defendant's license for a period of twenty days, commencing at 2:00 a.m. November 1, 1956, and terminating at 2:00 a.m. November 21, 1956; and

It appearing that the Fanwood Patrolmen's Benevolent Association has heretofore scheduled a large affair to be held at the defendant's premises on Friday, November 2, 1956, and that numerous innocent persons would be inconvenienced by the suspension of the license on said date,

It is, on this 29th day of October, 1956,

ORDERED that the suspension heretofore imposed shall commence at 2:00 a.m. October 31, 1956, and continue in effect until 2:00 a.m. November 2, 1956; that such suspension shall be lifted until 2:00 a.m. November 3, 1956, at which time the said suspension shall be reinstated and continue in effect until 2:00 a.m. November 21, 1956.

WILLIAM HOWE DAVIS
Director.

9. DISCIPLINARY PROCEEDINGS - GAMBLING - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

JOSEPH J. SZARY)
 T/a SZARY'S BAR)
 153 Grant Avenue)
 East Newark)
 PO Harrison, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-8, issued by the)
 Borough Council of the Borough)
 of East Newark.)

-----)
 Joseph F. McCarthy, Esq., Attorney for Defendant-licensee.
 David S. Piltzer, Esq., appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that on August 10, 11, 15 and 17, 1956, he engaged in and permitted gambling in and upon his licensed premises, in violation of Rule 7 of State Regulations No. 20.

The file herein discloses that on the aforesaid dates, ABC agents visited defendant's licensed premises wherein they observed numerous patrons openly placing horse race bets with a "bookie" who was aided and abetted in his activities by the licensee herein. On August 15 and 17, 1956, one of the agents placed bets with the "bookie", paying him on the last occasion with marked money. At that time, as prearranged, other ABC agents and a police officer entered the licensed premises, identified themselves and found upon the "bookie's" person \$345.62, including the marked money. Gambling paraphernalia on the premises was seized and the "bookie" and the licensee herein were arrested.

Defendant has a prior adjudicated record. When he held a license in Springfield, it was suspended by the local issuing authority for five days, effective January 23, 1952, for sale to minors. The minimum penalty heretofore imposed for a violation such as charged herein was a suspension of the license for twenty days. Re Sylvera, Inc., Bulletin 1124, Item 5. Since my announcement on January 16, 1956, the penalty in such cases has been increased by five days. Re Increased Penalties, Bulletin 1095, Item 1. An additional five days will be imposed because of the prior dissimilar violation which occurred within a five-year period. I shall suspend defendant's license for a total period of thirty days and remit five days for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 29th day of October, 1956,

ORDERED that Plenary Retail Consumption License C-8, issued by the Borough Council of the Borough of East Newark to Joseph J. Szary, t/a Szary's Bar, 153 Grant Avenue, East Newark, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 2:00 a.m. November 5, 1956, and terminating at 2:00 a.m. November 30, 1956.

WILLIAM HOWE DAVIS
 Director.

10. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

EDWARD J. PROUSE)
T/a FORT PITT)
168-170 S. New York Avenue)
Atlantic City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-60, issued by the Board of Commissioners of the City of Atlantic City.)

Edward J. Prouse, Defendant-licensee, Pro se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant 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 their contents, in violation of Rule 27 of State Regulations No. 20.

The file herein discloses that on September 5, 1956 an ABC agent, while testing and gauging the licensee's open bottles of alcoholic beverages, seized a number of such bottles because their contents appeared to be low in proof and submitted such bottles to the Division's chemist for analysis. The chemist's report shows that when compared with samples of the genuine product of the labeled brand, the contents of four bottles labeled "Four Roses Blended Whiskey 86.8 Proof" are short in proof between 12.8 to 27.0, solids high and acids low; that the contents of a bottle labeled "Canadian Club Blended Canadian Whisky 90.6 Proof" is 29.7 proof short; and that the contents of a bottle labeled "Imported Seagram's V. O. Canadian Whisky A Blend 86.8 Proof" is 29.8 proof short, solids too high.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of twenty-five days, the minimum period where six bottles are involved. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days. Re The Dubonnet, Inc., Bulletin 803, Item 8.

Investigation discloses that the licensed business is presently conducted only on weekends. Thus, no effective penalty can be imposed at the present time. The effective dates for the suspension will be fixed by further order which will be entered by me herein after the licensed business resumes its daily operations next summer season. Re Gerson, Bulletin 1085, Item 2.

Accordingly, it is, on this 29th day of October, 1956,

ORDERED that Plenary Retail Consumption License C-60, issued by the Board of Commissioners of the City of Atlantic City to Edward J. Prouse, t/a Fort Pitt, 168-170 S. New York Avenue, Atlantic City, be and the same is hereby suspended for a period of twenty (20) days, the time to be fixed by subsequent order as aforesaid.

WILLIAM HOWE DAVIS
Director.

11. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOSEPH KOLODZIEJ)
T/a OAK GROVE INN)
397-399 White Horse Pike)
Mullica Township)
PO Egg Harbor City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Township Committee of Mullica Township.)

Brown and Frank, Esqs., by Myrtle Frank, Jr., Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on September 14, 1956, he sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to a minor and allowed, permitted and suffered said minor to consume such beverages in and upon his licensed premises; in violation of Rule 1 of State Regulations No. 20.

On Friday, September 14, 1956 at about 10:40 p.m., two AEC agents arrived at the licensed premises to investigate a complaint that alcoholic beverages were being sold to minors. At 11:20 p.m., the agents saw Richard --- (age 19) enter the premises and shortly thereafter noticed that he was displaying a dangerous weapon (a Marine combat knife). The agents thereupon summoned the State Troopers and while awaiting their arrival, re-entered the premises where they observed the minor consuming some beer from a bottle. Thereafter the minor was taken to the Hammonton Headquarters by the State Police where he gave a sworn statement stating therein that on Friday aforesaid he was served a bottle of beer on the premises by Joe, the bartender; that he was not questioned by anyone about his age; and that he had been there on previous occasions during the past six months and he always drank beer served by Joe, the bartender.

By way of mitigation of penalty, the attorney for the defendant has submitted a statement, the contents of which I have carefully noted. I, however, have also examined the sworn statement of the minor and conclude that he was not improperly motivated in making his statement. In addition, the file does not disclose any reason why the minor should make a false affidavit.

Defendant has a prior adjudicated record. Effective March 14, 1955, the Director suspended his license for a period of five days for a sale of alcoholic beverages to a minor. Re Kolodziej, Bulletin 1055, Item 4. Until recently the usual penalty for a sale of alcoholic beverages to a minor nineteen years of age was a suspension of the license for ten days. Re Lane, Bulletin 1085, Item 10. However, on

January 16, 1956, I announced that the penalty in such cases would be increased by five days. Since the violation herein was committed after said announcement, and since the prior similar violation was committed during the past five years, I shall suspend defendant's license in this case for a period of twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 29th day of October, 1956,

ORDERED that Plenary Retail Consumption License C-11, issued by the Township Committee of Mullica Township to Joseph Kolodziej, t/a Oak Grove Inn, 397-399 White Horse Pike, Mullica Township, be and the same is hereby suspended for a period of twenty (20) days, commencing at 3:00 a.m. November 5, 1956, and terminating at 3:00 a.m. November 25, 1956.

WILLIAM HOWE DAVIS
Director.

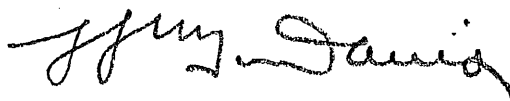
12. STATE LICENSES - NEW APPLICATIONS FILED.

Quinn Freight Lines, Inc.
Rte. 3 and Paterson Plank Road
Secaucus, N. J.

Application filed December 7, 1956 for place-to-place transfer of Transportation License T-138 from 720 Tonnele Avenue, Jersey City, N. J.

Louis Crescenzi
T/a Warren Delivery Service
266 Pomona Ave.
Newark, N. J.

Application filed December 11, 1956 for Transportation License.



William Howe Davis
Director.