

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

October 5, 1959

BULLETIN 1300

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

October 5, 1959

BULLETIN 1300

1. APPELLATE DECISIONS - CORFF'S INC. v. GLEN ROCK.

CORFF'S INC.,)	
Appellant)	ON APPEAL
v.)	CONCLUSIONS
)	AND ORDER
MAYOR AND COUNCIL OF THE BOROUGH)	
OF GLEN ROCK,)	
Respondent.		

James A. Major, Esq., Attorney for Appellant.
George Winne, Esq., Attorney for Respondent.
Alexander A. Abramson, Esq., Attorney for the Objector, Beekman
Wines & Liquors.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby on May 25, 1959, it denied by resolution appellant's application for transfer of plenary retail consumption license C-2 from premises located at 358 South Maple Avenue to premises located at 244 Rock Road, Glen Rock. The distance between appellant's licensed premises and the proposed site to which it seeks to transfer its license is approximately 3/4 of a mile.

"Appellant, in its petition of appeal, sets forth respondent's reasons for denying its application, viz.:

- '(a) That appellant had created the dilemma from which it seeks relief at the hands of the governing body.
- '(b) That it is the owner of premises suitably zoned for the continued business operation known as Miller's Farm, the location of which does not present the safety in traffic hazards as presented at the proposed Rock Road location.
- '(c) That the proposed Rock Road location would cause an undue concentration of licensees and would be detrimental to the best interests of the use of the community who have patronized this general location.
- '(d) That the public interest would be better served by decentralization of licensees rather than concentration.'

and it alleges that respondent's action was erroneous in that:

- '(a) It was not taken in good faith, but was arbitrary and capricious.

- (b) Conduct of business at the proposed new location would not cause any of the conditions alleged by the respondent, but to the contrary, would be in the public interest.'

"Respondent, in its answer, admits that its action was predicated on the aforesaid stated reasons and denies appellant's allegation that it acted arbitrarily and capriciously.

"The hearing on appeal was held de novo, pursuant to Rule 6 of State Regulation No. 15.

"John Corff, president and majority stockholder of appellant corporate-licensee, testified in substance that he operates the licensed premises under an assigned lease at a monthly rental of \$120; that the lease expires August 1, 1959; that some months prior to the expiration date, the lessor informed him that he could continue in possession if he would execute a three-year non-transferable lease with no option of renewal at an escalator yearly rental, commencing at \$250 a month; that his attorney sought unsuccessfully to purchase the lessor's property; that he tried in vain to rent other suitable premises and to lease property on which to erect a building; that he then purchased a piece of property known as Miller's Farm for \$24,000, intending to renovate a building thereon and make it suitable for a tavern; that, having ascertained that the cost of renovating the building and improving the grounds would be \$28,000 over and above the purchase price, and that the bank in the Borough was agreeable to granting him a sizable mortgage loan, he discussed the project with the Borough Council, Planning Board and Building Inspector and submitted plans covering the project; that the Planning Board required a number of changes which his Architect informed him would jump the cost of the improvements to \$40,000; that being financially unable to meet the increased costs, he negotiated for the rental of the proposed site and applied to have his license transferred thereto. He further testified that the proposed site of transfer is a vacant store on Rock Road in the main business section of the Borough, approximately 3/4 of a mile from his licensed premises; that Rock Road is more than four lanes wide with parking permitted on both sides; that Maple Avenue, on which his licensed premises are located, is a heavily trafficked narrow street; that to the west of the proposed site is a luncheonette and to the east a 'package goods store'; that he has received authorization to use for parking purposes vacant property across the street from the proposed site; that in the block where the proposed site is located there are two 'package goods stores', one across the street from the other, and that heretofore there was in the same block a 'warm beer' licensee, the A & P, which presently operates in another section of the Borough.

"Theodore Bruinsma, one of the Borough's councilmen, appeared for respondent and Stanley Mitchell, part owner of the 'package goods store' adjacent to appellant's proposed site, appeared as an objector.

"The councilman testified in substance that the population of the Borough is approximately 12,000; that there are nine existing licensed premises in the Borough, viz., four plenary retail distribution, two limited retail distribution, one club and two plenary retail consumption licenses, one of which is held by appellant; that the main business section of the Borough is on Rock Road between branch tracks of the Erie Railroad; that the stores in that section close at 6:00 p.m.; that traffic there 'ranges from active to very active depending upon the train schedules and Saturday shopping traffic' and 'inactive subsequent to the last commuting train which arrives in there around 7:15' and that 'we felt that it (the Miller's

Farm property) was a location where he could open his tavern'. He further testified that pedestrian and shopping traffic 'is practically non existent' in the main business section and stated that 'it is not a safe type of parking' in front of appellant's licensed premises.

"Mr. Mitchell testified that his objection to the transfer is 'that a tavern could sell package goods just as well as a retail store can between the hours of 9:00 a.m. and 10:00 p.m. The area is well serviced with licensees. There is no inconvenience to the public, it is properly served' and that a tavern at the proposed site would be a competitor of his.

"An examination of the zone map of the Borough and the pencilled numerals inserted thereon (Exhibit R-1), together with corresponding pencilled numerals inserted on the memo (Exhibit R-2), discloses that the main business section is situated between branch tracks of the Erie Railroad and comprises two blocks on Rock Road which runs from east to west; that the proposed site of transfer is located in said business section on the south side of Rock Road in the block nearer to the easterly branch of the Railroad and is adjacent to and to the west of a combination delicatessen and 'package goods store'; that on the north side of Rock Road in the same block there is another 'package store'; that on the same side of Rock Road in the business section, traveling from east to west in the block nearer the western branch of the Railroad, there are a plenary retail consumption licensee and a limited retail distribution licensee; that on the north side of Rock Road in a block west of the westerly branch of the Railroad and outside of the business section is another 'package goods store'; that on the south side of Rock Road, approximately two blocks east of the easterly branch of the Railroad, there is another 'package goods store'; that in the extreme southeasterly section of the Borough there is another 'package goods store' and in the northeast section of the Borough appellant's licensed premises are located.

"It has consistently been held that there is no inherent right in a liquor license by which it may be automatically transferred. Such license is a privilege granted to a few by a legally constituted authority having broad powers to control its use which, however, it must exercise with reasonable discretion in the interest of the community at large. When, as in the instant case, the issuing authority denies a transfer of a liquor license because, in its considered opinion there is no need or necessity for a liquor outlet in a particular location of a community, the Director's function on appeal is merely to determine whether reasonable cause exists for the issuing authority's opinion and, if so, to affirm its action irrespective of his personal views on the subject. Rafalowski v. Trenton, Bulletin 755, Item 8; Curry v. Margate City, Bulletin 460, Item 9; Mulcahy et als v. Maplewood et al., Bulletin 658, Item 4; Krogh's Restaurant, Inc. et als. v. Sparta et al., Bulletin 1258, Item 1.

"After reviewing the testimony and the exhibits herein, I find that there is sufficient evidence to support respondent's findings that the area to which appellant seeks to transfer its license is sufficiently serviced. I further find that no evidence was adduced which indicates that respondent's action was arbitrary or unreasonable or that Mayor and Council's members were improperly motivated. I conclude, therefore, that appellant has failed to establish that respondent's action was erroneous and I recommend that an order be entered affirming respondent's action and dismissing the appeal."

Pursuant to the provisions of Rule 14 of State Regulation No. 15, exceptions and written argument thereto were filed by the

attorney for appellant, and written answering argument was filed by the attorney for respondent.

Having carefully considered the entire record, including the evidence, exhibits, the Hearer's Report and exceptions and written arguments pertaining thereto, I concur in the conclusions of the Hearer and adopt said conclusions as my conclusions herein.

Accordingly, it is, on this 24th day of August, 1959,

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

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD -
LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

HARRY & MAC'S LAKEVIEW TAVERN, INC.
t/a HARRY AND MAC'S LAKEVIEW TAVERN INC.
Central Avenue, corner Musconetcong Ave.,
Lakeview Heights
Stanhope, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-6 (for the 1958-59 and 1959-60
licensing years), issued by the Mayor and
Council of the Borough of Stanhope.

Milford Salny, Esq., Attorney 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 it sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20.

Acting on information transmitted to this Division by the State Police, ABC agents obtained sworn, written statements from Paul --- (age 18) and Robert --- (age 19) wherein they state that they were in defendants' licensed premises from about 10:30 p.m. Monday, April 6, 1959, to about 1:30 the next morning, during which time Harry (Enrico Bencivenga, president of the corporate licensee) served each of them fifteen glasses of beer and other alcoholic beverages without requiring any written representation of their ages. Both minors also stated that they have consumed alcoholic beverages in the licensed premises on previous visits. Thereafter the minors identified aforesaid Enrico Bencivenga as the bartender who served them aforesaid alcoholic beverages. Mr. Bencivenga denied ever seeing either minor in the licensed premises.

By way of mitigation the attorney for the defendant has submitted a statement setting forth therein, among other things, that on April 7, 1959, Mr. Bencivenga discovered that the licensed

premises had been burglarized; that he reported the two minors as suspects to the police; that, if he had had any suspicion that the minors were not of legal age, it is unlikely that he would have made this report and jeopardized the licensees' business. He also said that one of the minors (Paul) had previously deceived other licensees about his age. After carefully reading aforesaid statement, together with the file in the case, the reports of the agents and the statements of the minors, I am unable to find any extenuating circumstances which would impel me to impose less than the established penalty in cases of this kind.

Defendant has a prior adjudicated record. Effective June 11, 1956, its license was suspended by this Division for fifteen days for sale to minors. Re Harry & Mac's Lakeview Tavern, Inc., Bulletin 1086, Item 3, and Bulletin 1123, Item 12. I shall suspend defendant's license for fifteen days (the minimum penalty for a sale of alcoholic beverages to an 18 and 19 year-old minor). Re Casey and Jennings, Bulletin 1255, Item 5. I shall suspend defendant's license for an additional five days because of the quantity of alcoholic beverages served to and consumed by the minors (Re Harkins, Bulletin 1239, Item 3, and Re Vaccaro, Bulletin 1263, Item 5), and for an additional ten days because of the prior similar violation which occurred within the past five years (Re Casey and Jennings, *supra*), making a total suspension of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 24th day of August, 1959,

ORDERED that Plenary Retail Consumption License C-6 (for the 1959-60 licensing year), issued by the Mayor and Council of the Borough of Stanhope to Harry & Mac's Lakeview Tavern, Inc., for premises on Central Avenue, corner Musconetcong Avenue, Lakeview Heights, Stanhope, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Tuesday, September 8, 1959, and terminating at 2 a.m. Saturday, October 3, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED
FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings Against

MEYER SAMUEL GREENBERG COLTON
t/a RARITAN LIQUORS
State Hwy. 36, near Palmer Ave.
Raritan Township
PO Keansburg, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution
License D-1 (for the 1958-59 and 1959-
60 licensing years), issued by the
Township Committee of the Township of
Raritan (Monmouth County).

William K. Miller, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded nolo contendere to a charge alleging that he sold, served and delivered and permitted the sale, service and delivery of alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

On June 15, 1959 William ---, age 17 years, purchased a case (24-12-ounce cans) of Schaefer beer and again on June 16, 1959 William purchased two cases (48-12-ounce cans) of Schaefer beer at defendant's licensed premises. In a signed, sworn statement, said minor alleges that on the first occasion the wife of defendant-licensee sold the case of beer to him and on the second occasion, defendant sold the cases of beer to him.

Defendant has no prior adjudicated record. The minimum suspension imposed for sale of alcoholic beverages to a seventeen-year-old minor is twenty days. Re Benshe Corporation, Bulletin 1127, Item 7. Defendant's attorney, in alleged mitigation, has stated that the minor is tall, well build and because of his mature appearance is usually not questioned with respect to his age. However, the minor is, in fact, only seventeen years of age and the agents report that he definitely appears to be under the age of twenty-one years. I shall impose the usual penalty of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 25th day of August, 1959,

ORDERED that Plenary Retail Distribution License D-1 for the 1959-60 licensing year, issued by the Township Committee of Raritan Township to Meyer Samuel Greenberg Colton, t/a Raritan Liquors, for premises on State Hwy. 36, near Palmer Avenue, Raritan Township, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m., Tuesday, September 8, 1959, and terminating at 9:00 a.m., Wednesday, September 23, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED -
 LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
 Proceedings against

CLUB MAYFAIR, INC.
 11 Lafayette St.
 Newark, N. J.

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption
 License C-711, issued by the Municipal
 Board of Alcoholic Beverage Control of
 the City of Newark.

 Defendant-licensee, by Barbara Pallitto, President, and George
 Pallitto, Secretary.
 William F. Wood, Esq., Appearing for Division of Alcoholic
 Beverage Control.

Defendant pleaded non vult to the following charge:

"On June 22, 1959, you possessed, had custody of and
 allowed, permitted and suffered in and upon your
 licensed premises, alcoholic beverages in bottles
 which bore labels which did not truly describe their
 contents, viz.,

Three quart bottles labeled 'Seagram's Seven
 Crown American Blended Whiskey 86.0 Proof',

Two quart bottles labeled 'Calvert Reserve
 American Blended Whiskey 86.0 Proof' and

Three quart bottles labeled 'Schenley Reserve
 Blended Whiskey 86.0 Proof';

in violation of Rule 27 of State Regulation No. 20."

On June 22, 1959, an ABC agent seized on defendant's premises
 the eight bottles mentioned in the charge because they appeared to
 have been refilled. At that time George Pallitto admitted to the
 agent that he had refilled each of the seized bottles with Three
 Feathers Whiskey. The Division's chemist reports that his analysis
 disclosed that the contents of five of the seized bottles varied
 substantially in acids and solids from the contents of genuine
 samples of the products which said bottles purported to contain.

Defendant has a prior record. Effective June 14, 1937, the
 local issuing authority suspended its license for fourteen days for
 (1) an "hours" violation, (2) hostess activity and (3) lewd and
 immoral activity. Since these dissimilar violations occurred more
 than ten years ago, they will not be considered in fixing the penalty
 herein. Re Cosmanic, Bulletin 1248, Item 2. I shall suspend
 defendant's license for thirty days, the minimum penalty for a
 violation of this kind involving eight bottles. Re Morris, Bulletin
 1276, Item 4. Five days will be remitted for the plea, leaving a
 net suspension of twenty-five days.

Accordingly, it is, on this 24th day of August, 1959,

ORDERED that Plenary Retail Consumption License C-711, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Club Mayfair, Inc., for premises 11 Lafayette Street, Newark, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, August 31, 1959, and terminating at 2 a.m. Friday, September 25, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

By: Edward J. Dorton
Deputy Director

5. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

STANLEY SKROBISZESKI
t/a BROADWAY BAR
836 S. Broad Street
Trenton, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-85, issued by the Board of Commissioners of the City of Trenton.

Scott, Fox & Walsh, Esqs., by H. Jonathan Fox, Esq., Attorneys
for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold and permitted the sale of alcoholic beverages to a minor and permitted said minor to consume said beverages on his licensed premises, in violation of Rule 1 of State Regulation No. 20.

On July 19, 1959, while two ABC agents were in defendant's premises, a young man entered about 12:45 a.m. and joined two adults who were at the bar. In response to an order from one of the adults, the bartender, Henry Piotrowski, served three glasses of beer and this adult handed one of the glasses to the young man. The agents identified themselves as the young man was drinking the beer and ascertained that he was Miklos ~~22~~, age 18.

I have considered the letter submitted by defendant's attorney and do not find mitigating circumstances of sufficient weight to warrant imposition of a penalty less than the minimum imposed in cases of this character.

Defendant has a prior record. Effective March 25, 1957, his license was suspended by the local issuing authority for ten days for an "hours" violation, and effective July 29, 1957, his license was suspended by the local issuing authority for twenty-five days for a similar violation. I shall suspend his license for fifteen days, the minimum suspension in a case involving sale to an 18-year-old minor (Re Treimann, Bulletin 1281, Item 8) and for an additional five days because of the prior dissimilar violations within the past five years (Re Richman, Bulletin 1186, Item 10). Five days will be remitted for the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 18th day of August 1959,

ORDERED that Plenary Retail Consumption License C-85, issued by the Board of Commissioners of the City of Trenton to Stanley Skrobiszeski t/a Broadway Bar, for premises 836 S. Broad St., Trenton, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m., Monday, August 24, 1959 and terminating at 2:00 a.m., Tuesday, September 8, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED -
PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

EARL ROSENFELD)
t/a BRIDGE TAVERN)
326 Bergen Avenue)
Jersey City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-190, issued by the Municipal)
Board of Alcoholic Beverage Control of)
the City of Jersey City.)

Defendant-licensee, Pro se.

David S. Piltzer, 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 Regulation No. 20.

On June 12, 1959, an ABC agent tested licensee's open bottles of alcoholic beverages and seized eight which appeared to be off in proof and color. Subsequent analysis by the Division's chemist disclosed that the contents of four of said bottles, when compared with samples of genuine products of the labeled brands, varied substantially in solids and acids.

The records of the Division disclose that, when defendant held a license with another individual for other premises, said license was suspended for ten days, effective May 31, 1950, for a similar violation. Re Wahl & Rosenfield, Bulletin 877, Item 10. I shall suspend defendant's license for twenty days, the minimum period where four bottles are involved (Re Sanderlin, Bulletin 1286, Item 10), to which will be added five days because of the similar violation which occurred more than five years ago (Re Schneider, Bulletin 1033, Item 4), making a total suspension of twenty-five days. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 20th day of August, 1959,

ORDERED that Plenary Retail Consumption License C-190, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Earl Rosenfeld, t/a Bridge Tavern, for premises 326 Bergen Avenue, Jersey City, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, September 1, 1959, and terminating at 2 a.m. Monday, September 21, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

7. SEIZURE - FORFEITURE PROCEEDINGS - U-DRIVE TRAILERS RETURNED TO INNOCENT OWNER - WARNING TO THOSE ENGAGED IN SUCH BUSINESS AS TO POSSIBLE FUTURE POLICY IN SUCH CASES.

In the Matter of the Seizure) Case No. 9978
on May 19, 1959 of a quantity)
of alcohol, a Ford sedan and a)
trailer on the New Jersey Turnpike)
in the Township of Mount Laurel,)
County of Burlington and State of)
New Jersey.)

-----)
In the Matter of the Seizure) Case No. 9991
on June 4, 1959 of a quantity of)
alcohol, a Buick sedan and a) ON APPLICATION FOR RETURN
trailer on the New Jersey Turnpike) OF FORFEITED PROPERTY.
in Mount Laurel Township, County)
of Burlington and State of New Jersey.) ORDER

William T. Stephens, Esq., Attorney for Stone's Texaco Service.
I. Edward Amada, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

On July 20, 1959 in Seizure Case No. 9978 my order was entered directing the forfeiture, among other items, of a trailer bearing Serial No. 70852497, Tennessee Registration 1-37, for violation of the Alcoholic Beverage Law of New Jersey, after a hearing held on June 26, pursuant to R.S. 33:1-66, at which no one appeared to oppose such forfeiture.

On July 21, 1959, in Seizure Case No. 9991 my order was entered directing the forfeiture, among other items, of a trailer bearing Nevada Registration WT/R 901, for violation of the Alcoholic Beverage Law of New Jersey, after a hearing held on July 7, 1959 pursuant to R.S. 33:1-66, at which no one appeared to oppose such forfeiture.

Some time prior to the hearing counsel for Stone's Texaco Service inquired about the trailer involved in Case No. 9991, and was advised that if he sought its return, it would be necessary to present evidence documentary or in person, in support of such claim. No such evidence was presented before the date of hearing and entry of the order.

Counsel has now presented applications for return of both trailers, verbally explaining his delay by the statement that he was on vacation, as well as delay in obtaining the necessary documents from his client in North Carolina. The applications are supported by affidavits.

It appears that in Case No. 9978, Robert Carlton Baxley was apprehended on May 19, 1959 while transporting illicit alcohol, and had in his possession a contract rental form of the National Trailer Rental System, dated May 17, 1959 wherein Stone's Texaco Service of 5522 Bragg Boulevard, Fayetteville, North Carolina was named as the rentor, and Robert Carlton Baxley of 1090 Progress Street, Fayetteville was named as the customer, setting forth his driver's license and registration number of the Ford sedan he was operating, and that his destination was New York City, and that the trailer was to be delivered on May 25th to a trailer rental concern located

in Brooklyn.

It likewise appears that in Case No. 9991 Douglas A. Brady and another person were apprehended on June 4, 1959 while transporting illicit alcohol, and Brady had in his possession a contract rental form of the National Trailer Rental System, dated June 3, 1959 wherein Stone's Texaco Service of 5522 Bragg Boulevard, Fayetteville, North Carolina was named as the renter, and Douglas A. Brady of Route No. 2, Raeford, North Carolina, was named as customer, setting forth his driver's license and the registration number of the Buick sedan he was operating and that his destination was New York City, and that the trailer was to be delivered on June 9th to a trailer rental concern located in Brooklyn.

It appears from an affidavit of J. W. Beard that he was employed at the Stone's Service Station on May 17, 1959, and rented the trailer in question in the ordinary course of business to Baxley, after Baxley informed him that he has been working in New York for the past six months and had returned to Fayetteville to transport his family back to New York and that he intended to use the trailer to transport his family's household belongings; that Beard did not know that Baxley had a police record for violating liquor laws, or intended to use the trailer for an illegal purpose, but on the contrary he understood that Baxley had in some way been officially connected with the Sheriff's Office in Fayetteville, and by reason thereof, Beard presumed that Baxley was of a law abiding nature and that if Baxley used the trailer for the transportation of illegal alcohol, it was without the knowledge of Beard. A copy of the aforesaid contract found in Baxley's possession is attached to the affidavit.

It appears from an affidavit of David Stone that he operates Stone's Texaco Service and on June 3, 1959 rented the trailer in the ordinary course of business to Douglas A. Brady after Brady informed him that he had been doing carpenter work in New York and intended to use the trailer to transport his personal furniture to New York; that he did not know that Brady had a police record for violating liquor laws and intended to use the trailer for an illegal purpose, and that Brady did so without his knowledge; that his trailer business is operated in a careful and prudent manner to assure that the trailers he rents will not be used by the customers for illegal purposes; that it is customary to inquire of the customer as to the use he intends to make of the trailer, for the reason, among others, to determine whether the trailer will be used in such a manner as to damage the trailer.

The case presented is typical of the U-Drive seizure cases which have been before the Division. The practice above described has heretofore been accepted as evidence of good faith and the exercise of reasonable prudence. See Seizure Case No. 9504, Bulletin 1191, Item 12. Although Baxley and Brady each have criminal records of violating various liquor laws, since I have accepted the claimant's inquiries as adequate and such inquiries did not reveal any fact or suspicious circumstances tending to indicate that either Baxley or Brady were of ill-repute there was no arbitrary requirement that the claimant should additionally have made inquiry of police authorities concerning whether either of the men had criminal records. Seizure Case No. 9139, Bulletin 1128, Item 11.

However, I warn those engaged in the trailer rental or U-Drive business that if the use of such rented vehicles in the unlawful transportation of alcoholic beverages in this State becomes more widespread, as is presently indicated by the frequency with which

such seizures are made, I shall give serious consideration to refusing to accept their present practice in dealing with their customers as establishing reasonable prudence, a view which was indicated in the first case wherein the problem was considered. Bulletin 157, Item 10. See also Seizure Case No. 8612, Bulletin 1038, Item 2.

I shall return the two trailers in question to the claimant upon payment of the costs of their seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 28th day of August, 1959, Stone's Texaco Service pays the costs of the seizure and storage of the two trailers, they will be returned to it.

Dated: August 18, 1959

WILLIAM HOWE DAVIS
DIRECTOR

8. DISQUALIFICATION REMOVAL PROCEEDINGS - FIVE YEARS GOOD CONDUCT - RELIEF GRANTED EFFECTIVE AT FUTURE DATE BECAUSE OF FALSE ANSWER IN APPLICATION FOR PERMIT.

MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.

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

Case No. 1497

BY THE DIRECTOR:

Applicant's criminal record discloses that on May 3, 1949, after being found guilty on a charge of maintaining a gambling house, he was sentenced in a foreign jurisdiction to serve six months in jail or pay a fine of \$400 and costs. The Sheriff of the County in which applicant was convicted has advised in writing that the fine was paid.

Commercialized gambling may or may not involve moral turpitude. Re Case No. 1018, Bulletin 956, Item 7. Where one is a principal or "Lieutenant" in commercialized gambling, particularly where gambling is conducted on a large scale, it has been held that such gambling involves the element of moral turpitude. Re Case No. 667, Bulletin 1093, Item 7. Investigation discloses that applicant was arrested following a raid upon an apartment in which he engaged in bookmaking. Since applicant was convicted as a principal, said conviction involves moral turpitude and he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

At the hearing held herein applicant (40 years old) testified that his home is in a neighboring state; that for the past 28 years (except for a few intervals) he has lived in the same area where he presently resides; that he has been employed as a waiter ever since his discharge from the Armed Forces of the United States in 1946; that he recently obtained employment as a waiter in this State; that at the request of his employer he obtained a work permit (now cancelled) based on an application in which he denied he was ever convicted of any crime; that he had no knowledge or recollection of ever being convicted of any crime; that on April 16, 1949 while visiting a gambling establishment in a foreign state to place

a bet on a horse race, he was arrested in a raid that followed; that he had been paid \$100 to represent himself as the proprietor of the premises; that after being fingerprinted he was released without a trial or plea to the charge; that he did not pay aforesaid fine and that under these circumstances he did not remember or believe that he was convicted of any crime. Applicant further testified that he is asking for the removal of his disqualification to be free to work on licensed premises in this State and that he has not been arrested or convicted of any crime except as aforesaid.

The police department of the municipality wherein applicant resides reports there are no complaints or investigations presently pending against the applicant.

The applicant produced three character witnesses (a retired business man, a deputy sheriff and a shipping clerk) who testified they have known the applicant for about 25 years and that in their opinion he is now an honest, law-abiding citizen with a good reputation.

With reference to applicant's claim of innocence, he may not now in this collateral proceeding attack this conviction or plea.

I hesitate to grant the relief sought herein because of applicant's false statement in aforementioned application for a work permit.

However, I am favorably influenced by the sworn testimony of the applicant, the testimony of his character witnesses and the fact that his criminal record shows only one conviction which took place over ten years ago.

Considering all of the aforesaid facts and circumstances, I shall grant his application but shall withhold relief until forty days after July 16, 1959 (the date upon which his employment permit was cancelled).

Accordingly, it is, on this 20th day of August 1959,

ORDERED that applicant's statutory disqualification because of the conviction described herein be and the same is hereby removed in accordance with the provisions of R.S. 33:1-31.2, effective August 25, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

STATUTORY AUTOMATIC SUSPENSION - PETITION TO LIFT GRANTED AT EXPIRATION OF SUSPENSION IN DISCIPLINARY PROCEEDINGS.

In the Matter of Disciplinary Proceedings Against)	
)	
WILLIAM J. GROSS)	
t/a Kay-Del-Mar Liquor Store)	CONCLUSIONS
700 and 702 (rear) Turnpike)	AND ORDER
South River, N. J.)	
Holder of Plenary Retail Distribution License D-5 (for the 1958-59 and 1959-60 licensing years), issued by the Borough Council of the Borough of South River.)	

Auto. Susp. #172-)	
In the Matter of a Petition by)	
)	
WILLIAM J. GROSS)	ON PETITION
(same address))	ORDER
To Lift Automatic Suspension of said License D-5 (for the 1959-60 licensing year).)	

Burton, Seidman & Burton, Esqs., by Harry R. Burton, Esq., Attorneys for Defendant-petitioner.		
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.		

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold and permitted the sale of alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

During the course of an investigation, ABC agents obtained a signed, sworn statement from George --- (age 16) wherein he says that on June 9, 1959, he and two other minors drove to the vicinity of defendant's premises and that he, alone, entered the premises about 9:30 p.m. and purchased from defendant-licensee three six-packs of beer, which he carried to the car. He says, also, that on June 11, 1959, he and the same two minors again drove to the vicinity of defendant's premises and that he, alone, entered the premises about 7 p.m. and purchased from a woman clerk two six-packs of beer which he carried to the car. George --- further says that he was not questioned as to his age or requested to sign any written representation as to his age on either visit. The agents obtained signed, sworn statements from each of the other minors wherein they said that on the evenings of June 9 and 11 they waited in the car parked near defendant's premises and that on each evening George entered the premises empty-handed and returned to the car with the amount of beer mentioned in George's statement.

On July 14, 1959, the licensee was fined \$75 and costs in the Municipal Court of South River after he pleaded non vult to a charge of selling alcoholic beverages to the same minor, in violation of R.S. 33:1-77. Said conviction automatically suspends the license now held by William J. Gross for the balance of its term.

R.S. 33:1-31.1. Because of the pendency of these proceedings the license has not yet been picked up by ABC agents.

Defendant has no prior record. In attempted mitigation defendant's attorney states that defendant and his wife (who occasionally assists in the operation of the business) are persons of excellent character and that both categorically denied making the sales but pleaded non vult because they are unable to submit any proof, other than their denial, to disprove the statements made by the minors. The minimum penalty for a sale to a sixteen-year-old minor is twenty-five days. Re Poska, Bulletin 1256, Item 4. Considering all the circumstances, I shall suspend defendant's license for twenty-five days. Five days will be remitted for the plea, leaving a net suspension of twenty days.

Defendant has filed with me a petition to lift the statutory automatic suspension of his license. I shall grant the requested relief upon the expiration of the suspension imposed in the disciplinary proceedings.

Accordingly, it is, on this 25th day of August, 1959,

ORDERED that Plenary Retail Distribution License D-5, for the 1959-60 licensing year, issued by the Borough Council of the Borough of South River to William J. Gross, t/a Kay-Del-Mar Liquor Store, for premises 700 and 702 (rear) Turnpike, South River, be and the same is hereby suspended for twenty (20) days, commencing at 9 a.m. Tuesday, September 8, 1959, and terminating at 9 a.m. Monday, September 28, 1959; and it is further

ORDERED that the statutory automatic suspension of said license be lifted effective at 2 a.m. Monday, September 28, 1959, at which time the license will be restored to full force and operation.

WILLIAM HOWE DAVIS
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

MALCOLM, WILLIAM AND MARY KIRK
t/a THE FIRESIDE
36 Bloomfield Ave. & 53 Broadway
Denville, N. J.

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption
License C-2, issued by the Township
Committee of Denville Township.

Defendant-licensees, by Mary Kirk, A Partner.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

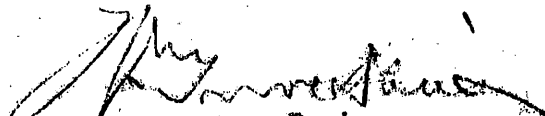
Defendants pleaded non vult to a charge alleging that they sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors in and upon their licensed premises, in violation of Rule 1 of State Regulation No. 20.

On the early morning of Saturday, July 25, 1959, ABC agents visited defendants' licensed premises and, while there, they observed a bartender serve two apparent minors a bottle of beer apiece. The apparent minors carried the beer to a nearby table and, as they started to consume a portion thereof, one of the agents identified himself and, upon questioning the youths, ascertained that each was 19 years of age.

Defendants have no prior adjudicated record. I shall suspend their license for a minimum period of fifteen days (Re Ceraso, Bulletin 1279, Item 7). Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 25th day of August 1959,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of Denville Township to Malcolm, William and Mary Kirk, t/a The Fireside, for premises 36 Bloomfield Avenue and 53 Broadway, Denville, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m., Tuesday, September 8, 1959 and terminating at 3:00 a.m., Friday, September 18, 1959.


William Howe Davis
Director