

BULLETIN 1281

JUNE 22, 1959

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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.

June 22, 1959.

BULLETIN 1281

1. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED
FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

FERRY AVENUE LIQUOR STORE, INC.)
t/a FERRY AVE. LIQUOR STORE)
902 Ferry Avenue)
Camden, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution)
License D-9, issued by the Municipal)
Board of Alcoholic Beverage Control of)
the City of Camden.)

Leo J. Berg, 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 and delivered and permitted the sale and delivery of alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

Acting upon information received from the Westmont Police, ABC agents obtained a signed, sworn statement from Albert --- (18 years of age) wherein he said that on the evening of March 20, 1959, he and two other minors drove to the vicinity of defendant's premises; that he and another minor entered the premises where he purchased four quarts of beer and a pint of "Orange Driver" from a clerk who did not question him as to his age; that they left with the merchandise and took it to the car; that on March 13, 1959, he had purchased from another clerk in defendant's premises several quarts of beer which he carried from the premises.

Defendant has no prior record. I shall suspend its license for fifteen days (the minimum penalty for sale of alcoholic beverages to an 18-year-old minor). Re Andoli, Bulletin 1269, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 29th day of April, 1959,

ORDERED that plenary retail distribution license D-9, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Ferry Avenue Liquor Store, Inc., t/a Ferry Ave. Liquor Store, for premises 902 Ferry Ave., Camden, be and the same is hereby suspended for ten (10) days, commencing at 9 a.m. Monday, May 4, 1959, and terminating at 9 a.m. Thursday, May 14, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR RECORD - LICENSE SUSPENDED FOR 60 DAYS.

In the Matter of Disciplinary Proceedings against)

LOUIS AUSTON)
t/a RAINBOW CLUB)
53 Rankin Street)
Newark 3, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-500, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Louis Auston, Defendant-licensee, Pro se
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

The 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 March 18, 1959, an ABC agent tested the licensee's open bottles of alcoholic beverages (30 bottles) and seized twenty-nine of such bottles because they appeared to have been refilled. An examination of the file in the case indicates that seventeen of said bottles have been refilled with different brands of whiskey and three had been diluted.

By way of mitigation defendant has submitted a statement setting forth therein that, because of a decline of business in the past year and a lack of funds to purchase the genuine products, he was forced to refill the seventeen bottles with different brands of whiskey and denied that he personally had diluted the other three bottles. It is plain that the defendant deliberately practiced fraud on his patrons.

Defendant has a prior adjudicated record. Effective August 14, 1957, and effective April 27, 1959, the defendant's license was suspended by the local issuing authority for "hours" violations. The latter suspension will terminate at 7 a.m. May 7, 1959. Under all the circumstances, including the penalty for aforesaid dissimilar violations within a period of five years and the plea entered herein, I shall suspend the defendant's license for sixty days. Cf. Re Gavlak, Bulletin 716, Item 7.

Accordingly, it is, on this 30th day of April, 1959,

ORDERED that plenary retail consumption license C-500, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Louis Auston, t/a Rainbow Club, for premises 53 Rankin Street, Newark, be and the same is hereby suspended for the balance of its term, commencing at 7 a.m. Thursday, May 7, 1959; and it is further

ORDERED that any renewal for the 1959-60 licensing year or transfer of said license shall be and remain under suspension until 7 a.m. Monday, July 6, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SUSPENSION FOR BALANCE OF TERM LIFTED UPON CORRECTION OF ILLEGAL SITUATION.

In the Matter of Disciplinary Proceedings against)

HARRY TORETCH & AGNES TORETCH)
t/a TORETCH'S LODGE BAR)
1340 White Horse Pike)
Galloway Township)
P.O. R.D. Absecon, N. J.)

ORDER

Holders of Plenary Retail Consumption License C-25, issued by the Township Committee of the Township of Galloway.)

Joseph A. Maressa, Esq., Attorney for Mary Jane Papini and Mario Papini, Petitioners.

BY THE DIRECTOR:

By order dated December 2, 1958, I suspended defendants' license for the balance of its term effective at 7:00 a.m., December 10, 1958, after defendants had pleaded non vult to a charge alleging that they permitted their business to be conducted in such manner as to become a nuisance. Leave was given to file a petition for an order lifting said suspension after it had been in effect at least one hundred twenty days upon presentation of satisfactory evidence that defendants' license had been transferred to another and suitable person. Re Toretch, Bulletin 1258, Item 4.

The records of this Division disclose that the Township Committee of the Township of Galloway transferred defendants' license to petitioners Mary Jane Papini and Mario Papini effective April 20, 1959. The transfer is subject to the suspension hereinabove set forth. The petition requests the lifting of said suspension.

It appearing that defendants' license has been transferred and that said suspension has been in effect for more than one hundred twenty days,

It is, on this 30th day of April 1959,

ORDERED that the suspension heretofore imposed be lifted and that License C-25 be restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS
DIRECTOR

4. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOLIC BEVERAGES - APPLICATION DENIED FOR RETURN OF MOTOR VEHICLE TO PERSON ENGAGED IN SUCH TRANSPORTATION - MOTOR VEHICLE AND ALCOHOLIC BEVERAGE ORDERED FORFEITED.

In the Matter of the Seizure)	
on March 8, 1959 of a quantity of)	Case No. 9920
alcohol and an Oldsmobile sedan on)	
the New Jersey Turnpike at the 92)	ON HEARING
Mile Post in the Township of)	CONCLUSIONS AND ORDER
Woodbridge, County of Middlesex)	
and State of New Jersey.)	

 Frank DuBois Hairston, Pro Se.
 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 48 two-quart "Mason" jars of alcohol and an Oldsmobile sedan, described in a schedule attached hereto, seized on March 8, 1959 on the New Jersey Turnpike, in Woodbridge, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R.S. 33:1-66, Frank DuBois Hairston appeared and sought return of the motor vehicle. No one opposed forfeiture of the alcohol.

Reports of ABC agents and other documents in the file presented in evidence with Frank DuBois Hairston's consent disclose the following facts:

A New Jersey State trooper halted the Oldsmobile sedan on the above date and location during his routine patrol of traffic on the highway, and ascertained that the motor vehicle was being operated by Frank Hairston, its registered owner. When the trooper discovered the 48 two-quart "Mason" jars of alcohol, without any stamps indicating the payment of tax on alcoholic beverages, in the trunk of the car, he arrested Hairston, and took into custody the alcohol and motor vehicle. Later such alcohol and car were turned over to ABC agents.

A sample of the contents of one of the jars 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 50.1 percent.

Frank DuBois Hairston, in a signed statement, declares that while on a visit to his mother who resides in Virginia, he talked with a person there who have him the "moonshine" alcohol in payment of a debt.

The seized alcohol is illicit because of the absence of a tax stamp on any of the jars (R.S. 33:1-1(i), R.S. 33:1-88) and further by the admission of Frank DuBois Hairston in his signed statement. Such illicit alcoholic beverages, and the Oldsmobile sedan in which such illicit alcoholic beverages were 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.

At the hearing Frank DuBois Hairston testified, among other

things, that he was aware that he was violating the law, but asserts that he needs the car for transportation to and from his employment. Under the law, I cannot relieve him from forfeiture of the car unless he establishes to my satisfaction that he acted in good faith and unknowingly violated the law. R.S. 33:1-66(e). I am therefore impelled to deny his request for return of the car.

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 in accordance with State Regulation No. 29 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

By: Edward J. Dorton
Deputy Director

Dated May 4, 1959

SCHEDULE "A"

- 48 - two-quart "Mason" jars of alcohol
- 1 - Oldsmobile sedan, Serial No. 498B1594,
Connecticut Registration HM293.

- 5. DISCIPLINARY PROCEEDINGS - RETAILER ACCEPTING REBATES FROM WHOLESALER, IN VIOLATION OF RULE 11 OF STATE REGULATION NO. 34 - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against)

FAY'S WINE & LIQUOR CO., INC.)
367-369 Springfield Avenue)
Newark, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Emanuel N. Silberner, Esq., Attorney for Defendant-licensee
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charge:

'During the period from December 1, 1956 to date, and during many years prior thereto, you, a retailer of alcoholic beverages, accepted and offered to accept, directly or indirectly, from wholesalers of alcoholic beverages through holders of solicitor's permits, prohibited gifts, rebates and allowances of money and things of value, viz., cash rebates amounting to 2%

of the cost of your purchases of alcoholic beverages from such wholesalers; in violation of Rule 11 of State Regulation No. 34.

"At the hearing held herein I. D. testified that since July 1, 1957, he has been employed as a solicitor by Federal Wine and Liquor Company, a New Jersey wholesaler; that shortly after the end of each month from July 1957 to August 1958 he paid in cash to an officer of defendant corporation two per cent. of the gross purchases made by defendant from his employer during the previous month; that these payments were generally made to David Krueger (President) and occasionally to Harry Brandwein (Secretary and Treasurer) of defendant corporation. He further testified that this arrangement ceased in the early part of September 1958 when he refused a request made by Mr. Krueger to increase these cash payments from two per cent. to four per cent. M. H. testified that he had been employed as a solicitor by Federal Wine and Liquor Company for about seventeen years prior to his retirement on July 1, 1957, and that, for years prior to his retirement, he made similar monthly cash payments of two per cent. to either Mr. Krueger or Mr. Brandwein. There was introduced into evidence a resume' of the monthly purchases made by defendant from Federal which indicated that the total amount purchased between January 1, 1958 and August 31, 1958, was approximately \$4,500.

"After the above testimony was presented on behalf of the Division, the attorney for defendant requested and was granted a continuance so that Mr. Krueger, who was then on vacation, might be afforded an opportunity to testify. At the continued hearing the attorney for defendant stated that Mr. Krueger had decided not to appear because he was in poor physical condition and that both Mr. Krueger and Mr. Brandwein had requested him to 'enter no defense, except as the record may appear.'

"After considering all the evidence herein, I recommend that defendant be found guilty as charged.

"Defendant has a prior record. Effective April 26, 1954, its license was suspended by the Director for five days for permitting a minor employee to sell alcoholic beverages. See Bulletin 1014, Item 7. I believe that this is the first case in which a retailer has been found guilty of a similar charge. While the penalty might well be increased in future cases of this kind, I recommend, under all the circumstances of this case including the dissimilar violation within the past five years, that an order be entered herein suspending defendant's license for a period of thirty days."

No exceptions were taken to the Hearer's Report within the time limited by Rule 6 of State Regulation No. 16.

After carefully considering the facts and circumstances herein, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 11th day of May, 1959,

ORDERED that plenary retail distribution license D-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Fay's Wine & Liquor Co., Inc., for premises 367-369 Springfield Avenue, Newark, be and the same is hereby suspended for thirty (30) days, commencing at 9 a.m. Monday, May 18, 1959, and terminating at 9 a.m. Wednesday, June 17, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - CLUB LICENSEE - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - SALE FOR OFF-PREMISES CONSUMPTION - SALE TO NON-MEMBERS - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

LOCAL UNION #595 UAW - CIO)
520 W. Edgar Road)
Linden, New Jersey)

CONCLUSIONS AND ORDER

Holder of Club License CB-6, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden.)

Defendant-licensee, by Sigmund Swiontkowski, President.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On February 19, 1959, you sold, at retail, a quart bottle of Seagram's Seven Crown American Blended Whiskey, an alcoholic beverage, at less than the price thereof listed in the then currently effective Pamphlet of New Jersey Minimum Consumer Resale Prices of Alcoholic Beverages published by the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30.

"2. On February 19, 1959, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of bottles of various kinds and brands of alcoholic beverages except for consumption on your licensed premises; in violation of Rule 9 of State Regulation No. 7.

"3. On February 19, 1959, 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 8 of State Regulation No. 7."

On February 19, 1959 two ABC agents at defendant's licensed premises each purchased and consumed one bottle of beer and a portion of another bottle of beer served to them by William DaMato (the bartender). DaMato did not inquire of the agents (non-members) if they were members or bona fide guests of members of said club. While drinking the second bottle of beer, one of the agents asked the bartender for a bottle of whiskey for off-premises consumption. The bartender stated that he would have to obtain the whiskey from Sigmund Swiontkowski, who was then engaged in the kitchen area. When Swiontkowski came behind the bar, the agents observed sales of alcoholic beverages by him to four persons who left the premises with their purchases. Swiontkowski then sold one of the agents the quart bottle of whiskey mentioned in Charge 1 for \$5.00, although the minimum price listed in the then currently effective Minimum Consumer Resale Price List for said item was \$5.90.

Defendant has no prior adjudicated record. I shall suspend the defendant's license for a period of twenty-five days on Charges 1 and 2 (Re Circolo Progressivo Caposelese, Inc., Bulletin 1266, Item 8) and for an additional fifteen days on Charge 3 (Re Lyons-Schepsco Post No. 1451, V.F.W., Bulletin 1230, Item 3), making a total suspension of forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 13th day of May 1959,

ORDERED that Club License CB-6, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to Local Union #595 UAW - CIO, for premises 520 W. Edgar Road, Linden, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m., Wednesday, May 20, 1959 and terminating at 2:00 a.m., Wednesday, June 24, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against
LOCAL UNION #595 UAW - CIO
520 W. Edgar Road
Linden, New Jersey
Holder of Club License CB-6, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden.

ON PETITION
ORDER

Defendant-licensee, By Sigmund Swiontkowski, President.

BY THE DIRECTOR:

An order having been entered on May 13, 1959, suspending defendant's license for thirty-five days commencing at 2 a.m. Wednesday, May 20, 1959, and terminating at 2 a.m. Wednesday, June 24, 1959; and

Application having been made to me by said defendant for a postponement of the effective dates of said suspension because affairs had previously been scheduled during the early portion of said suspension, and good cause appearing for the granting of said request,

It is, on this 18th day of May, 1959,

ORDERED that the suspension of thirty-five days, instead of commencing at 2 a.m. Wednesday, May 20, 1959, shall, in lieu thereof, commence at 2 a.m. Wednesday, May 27, 1959, and terminate at the expiration of the license, namely, at midnight June 30, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

WALTER TREIMANN)
t/a WALTER'S PINE INN)
Highway #88, Laurelton)
Brick Township)
PO RFD #1, Box 49-D, Lakewood, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Township Committee of Brick Township.)

Walter Treimann, Defendant-licensee, Pro se
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

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

On April 25, 1959, Point Pleasant police officers apprehended four minors in a car in which they found a number of six-pack cans of Ballantine beer. Upon inquiry, the officers ascertained that John --- (age 18) had purchased the beer on that day at defendant's licensed premises. John's account of his purchase, corroborated by his minor companions, is that he suggested that he could purchase beer at the premises, having previously done so; that each minor contributed varying amounts to the purchase price and he alone entered the premises while his companions remained seated in the car; that he purchases six six-pack cans of beer which he took to the car, and then the group drove away and consumed some of the beer enroute; that a bartender called "Frank" sold him the beer without inquiring as to his age or requesting him to sign a written representation thereof. On April 29, 1959, John, accompanied by ABC agents, identified Frank Koziel at the premises as the bartender who sold him the beer. Thereupon Frank Koziel verbally admitted such sale to John without requesting any identification or written representation as to age because on at least two previous occasions John displayed a driver's permit (actually that of another person over the age of 21). John admits that he displayed such a permit on those occasions.

Defendant has no prior adjudicated record. The minimum penalty for an unaggravated sale of alcoholic beverages to an 18-year-old minor is fifteen days (Re Andoli, Bulletin 1269, Item 8). Ordinarily I might increase the penalty because of the amount of alcoholic beverages sold to the minor (Re Solomon, Bulletin 1226, Item 8), but I shall impose the minimum penalty in this case because of the mitigating circumstances that the minor admits that he previously displayed a driver's permit of another person. Cf. Re Carlonza, Bulletin 1261, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 11th day of May, 1959,

ORDERED that plenary retail consumption license C-5, issued by the Township Committee of Brick Township to Walter Treimann, t/a Walter's Pine Inn, for premises on Highway #88, Laurelton, Brick Township, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, May 18, 1959, and terminating at 2 a.m. Thursday, May 28, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

CELTIC BAR, INC.
559 Jackson Avenue
Jersey City 4, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-332, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Defendant-licensee, by Richard W. Sheehan, President.
Dora P. Rothschild, Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that on Wednesday, April 1, 1959, it sold during prohibited hours an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Between 10:00 and 10:55 p.m. on the above mentioned date, an ABC agent in the licensed premises observed the bartender sell alcoholic beverages in original containers to various purchasers who carried the containers from the premises. At about 11:10 p.m., the agent purchased a pint bottle of Seagram's Seven Crown American Blended whiskey for off-premises consumption. The agent and a fellow agent who was also in the premises, left the establishment, but both returned immediately and identified themselves to the bartender, who verbally admitted the violation.

The defendant has no prior adjudicated record. In alleged mitigation, the President of defendant corporation alleges that the sales were made by a bartender who had been employed less than a week. However, the licensee is responsible for the acts of its agents and employees. I shall suspend defendant's license for the minimum period of fifteen days. Re Kaminski, Bulletin 1271, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 11th day of May 1959,

ORDERED that plenary retail consumption license C-332, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Celtic Bar, Inc., for premises 559 Jackson Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, May 18, 1959, and terminating at 2:00 a.m., Thursday, May 28, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

10. DISQUALIFICATION REMOVAL PROCEEDINGS - APPLICATION TO LIFT GRANTED AT FUTURE DATE BECAUSE OF FALSE ANSWER IN APPLICATION.

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. 1480

BY THE DIRECTOR:

Applicant's criminal record discloses that on June 4, 1948 he was fined \$75 in a police court on three charges of receiving stolen goods. The crime of receiving stolen property involves the element of moral turpitude (Re Case No. 1238, Bulletin 1075, Item 10) and precludes applicant from engaging in the alcoholic beverage industry in this State until the disqualification is removed.

At the hearing held herein applicant (48 years old) testified that he is married and the father of two grown children; that for the past 15 years he and his wife have been residing at his present address; that for the past 12 years he has been the owner and operator of a luncheonette; that prior thereto he had been connected with the food industry for a number of years; that because of poor business he is preparing to close his luncheonette and is asking for the removal of his disqualification in order to be free to engage in the alcoholic beverage industry in this State. Applicant further testified that he recently obtained from this Division a solicitor's permit (now cancelled) based on an application in which he denied he was ever convicted of any crime; that said denial was due to a state of confusion; that he was not attempting to conceal his conviction and that ever since his aforesaid conviction he has not been convicted of any crime or arrested.

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

Applicant produced three character witnesses (an owner of a delicatessen store, a mechanical engineer and a building contractor) who testified they have known the applicant from 10 to 15 years and, in their opinion, he is now an honest, law-abiding citizen with a good reputation.

Ordinarily I would have no hesitancy to grant the relief sought herein. However, I cannot ignore applicant's denial under oath that he had not been convicted of any crime. I am, however, favorably influenced by the fact that his criminal record shows only one conviction which took place over ten years ago, and the testimony of his character witnesses.

Considering all of the aforesaid facts and circumstances, I shall grant his application but shall withhold relief until thirty days after April 21, 1959 (the date upon which his solicitor's permit was cancelled).

Accordingly, it is, on this 12th day of May 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 May 21, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

AUGUST KOZLOWSKI)
t/a TONNELE TAVERN)
523 Tonnele Avenue)
Jersey City 7, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-404, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

August Kozlowski, Defendant-licensee, Pro se.
Dora P. Rothschild, Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that on Thursday, April 23, 1959, he sold during prohibited hours alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

On Thursday, April 23, 1959, at about 12:40 a.m., two ABC agents, while in defendant's licensed premises, observed the licensee sell six cans of beer for off-premises consumption to a patron. At about 1:55 a.m., the licensee made a similar sale of six cans of beer to one of the agents. Both agents, one of them in possession of the alcoholic beverages, left the premises, returned immediately and identified themselves to the licensee, who orally admitted aforesaid illegal sales.

Defendant has no prior adjudicated record. I shall suspend his license for the minimum period of fifteen days. Re Kaminski, Bulletin 1271, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 12th day of May 1959,

ORDERED that plenary retail consumption License C-404, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to August Kozlowski, t/a Tonnele Tavern, for premises 523 Tonnele Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Tuesday, May 19, 1959 and terminating at 2:00 a.m., Friday, May 29, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

12. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ANCHOR CORPORATION)
400 Ocean Gate Avenue)
Ocean Gate, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Ocean Gate.)

Anchor Corporation, by Joseph Robinson, President
William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it possessed on its licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

On April 7, 1959, an ABC agent tested the licensee's open bottles of alcoholic beverages (69 bottles) and seized one of such bottles because it appeared to be off in proof and color. Subsequent analysis by the Division's chemist disclosed that the contents of said bottle, when compared with the sample of the genuine product of the labeled brand, are slightly lower in proof and much too high in solids.

By way of mitigation Mr. Robinson states that he is president of defendant corporation; that the defendant has recently acquired the licensed premises; that the seized bottle is part of the stock of liquor purchased from the former licensee; that he has no knowledge regarding the contents of said bottle of whiskey; that he did not tamper with the contents of said bottle and acquired it in good faith. Nevertheless a licensee, in taking over an open stock of liquor, necessarily assumes the risk if alcoholic beverages not truly labeled are subsequently found on his premises. Cf. Re Ocean Monterey Corp., Bulletin 817, Item 13.

Defendant has no prior adjudicated record. I shall suspend defendant's license for ten days (Re Rossetti, Bulletin 1258, Item 77). Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 12th day of May, 1959,

ORDERED that plenary retail consumption license C-2, issued by the Borough Council of the Borough of Ocean Gate to Anchor Corporation, for premises 400 Ocean Gate Avenue, Ocean Gate, be and the same is hereby suspended for five (5) days, commencing at 2 a.m. Monday, May 18, 1959, and terminating at 2 a.m. Saturday, May 23, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

- 13. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION AS TO RESIDENCE BY PERSON THEN A NON-RESIDENT - UNLAWFUL SITUATION CORRECTED - LICENSE SUSPENDED FOR 10 DAYS, DATES TO BE FIXED WHEN PREMISES OPEN.

In the Matter of Disciplinary Proceedings against)
)
 ABATE'S TAVERN, INC.)
 t/a TERRY'S 309 BAR)
 309 Jersey Avenue)
 Gloucester City, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-35, issued by the Mayor and Common Council of the City of Gloucester City.)

 David Novack, Esq., Attorney for Defendant-licensee.
 David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"In your application dated November 18, 1958, filed with the Mayor and Common Council of Gloucester City, upon which you obtained your current plenary retail consumption license, you falsely stated the residence of Teresa R. Abate, your president, director and 98% stockholder, as 309 Jersey Avenue, Gloucester City, N. J. in answer to Questions 20, 21, 22 and 27(b); you failed to state that the aforesaid Teresa R. Abate was not then an actual and bona fide resident of the State of New Jersey in answer to Question 27(a); and you failed to state that the aforesaid Teresa R. Abate then maintained a home elsewhere than in New Jersey in answer to Question 27(c); whereas in truth and fact Teresa R. Abate then resided and maintained a home at 1823 South 19th Street, Philadelphia, Pa.; such false statements, evasion and suppression of material facts being in violation of R.S. 33:1-25."

The facts upon which the charge herein was based do not appear to be in dispute. Teresa R. Abate is president of defendant corporate-licensee and holder of 98 per cent of its issued and outstanding capital stock. On November 18, 1958 defendant filed its application for a person-to-person transfer of the license from Lou-Bert, Inc. for premises 309 Jersey Avenue, Gloucester City. In said application Teresa R. Abate gave her address as 309 Jersey Avenue, Gloucester City, whereas she then actually resided at 1823 South 19th Street, Philadelphia, Pennsylvania. On December 4, 1958 the transfer of the license in question was approved by the local issuing authority.

It appears from the Division's investigation that said Teresa R. Abate was neither a bona fide resident of this State at the time the defendant's application was filed, nor when the charge herein was preferred.

The defendant's attorney has filed an affidavit wherein it is stated that on April 17, 1959 Teresa R. Abate moved to

premises 603 North Front Street, Camden, and that she does not maintain any other home. Furthermore, it is stated that said Teresa R. Abate will continue to reside at the North Front Street address until she moves to the apartment at 309 Jersey Avenue, Gloucester City (where the licensed premises is also located and where she intends to make her permanent home), after it has been renovated.

I am satisfied that the unlawful condition that heretofore existed has been corrected and that Teresa R. Abate is now a bona fide resident of New Jersey. Although the question of residence has been corrected, defendant's license is subject to suspension for falsification of the application filed in this matter. The normal minimum suspension for a violation of the character committed herein is ten days. Re Stewart-Allen, Inc., Bulletin 1056, Item 9.

Inasmuch as defendant has never operated at the licensed premises, no effective order of suspension may be entered at this time. The effective dates of the suspension will be fixed by a further order which will be entered by me after the licensed premises shall have opened for business.

Accordingly, it is, on this 13th day of May, 1959,

ORDERED that plenary retail consumption license C-35, issued by the Mayor and Common Council of the City of Gloucester City to Abate's Tavern, Inc., t/a Terry's 309 Bar, for premises 309 Jersey Avenue, Gloucester City, be and the same is hereby suspended for a period of ten (10) days, the time to be fixed by subsequent order as aforesaid.

WILLIAM HOWE DAVIS
DIRECTOR

14. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - UNQUALIFIED EMPLOYEES (MINORS) - PRIOR RECORD - FOURTH VIOLATION - LICENSE SUSPENDED FOR 55 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

THE NEW FRENCH QUARTERS, INC.
517 Paterson Plank Road
Union City, New Jersey

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-168, issued by the Board of Commissioners of the City of Union City.

Defendant-licensee, by Anthony S. Scarnecchia, President Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. During the early morning hours of Sunday, April 19, 1959, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Joseph ---, age 17, Walter ---, age 18, Donald ---, age 18 and Robert J ---,

age 19, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

"2. On April 18, 1959 and prior thereto, you employed and allowed, permitted and suffered the employment of persons under the age of twenty-one (21) years in and upon your licensed premises, viz., Joseph ---, age 17, Robert B ---, age 17 and Robert C ---, age 19; contrary to and in violation of Rule 3 of State Regulation No. 13."

At about 11:40 p.m. April 18, 1959, two ABC agents entered defendant's premises and took seats at the bar. A four piece band was playing and the agents later ascertained that the band consisted of an adult and three minors who held no employment permits and who are identified in Charge 2. A patron purchased four drinks, one of which (a screwdriver) was consumed by Joseph --- (age 17), one of the minor members of the band. Shortly after midnight three apparent minors entered and each purchased two nip bottles of beer from Pelligrino Sessa (one of the bartenders). While the second round of drinks was being consumed, the agents identified themselves and ascertained that the apparent minors were Walter --- (age 18), Donald --- (age 18) and Robert J --- (age 19).

Defendant has a prior record. Effective July 22, 1957, its license was suspended by the local issuing authority for twenty-five days for hostess activity. Effective January 5, 1959, its license was suspended by the local issuing authority for twenty-five days for hostess activity and employing a non-resident without an employment permit. Effective January 30, 1959, its license was suspended by the local issuing authority for ten days for sale to a minor, permitting a brawl and conducting business during prohibited hours. The minimum penalty for a second violation within a five-year period, involving sales to minors where one is only 17 years of age, is thirty days, to which five days should be added because of the number of minors herein, making a total suspension of thirty-five days on Charge 1. Cf. Re Barnell Corp., Bulletin 1233, Item 3. The minimum penalty for employing an unqualified person is five days (Re Ciampa, Bulletin 1169, Item 11) but, since this is a second similar violation within five years, I shall suspend defendant's license for ten days on Charge 2. Because this is the fourth violation within two years, ten days will be added, making a total suspension of fifty-five days. Five days will be remitted for the plea, leaving a net suspension of fifty days.

Accordingly, it is, on this 19th day of May, 1959,

ORDERED that plenary retail consumption license C-168, issued by the Board of Commissioners of the City of Union City to The New French Quarters, Inc., for premises 517 Paterson Plank Road, Union City, be and the same is hereby suspended for the balance of its term, effective at 3 a.m. Monday, June 1, 1959; and it is further

ORDERED that any renewal or transfer of said license shall be and remain under suspension until 3 a.m. Tuesday, July 21, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

15. STATE LICENSES- NEW APPLICATIONS FILED.

Chas. Nash & Sons Corp., 3711 Dell Ave.
North Bergen, N. J.

Application filed June 17, 1959 for person-to-person transfer of Limited Wholesale License WL-24, from Joseph Nash and Alfred Nash, Sr., t/a Chas. Nash & Sons.

Henrich & Krauszer Inc.
805-811 Georges Rd., North Brunswick.
Application filed June 17, 1959 for person-to-person transfer of State Beverage Distributor's license SBD-6 from Stefan's Distributing Co. Inc.