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

BULLETIN 1260 JANUARY 29, 1959

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ITEM

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

BULLETIN 1260 JANUARY 29, 1959.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT ENTERTAINMENT) - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against EUGENE M. DODA Washington Avenue Piscataway Township PO New Market, N. J., Holder of Plenary Retail Consumption License C-11, issued by the Township Committee of the Township of Piscataway.	CONCLUSIONS AND ORDER

Alphonse R. Makowski, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On Wednesday night October 22 and early Thursday morning, October 23, 1958 you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises in that you allowed, permitted and suffered male and female persons employed on your licensed premises as entertainers to perform in a lewd, indecent and immoral manner, use foul, filthy and obscene language, sing songs, utter words and phrases and make gestures and movements having lewd, lascivious, indecent, filthy, disgusting and suggestive import and meaning; in violation of Rule 5 of State Regulation No. 20."

On October 22, 1958, at about 10:00 p.m., two ABC agents were in defendant's licensed premises and observed a four-piece male band playing and a female entertainer singing from a stage to about 50 patrons. Throughout the performance of aforesaid female entertainer, the guitarist (member of the band) made disgusting and vulgar uses of an artificial hand attached to his guitar and used foul and obscene language while singing a song. The aforesaid four musicians also gave indecent dancing exhibitions.

Aforementioned indecencies and obscene language were repeated in a second show following which the agents identified themselves to the licensee and informed him of the violations.

By way of mitigation the attorney for the defendant has submitted a two-page letter which I have carefully considered.

Defendant has no prior adjudicated record. However, when Eugene M. Doda, the licensee herein, was secretary and treasurer and a holder of 49 per cent of the stock in the Nine O'Clock Club, Inc., its license was suspended for the same premises by this Division for ten days, effective May 4, 1955, for sales to minors. See Bulletin 1061, Item 10. Because the

prior dissimilar violation occurred within a five-year period, an additional five days will be added to the minimum penalty for the instant violation. I shall suspend defendant's license for a period of thirty-five days. Cf. Re Vagabond Bar, Inc., Bulletin 1156, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 5th day of January, 1959,

ORDERED that Plenary Retail Consumption License C-11, issued by the Township Committee of the Township of Piscataway to Eugene M. Doda, for premises on Washington Avenue, Piscataway Township, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. Monday, January 12, 1959, and terminating at 2:00 a.m. Wednesday, February 11, 1959.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against ANNA K. ROSELLA t/a PAL'S INN Englishtown-Rue's Corner Road Manalapan Township PO Englishtown, N. J., Holder of Plenary Retail Consumption License C-8, issued by the Township Committee of Manalapan Township.	CONCLUSIONS AND ORDER

Anna K. Rosella, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on October 16, 1958 she sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

On October 17 and 18, 1958, ABC agents, acting upon information transmitted to this Division by the East Brunswick Township Police Department, obtained signed, sworn statements from Dennis ---, age 17, and from two other minors.

Dennis stated that at about 9:00 p.m., Thursday, October 16, 1958, he and two other minors drove to defendant's licensed premises; that he alone entered and purchased six one-quart bottles of beer from an elderly bartender therein who required no proof of his age. He stated further that the trio drove to a secluded spot where each consumed two bottles of beer and that he became intoxicated and fell asleep on the rear seat of the car. The other minors stated that on the date alleged they accompanied Dennis to defendant's premises and observed him enter therein empty-handed and emerge therefrom carrying six quarts of beer which the three later consumed. After volunteering statements, the three youths directed the

agents to defendant's licensed premises and Dennis identified therein Stanley Kwasnica, father of the licensee, as the person who made the sale.

Defendant has a prior adjudicated record. Effective June 9, 1952, her license was suspended for twelve days by the local issuing authority for sales to minors and, effective November 1, 1957, I suspended her license for twenty-five days for (a) sale of alcoholic beverages during prohibited hours and (b) sale of alcoholic beverages beyond scope of license. Re Rosella, Bulletin 1198, Item 5. The penalty imposed for an unaggravated sale of alcoholic beverages to a 17-year-old minor is twenty days. Re Weaver, Bulletin 1231, Item 2. However, because of the prior similar violation which occurred within a ten-year period and the prior dissimilar violation which occurred within a five-year period, I shall suspend defendant's license for a period of thirty days. Re Mandel, Bulletin 1254, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 7th day of January, 1959,

ORDERED that Plenary Retail Consumption License C-8, issued by the Township Committee of the Township of Manalapan to Anna K. Rosella, t/a Pal's Inn, for premises on Englishtown-Rue's Corner Road, Manalapan Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, January 19, 1959, and terminating at 2:00 a.m. Friday, February 13, 1959.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - FALSE ANSWER IN APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE PRIVILEGES OF LICENSE - EMPLOYING PERSON INTERESTED IN WHOLESALING ALCOHOLIC BEVERAGES - UNLAWFUL CONDITIONS CORRECTED - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against PENNSY WINE & LIQUOR CO. 26-28 Ferry St. & 388 Market St. Newark, N. J., Holder of Plenary Retail Distribution License D-58, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.	CONCLUSIONS AND ORDER

Addonizio, Sisselman, Nitti & Gordon, Esqs., by Nathan H. Sisselman, Esq., Attorneys for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded non vult to the following charges:

"1. In your application dated June 11, 1957 as amended by letter of April 23, 1958 and in your application dated May 29, 1958, filed with the Municipal Board of Alcoholic Beverage Control of Newark, upon which you obtained respectively your 1957-58 and 1958-59 plenary retail distribution

licenses and wherein you listed your stockholders in answer to Question No. 22 as Ralph T. Meloro (1 share or 10%), Rufus Contey (1 share or 10%) and Anna Meloro (8 shares or 80%), you falsely stated 'No' in answer to Question No. 23, which asks: 'Has any...individual other than the stockholders hereinbefore set forth any beneficial interest, directly or indirectly, in the stock held by said stockholders?', whereas in truth and fact Theodore J. Meloro (not mentioned in the application as a stockholder or as beneficially interested in any of your stock) had such an interest in that he and Anna Meloro were the real and beneficial owners of all of your stock; said false statement being in violation of R. S. 33:1-25.

"2. From about July 1957 to about April 23, 1958, you knowingly aided and abetted Theodore J. Meloro and Anna Meloro, and from the latter date to the present time, you knowingly aided and abetted Theodore J. Meloro to exercise, contrary to R. S. 33:1-26, the rights and privileges of your successive plenary retail distribution licenses; thereby yourself violating R. S. 33:1-52.

"3. In your aforesaid applications, after describing your licensed premises in answer to Question No. 7(a) as 'First floor only on 26-28 Ferry St. - 388 Market St.', you stated the name of the owner of those premises in answer to Question No. 8(a) as 'Ray Penn Corp.', thereby evading and suppressing the material fact that Roma Importing Company, then the holder of a New Jersey plenary winery license, was the owner of the premises at 388 Market Street; such evasion and suppression being in violation of R.S. 33:1-25.

"4. During the 1957-58 licensing period and prior thereto you employed and/or had connected with you in business capacities persons interested, directly or indirectly, in the manufacturing or wholesaling of alcoholic beverages, in that you employed the aforesaid Theodore J. Meloro, then the holder of a New Jersey solicitor's permit for employment by the aforesaid Roma Importing Company, and in that you rented or obtained a portion of your licensed premises (viz., the area known as 388 Market Street) from the latter company; in violation of Rule 29 of State Regulation No. 20."

The investigation file herein discloses that, in July 1957, Theodore J. Meloro and Anna Meloro, husband and wife, entered into a preliminary verbal agreement to purchase all the outstanding stock of defendant corporate licensee for $15,000.00 (which stock was then owned by relatives of Anna Meloro) and made a down payment of $3,000.00; that, because of outstanding debts against the corporation (originally unknown to the Meloros), the final agreement was not executed until about February 25, 1958; that, in the meantime, Theodore and Anna Meloro actually operated the licensed business for their own personal use and benefit and they continued to do so until the time of our investigation in the spring of 1958; that, upon the execution of the final agreement, the outstanding shares were transferred as follows: 1 share to Ralph T. Meloro, 1 share to Rufus Contey and 8 shares to Anna Meloro, although all the money used to purchase the stock belonged to Theodore and Anna Meloro and they were the real and beneficial owners of all of the shares; that the Newark Municipal Board of Alcoholic Beverage Control, the license issuing authority, was not notified of the stock transfers until April 23, 1958, after our

investigation was in progress; that no stock was issued to Theodore Meloro because he then held a solicitor's permit for employment by Roma Importing Company, a plenary winery licensee; and that, despite his status as a solicitor, Theodore Meloro has been employed by defendant since July 1957. It further appears that in its 1957-58 and 1958-59 license applications defendant failed to disclose (in answer to Question 8(a), which calls for the name and address of the owner or owners of the licensed premises) the fact that Roma Importing Company is the owner of one of the buildings wherein defendant's licensed premises are located.

However, the records of this Division now disclose that on April 29, 1958, Theodore J. Meloro surrendered his solicitor's permit; that he is now the holder of fifty per cent. of the outstanding stock of the defendant corporate licensee, and that the Roma Importing Company has failed to renew its license for the current year, thereby correcting the aforesaid unlawful conditions.

By way of mitigation the attorney for the defendant has submitted an eight-page memorandum which I have carefully considered.

Defendant has a prior adjudicated record. Effective July 7, 1958, I suspended its license for five days for a minimum resale price violation (see Bulletin 1239, Item 9). The officers of the defendant and their attorney fully cooperated during the course of the investigation made herein and, under all the circumstances, including the plea and the prior record, I shall suspend defendant's license on all of the charges for thirty days. Cf. Re Melillo, Bulletin 1091, Item 8.

Accordingly, it is, on this 6th day of January, 1959,

ORDERED that Plenary Retail Distribution License D-58, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Pennsy Wine & Liquor Co., for premises 26-28 Ferry Street and 388 Market Street, Newark, be and the same is hereby suspended for thirty (30) days, commencing at 9:00 a.m. Monday, January 19, 1959, and terminating at 9:00 a.m. Wednesday, February 18, 1959.

WILLIAM HOWE DAVIS
Director.

NOTE: By order dated January 8, 1959, the above suspension was advanced to commence at 9:00 a.m. Saturday, January 10, 1959 and to terminate at 9:00 a.m. Monday, February 9, 1959.

4. DISCIPLINARY PROCEEDINGS - EMPLOYING UNQUALIFIED PERSON (WHOSE DISQUALIFICATION BECAUSE OF CONVICTION HAS BEEN LIFTED) - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against GRACE PHILLIPS GUARINO U. S. Highway No. 1 North Brunswick Township PO Box 477, RD 4 New Brunswick, N. J., Holder of Plenary Retail Consumption License C-17, issued by the Township Committee of the Township of North Brunswick.	CONCLUSIONS AND ORDER

Rafferty & Blacker, Esqs., by John J. Rafferty, Esq., Attorneys for Defendant-licensee.
William F. Wood, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded guilty to the following charge:

"On May 8, 1958 and for several years prior thereto, you employed and had connected with you in a business capacity Peter Guarino, a person who had been convicted of crimes involving moral turpitude, viz., the crime of robbery, for which he was convicted in the Essex County Court on or about March 29, 1922 and in the Bergen County Court on or about May 21, 1936 and in the Union County Court on or about November 13, 1931, and the crimes of stealing goods from interstate shipments and receiving and possessing same, for which he was convicted in the United States District Court for the District of New Jersey on or about January 18, 1937; in violation of Rule 1 of State Regulation No. 13."

The file herein discloses that the facts in this case are substantially set forth in the foregoing charge and any further detailing of the same would serve no useful purpose. Since these aforesaid crimes involve the element of moral turpitude, the employee in question was disqualified from holding a liquor license or from being employed by a liquor licensee in this State. R. S. 33:1-25, 26.

The file further discloses that aforesaid employee and licensee were married in 1930; that the licensee was familiar with her husband's criminal record and that she permitted the violation herein to continue for a number of years.

The fact that the employee was not regularly employed, or that he received no compenation for his services, presents no defense to the violation. Re Horvath, Bulletin 882, Item 11. Nor does ignorance of law or the regulation afford any excuse. Licensees and their employees must know the rules and regulations and scrupulously adhere to them. See Re Krynicki, Bulletin 1238, Item 5.

Defendant has no prior adjudicated record. I have entered an order, simultaneously herewith, lifting Peter Guarino's disqualification. Under all the circumstances in

this case, I shall suspend defendant's license for fifteen days. Cf. Re Turlinski, Bulletin 1120, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 20th day of November, 1958,

ORDERED that Plenary Retail Consumption License C-17, issued by the Township Committee of the Township of North Brunswick to Grace Phillips Guarino, for premises on U. S. Highway No. 1, North Brunswick Township, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, December 8, 1958, and terminating at 2:00 a.m. Thursday, December 18, 1958.

WILLIAM HOWE DAVIS
Director.

5. DISQUALIFICATION REMOVAL PROCEEDINGS - APPLICANT NOT CONVICTED OF ANY CRIME DURING PAST 13 YEARS - APPLICATION GRANTED.

In the Matter of an Application to Remove Disqualification because of a Conviction, Pursuant to R. S. 33:1-31.2. Case No. 1436.	CONCLUSIONS AND ORDER

BY THE DIRECTOR:

On April 2, 1917 applicant was placed on probation for three years on two charges of assault and battery; on June 20, 1919 he was sent to Rahway Reformatory on a charge of atrocious assault and battery and was paroled on June 29, 1920; on March 29, 1922 he was sentenced in a county criminal court on a robbery charge to serve from six to fifteen years in New Jersey State Prison, from which institution he was paroled on March 10, 1927; on September 21, 1927 he was sentenced in a county criminal court to New Jersey State Prison to serve three years on a charge of carrying concealed weapons and two years on a charge of possessing burglary tools (sentences to run concurrently) and was discharged from said institution on February 16, 1930; on July 14, 1932 he was fined $200.00 for maintaining a disorderly house (fighting and noise); on July 29, 1935 he was fined $100.00 on a motor vehicle charge (hit and run and speeding); on May 21, 1936 he was sentenced in a county criminal court on a robbery charge to serve from twelve to fifteen years in New Jersey State Prison, from which institution he was paroled on December 21, 1944; on January 19, 1937 he was sentenced in a Federal Court on three charges of theft from interstate shipment to serve ten years following the completion of his sentence in State Prison, this sentence was suspended on October 21, 1943 and the applicant was placed on probation for five years; on October 23, 1941 he was recalled from New Jersey State Prison and sentenced to serve from four to six years on two robbery charges and was released from said institution on December 21, 1944 as aforementioned. Since the crime of robbery, per se, involves the element of moral turpitude, applicant was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. Re Case No. 883, Bulletin 894, Item 6. In view of this, it is unnecessary to determine whether the other convictions outlined above involve this element.

At the hearing held herein applicant (62 years of age) testified that he is married and for the past twelve years has resided at his present address; that he is presently unemployed; that his principal source of income was derived from some real estate holdings; that he is the owner of the building which is occupied by a licensed premises owned by his wife; that he has been doing odd jobs on the licensed premises, including that of tending bar; that he is, however, mainly occupied in running a restaurant on the licensed premises; that he was under the erroneous impression that he was permitted to work on a licensed premises since five years had elapsed from the date of his release from prison and that he did not know of his disqualification until recently when two ABC agents informed him of this fact. Applicant further testified that he is requesting the removal of his disqualification to be free to work on a licensed premises and that he has not been arrested or convicted of any crime since his release from State Prison on December 21, 1944.

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

The applicant produced three character witnesses (the Mayor, the former Police Commissioners of the municipality wherein applicant resides and a supervisor of a nationally known insurance company) who testified that they have known the applicant for the past ten years; that in their opinion he is now an honest, law-abiding citizen with a good reputation.

I hesitate to grant the relief sought because of this applicant's long criminal record and for the reason that, although disqualified, applicant worked on a licensed premises. I am, however, favorably influenced by three factors (a) the testimony of his character witnesses, (b) that ever since his release from State Prison (December 21, 1944) he has not been arrested or convicted of any crime, and (c) his sworn testimony that at the time he worked upon a licensed premises he had no knowledge he was prohibited from such employment. Knowledge of the law, moreover, is not an essential requisite in rehabilitation proceedings. Re Case No. 1279, Bulletin 1124, Item 8.

Considering all the aforesaid facts and circumstances, I am satisfied that the applicant has conducted himself in a law-abiding manner for more than five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest.

The application is granted.

Accordingly, it is, on this 20th day of November, 1958,

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.

WILLIAM HOWE DAVIS
Director.

6. WHOLESALE LICENSE - OBJECTIONS TO ISSUANCE HELD TO BE WITHOUT MERIT.

In the Matter of Objections)
to the Issuance of a Wine
Wholesale License to)

MONSIEUR HENRI WINES LTD.) CONCLUSIONS
49-57 Bogart Street
Brooklyn, N. Y.)

Green and Yanoff, Esqs., by H. Kermit Green, Esq., Attorneys for Applicant.
Milton H. Cooper, Esq., Attorney for New Jersey Wine & Spirit Wholesalers Association, Objector.
T. James Tumulty, Esq., Attorney for Hoffman Import & Distributing Company, Objector.
Herbert Opici, Vice President, for American B. D. Company, Objector.
Joey Ullmann, Sales Manager, for Leonard Kreusch, Inc., Objector.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Written objections to the issuance of the application for a wine wholesale license having been filed herein, hearings thereon were held at this Division on September 11, 1958, and September 26, 1958, respectively.

"Although the testimony of the three witnesses called by the objectors is quite lengthy, their objections may be summarized as follows:

(a) There is no need for or convenience to be served by the issuance of a license of the type in question;

(b) That the issuance of the license would disrupt the orderly market that presently prevails in the wine industry in this State;

(c) That the applicant does not intend to operate from a warehouse in this State and intends to employ three salesmen to solicit customers in behalf of its products;

(d) That the applicant, by reason of such low overhead, would enable it to sell similar types of unlisted wines at a price less than it could be sold by its competitors; and

(e) Applicant, in addition to trading under its own name, has fourteen other trade names by which it may operate its business.

"In addition to the three witnesses referred to above, namely, Frank H. Reitman (Chairman of the Board of Directors of Galsworthy, Inc.), Phillip Hoffman (trading as Hoffman Import & Distributing Company) and Martin Hoffman (General Manager thereof), there were others who filed written objections but at the hearing did not testify or produce any witnesses to testify in their behalf.

"Maurice Feinberg (President of applicant corporation) testified that he has been associated with said corporation

since 1945; that at that time the applicant held a plenary winery license in New Jersey (our records indicate from July 1, 1944 to June 30, 1948), and that he was in charge of said plant located there; that, in addition to the sale of wine, the company has since 1934 carried on the reconditioning of wines when retained by various companies which seek said services; that the reconditioning of the wine is done in bonded warehouses with approval of the Federal government; that, although several New Jersey wholesale licensees sell applicant's wine in this State, the volume of annual sales of the wine has progressively decreased; that inquiry of one of the largest wholesale licensees to ascertain the reason for the decline in business of applicant's products disclosed that the company placed no emphasis on the sale of wine but, rather, on distilled spirits; that, through direct solicitation of the retail licensees, the applicant's business would increase substantially; that in New Jersey there is a receptive market for imported wine such as is handled by applicant.

"I have carefully examined the testimony of the objectors and find that the contentions advanced by them appear to be merely conjectural as no substantial proof has been presented that the fears expressed by the objectors would ever materialize. Applicant, through its President, has emphatically stated, 'We have no intention of undercutting the market in the State of New Jersey.'

"Under the circumstances, I see no meritorious reason which should prevent the issuance of the license in question. I, therefore, recommend that the license be issued if and when the application is in proper form."

Written exceptions and written argument pursuant thereto were filed with me by attorneys for objectors. Written answering argument was filed with me by the attorneys for the applicant. Thereafter, I set down the matter for oral argument by the respective attorneys but the hearing was cancelled when informed that the attorney for one of the objectors was ill and the attorney representing the other objector, upon instructions from his client, would not be present at the appointed time. Moreover, I have been informed that the attorneys are satisfied to submit the matter for determination on the record.

Since the hearing in this matter, the attorneys for the applicant have advised that the applicant would use only five names, i.e., Monsieur Henri Wines, Ltd.; Henri Wines, Ltd.; Henri, Ltd.; Elite Wine Co. and Wine Merchants Importing Co., when doing business in New Jersey. I also received assurances that the posting of the prices for the wines which applicant would handle will not include duplicates, but that there will be one price posting for any name brand, year, quality and quantity.

Under the circumstances and with reliance upon the assurances given by the applicant, I will issue the license in question, provided, however, that all necessary prerequisites have been fully complied with.

WILLIAM HOWE DAVIS
Director.

Dated: December 9, 1958.

7. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ALCOHOLIC BEVERAGES - ALCOHOLIC BEVERAGES FORFEITED - MOTOR VEHICLE RETURNED TO INNOCENT LIENOR.

In the Matter of the Seizure on September 28, 1958 of a quantity of alcohol and a Ford sedan on the New Jersey Turnpike at Mile Post No. 74, in the Township of Cranbury, County of Middlesex and State of New Jersey.	Case No. 9809 ON HEARING CONCLUSIONS AND ORDER

Milton S. Kramer, Esq., Attorney for Associates Discount Corporation.
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 24 two-quart "Mason" jars of alcohol and a Ford sedan, described in a schedule attached hereto, seized on September 28, 1958 on the New Jersey Turnpike, at Mile Post No. 74, Cranbury, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R. S. 33:1-66 an appearance was entered on behalf of Associates Discount Corporation, which sought recognition of its alleged lien on the motor vehicle. No one opposed forfeiture of the alcohol.

Reports of ABC agents and other documents in the file, presented in evidence with consent of counsel for the finance company, disclose the following facts:

A New Jersey State Trooper on the above date and location came upon the Ford sedan parked on the highway. The trooper ascertained that the occupants of the car were Charles Kenan, its registered owner, and Della J. Watson. The trooper discovered 23 of the jars of alcohol in the trunk of the car, and one jar of alcohol on the rear seat. None of the jars had a stamp affixed thereto indicating the payment of the tax on alcoholic beverages. The trooper took into custody the alcohol and car and occupants thereof. Later the alcohol and car were turned over to ABC agents.

Kenan gave the trooper a signed, sworn, written statement wherein it appears that he purchased the alcohol for resale, in North Carolina, from a man unknown to him, who transferred the alcohol from his car to Kenan's.

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 46.2 percent.

The seized alcohol is illicit because of the absence of a tax stamp on any of the jars, and the circumstances under which such alcohol was purchased. R. S. 33:1-1(i). R.S. 33:1-88. Such illicit alcohol, and the Ford sedan 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.

Associates Discount Corporation presented in evidence a conditional sales contract dated July 22, 1957 which the finance

company holds by assignment. The contract, signed by Charles Kenan and Clio Kenan, evidences the conditional sale of the Ford sedan in question with an unpaid balance of $2907.72. The present balance due on the contract after rebate for prepayments is $1832.00. The bill of sale issued by the New Jersey Motor Vehicle Department lists Charles Kenan as the owner, and has the lien of the finance company noted thereon.

Before accepting the contract and extending credit to the purchasers of the car the finance company received information that Charles W. Kenan was 28 years of age, was married, resided at an address in Newark, was employed by a manufacturing company as a laborer, for two years, at a salary of $60.00 per week. The finance company's personnel checked the information, and also made inquiry with an independent credit agency, which confirmed that such information was accurate and did not reveal any derogatory information. Such finance company had a previous account with Kenan which had been found satisfactory. Kenan does not appear to have any previous criminal record.

I am satisfied from the evidence presented that the Associates Discount Corporation acted in good faith and did not know, or have any reason to suspect that the Ford sedan would be used to transport illicit alcoholic beverages. I shall therefore recognize its lien against such motor vehicle to the extent of $1832.00.

It appears that the appraised retail value of the Ford sedan does not exceed the amount of the lien claim and the costs of its seizure and storage. Such motor vehicle will therefore be returned to the Associates Discount Corporation upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if, on or before the 15th day of December, 1958, the Associates Discount Corporation pays the costs incurred in the seizure and storage of the Ford sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to it; and it is further

DETERMINED and ORDERED that the alcoholic beverages listed in the aforesaid Schedule "A" constitute unlawful property and the same be and hereby are forfeited in accordance with the provisions of R. S. 33:1-66 and that they be retained for 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: December 3, 1958.

SCHEDULE "A"

24 - two-quart Mason jars of alcohol
1 - Ford sedan, Serial No. 75351, Engine No. D7EV273351, New Jersey Registration EL9832.
2 - suitcases

8. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - ALCOHOL ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO INNOCENT OWNER.

In the Matter of the Seizure on September 18, 1958 of 72 two-quart "Mason" jars of alcohol and a Buick coupe on Route No. 130 in the City of Burlington, County of Burlington and State of New Jersey.	Case No. 9801 ON HEARING CONCLUSIONS AND ORDER

Goldstein & Goldstein, Esqs., by Arnold J. Goldstein, Esq., Attorneys for James Anderson.
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 72 two-quart jars of alcohol and a Buick coupe, described in a schedule attached hereto, seized on September 18, 1958 on Route No. 130 in Burlington, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R. S. 33:1-66, James Anderson, the registered owner of the motor vehicle, appeared and sought its return. No one opposed forfeiture of the alcoholic beverages.

Reports of ABC agents and other documents in the file presented in evidence with consent of counsel for James Anderson disclose the following facts:

New Jersey State Troopers halted the Buick coupe on the above date and location during their routine patrol of traffic on the highway. The troopers ascertained that the motor vehicle was being operated by John W. Mitchell, who was transporting the 72 jars of alcohol, which were discovered in the trunk of the car. There was no stamp on any of the jars evidencing payment of the tax on alcoholic beverages. Thereupon the troopers took into custody the alcohol, motor vehicle, and the occupants of the car. Later the 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 47.1 percent.

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. Such illicit alcoholic beverages and the Buick coupe in which they 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.

James Anderson asserts that he loaned the car to his friend, John W. Mitchell, and did not know or have any reason to suspect that he would transport illicit alcohol therein. He testified that he is unmarried and has been employed in a food market for about four years, earning an average weekly pay of $80.00; that he has never been arrested or convicted of any crime; that he has known Mitchell, who was single and lived

with his mother, for about six years and has on occasion loaned his car to Mitchell; that on the occasion in question Mitchell's mother was about to move from New York to Georgia and Mitchell requested the loan of the car in that connection. The fingerprint records of John W. Mitchell do not disclose any previous criminal record.

I am satisfied from the evidence presented that James Anderson acted in good faith, and did not know or have any reason to suspect that his car would be used by Mitchell for the unlawful transportation of alcoholic beverages. Hence, I shall return the Buick coupe to him upon payment of the costs of its seizure and storage. R. S. 33:1-66(f).

Accordingly, it is DETERMINED and ORDERED that if, on or before the 15th day of December, 1958, James Anderson pays the costs incurred in the seizure and storage of the Buick coupe, described in Schedule "A" attached hereto, such motor vehicle will be returned to him; and it is further

DETERMINED and ORDERED that the alcoholic beverages listed in the aforesaid Schedule "A" constitute unlawful property and the same be and hereby are forfeited in accordance with the provisions of R. S. 33:1-66 and that they be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
Dated: December 3, 1958. Director.

SCHEDULE "A"

72 - two-quart "Mason" jars of alcohol
1 - Buick coupe, Serial No. 7004914, Engine No. V1705915, New York Registration 306306.

9. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against EDWARD A. TURSE 811 - 11th Street Union City, N. J., Holder of Plenary Retail Consumption License C-124, issued by the Board of Commissioners of the City of Union City.	CONCLUSIONS AND ORDER

Edward A. Turse, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded guilty to the following charges:

"1. On September 18, 20, 23, 30 and October 10, 1958, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the making and accepting of bets in a lottery commonly known as the

'numbers game' on September 18, 23, 30 and October 10, 1958; the making and accepting of horse race bets on October 10, 1958; and the playing of a card game for stakes of money on September 20, 1958; in violation of Rule 7 of State Regulation No. 20.

"2. On September 18, 23, 30 and October 10, 1958, you allowed, permitted and suffered tickets and participation rights in a lottery commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

On September 18, 23, 30 and October 10, 1958, Adolph Moeckel, a patron, accepted "numbers" bets from other patrons and an ABC agent on the licensed premises and on October 10, 1958 also accepted a horse race bet from an ABC agent on the licensed premises. On October 10, 1958, through prearrangement with the local police authorities, police officers, accompanied by ABC agents, came to the licensed premises and found a "scratch" sheet, 5 "numbers" slips, a horse race slip, 8 blank slips and $107.00, including 4 - $1.00 bills (which had been marked by the agents) in Moeckel's possession. The file further discloses that on September 20, 1958 aforesaid Moeckel and another patron engaged in a single game of gin rummy, at the end of which Moeckel, its loser, paid his opponent one dollar.

The defendant has no prior adjudicated record. Since there is no evidence that any agent or employee of defendant actually participated in the gambling activity, I shall suspend defendant's license for twenty days (Re Verona Inn, Inc., Bulletin 1224, Item 2), to which will be added five days because of the various types of gambling (cf. Re Wagenaar, Bulletin 911, Item 9), 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 6th day of January, 1959,

OFDERED that Plenary Retail Consumption License C-124, issued by the Board of Commissioners of the City of Union City to Edward A. Turse, for premises 811 - 11th Street, Union City, be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. Tuesday, January 13, 1959, and terminating at 3:00 a.m. Monday, February 2, 1959.

10. DISQUALIFICATION REMOVAL PROCEEDINGS - FIVE-YEAR PERIOD NOT ELAPSED SINCE RELEASE FROM PENAL INSTITUTION - PETITION DISMISSED AS PREMATURE.

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. 1445		

BY THE DIRECTOR:

On November 14, 1958 applicant filed a petition praying that his disqualification because of a conviction of crime be lifted. In his petition he states that about July 1952 he pleaded guilty to an indictment charging him with the crime of possessing stolen goods and was sentenced to two years in a federal penitentiary, from which institution he was released in June 1953.

On December 1, 1958 a hearing was held on applicant's petition at which time he testified that the facts therein set forth are correct. However, it appears from applicant's fingerprint returns that on November 10, 1953 he was indicted by a Federal Grand Jury for theft and receiving and possession, in violation of Section 659, Title 18, U. S. Code and for interstate transportation of a stolen motor vehicle, in violation of Section 2312, Title 18, U. S. Code; that on November 20, 1953 he pleaded not guilty to said indictment; that on March 23, 1954 he retracted his plea and entered a plea of guilty to the theft count only; that thereafter on June 25, 1954 he was sentenced to a prison term of two years and was paroled on June 4, 1955.

Considering the aforesaid, it is apparent that applicant filed his petition prematurely, since it has been ruled that the five-year period during which an applicant must have conducted himself in a law-abiding manner before filing his petition (R. S. 33:1-31.2) runs from the time the applicant was released from prison. Re Case No. 1226, Bulletin 1073, Item 9. In the instant case, it runs from June 4, 1955.

Accordingly, it is, on this 8th day of December 1958,

ORDERED that the petition herein be and the same is hereby dismissed with leave granted to applicant to file a new petition on or after June 4, 1960.

William Howe Davis
Director