

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
NEWARK INTERNATIONAL PLAZA
U.S. Routes 1-9 (Southbound) Newark, N. J. 07114

BULLETIN 2329

September 27, 1979

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
NEWARK INTERNATIONAL PLAZA
U.S. Routes 1-9 (Southbound) Newark, N. J. 07114

BULLETIN 2329

September 27, 1979

1. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - FAILURE TO INDICATE PRIOR OFFENSE IN APPLICATION - LICENSE SUSPENDED 45 DAYS.

In the Matter of Disciplinary Proceedings against }

223 Corporation,
t/a The Colonial Room
Beef and Beer
Pennsauken Marts Rts.
130 & 73
Pennsauken, N.J. 08110 }

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License 0427-33-039-001 issued by the Township Committee of the Township of Pennsauken. }

Uliase, Uliase & Greenblatt, Esqs., by Michael S. Greenblatt, Esq.,
Attorneys for Licensee.
Mart Vaarsi, Esq., Deputy-Attorney General, Appearing for the
Division.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

HEARER'S REPORT

Licensee pleaded "not guilty" to the following charges:

1. On July 23, 1977, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to a person under the age of eighteen (18) years, viz., Katherine B.---, age 15; in violation of Rule 1 of State Regulation No. 20.

2. In your short-form application filed with the Township Committee of Pennsauken in June, 1977, you failed to show and fully disclose in answer to Question No. 11 therein a material fact; viz., that there had been a prior violation involving sale to a minor; such evasion and suppression of a material fact being in violation of N.J.S.A. 33:1-25.

- I -

Charge No. I

With respect to this charge, Katherine (Kathy), testified that she was born on February 25, 1962 and was 15 years of age on July 23, 1977, the date mentioned in the charge.

Katherine explained that on the above mentioned date she entered the licensed premises, accompanied by a male, and ordered gin and ginger ale from a female bartender. She did not recall the number of said beverages that she ordered on that date, but asserted that it was more than two. The drinks made her drunk. She could not recognize the barmaid now. She fell down and was arrested while not on her feet. She did not recall where she was when arrested.

On cross-examination, the witness asserted that, prior to entering the licensed premises she had been home and had no drinks there. In the licensed premises, she sat at the bar with her companion. He ordered the first drink. She did not recall whether she was in the premises more or less than an hour. Katherine got up to walk to the bathroom. Upon being unable to walk, she and her companion were asked to leave the premises. She doesn't know who ordered her to leave.

After leaving the premises, she and her companion went to a peep show, stayed there a matter of minutes and sometime thereafter (she doesn't recall when) she was arrested while in the "middle of the street."

John E. Dorofy, Jr., a detective in the local police force, testified in support of the Division charges that, while on duty at police headquarters on the day in question, Kathy was brought into him by a uniformed police officer. He observed that she "was stumbling, falling down at times, staggering. She was mussy, clothing, her hair, and anything was all mussed. Her eyes were bloodshot and watery. Her speech was slurred, incoherent at times." He concluded that she was intoxicated.

Dorofy explained that, upon ascertaining that Kathy was 15 years old, he questioned her with respect to where she had been, what she had been drinking, and other relevant matters. Kathy informed the detective that she had been

drinking gin and ginger ale at the subject licensed premises. She had approximately three or four drinks. She ordered some and her companion also ordered some. No one asked her to produce proof of her age; she just walked in and ordered drinks.

Additionally, the detective questioned Kathy's male companion, who was charged with contributing to the delinquency of a minor. He confirmed that he and Kathy had been drinking at the subject licensed premises, and he furnished a description of the barmaid who served the drinks. As a result of this interrogation, Dorofy prepared a Jane Doe warrant and proceeded to the licensed premises.

Upon arrival at the licensed premises, Dorofy confronted a barmaid who he identified as Ernestine. He described Kathy and her companion to Ernestine and asked her whether she recalled seeing them in the premises that day. She responded that she had observed them drinking at the bar earlier, but that she did not serve them. She identified the barmaid who served them as Susan Fitzgerald.

At that time, Fitzgerald had completed her tour of duty for the day and was sitting at the bar as a patron. Dorofy described Kathy and her companion to Fitzgerald. She admitted serving alcoholic beverages to each. Fitzgerald informed Dorofy that she did not request Kathy to furnish proof of age because it was her impression that she was 18 years of age. Thereupon, Fitzgerald was charged with the sale of an alcohol beverage to a minor in the local Municipal Court, to which she entered a "guilty" plea.

On cross-examination, the witness testified as follows:

Q. Did you state that to her, (Fitzgerald) that this is a minor offense, don't worry?

A. No. I never said that it was a minor offense."

* * *

A. No, I understood the question. No I never stated that it was a minor offense. I did state to her, "Don't worry about it", because she was very upset at the time, and it is my position when making an arrest to try to make the person

arrested feel as comfortable as possible, and that's what I felt was needed to relax her own mind.

She was quite disturbed at the time to the point that she was shaking.

Q. So what exactly did you say to her?

A. I just told her, "Take it easy." I said something to the effect that the case will come up in court, that the Colonial Room I am sure has their attorneys, and that they will probably represent you when you go for your hearing. I said, "Just sit down and relax and we will try to get you out of here as soon as possible."

Q. Did you ever say to her, "you are guilty of this offense?"

A. No, sir. I never said that.

In defense of the charges, Ernestine Antonelli, employed as a barmaid at the subject premises and who was on duty on the day of the alleged occurrence, testified that she first observed Kathy's presence in the establishment when she observed her wandering behind the bar. Kathy informed Antonelli that she was looking for the Ladies Room. Antonelli gave her directions to the Ladies Room. Instead, Kathy walked into the kitchen. Finally, Antonelli took her to the Ladies Room. Upon inquiry, Fitzgerald informed Antonelli that she didn't know who had accompanied Kathy. Fitzgerald recalled observing Kathy at the end of the bar.

Antonelli, upon ascertaining the identity of a male who had accompanied Kathy to the bar, ordered him to wait for her outside the Ladies Room and to depart from the premises. The couple then left.

Antonelli asserted that she did not observe Kathy holding or consuming an alcoholic beverage.

On cross-examination, Antonelli denied informing Detective Dorofy that she observed Kathy drinking in the premises and that she was served by Fitzgerald. Antonelli explained that she did hear Fitzgerald inform Dorofy that she had served Kathy.

Susan Fitzgerald, who was tending bar at the time of the alleged incident, testified that, although she saw the male who had allegedly accompanied Kathy into the licensed premises, she did not see Kathy until she observed her stumbling from the Ladies Room. Antonelli asked her to find out who she was with so that she could order them out of the premises.

She recalled the male ordering two drinks, a mug of beer and a gin and a mug of ginger ale. After that he departed from the bar to the games section of the barroom. He did not return to order additional drinks. She did not see the male give the drinks of Kathy, nor did Kathy order any drinks. She observed Kathy approximately 15 or 20 minutes after the male ordered the drinks. Kathy and her male escort departed from the premises immediately upon being ordered to do so by Antonelli.

Later, a police officer came in, informed her that she was guilty of serving a minor, took her to the police station and informed her that she was under arrest. She denied serving the juvenile any drinks and said that she served drinks to the male.

Fitzgerald denied informing the officer that she served drinks to Kathy and to her male companion. She denied making a statement that she did not ask for Kathy's proof of age because she felt that Kathy was 18 years of age or older. She asserted that the police officer made her feel guilty and that it was a very minor offense and not to worry about it. She pleaded guilty before the Magistrate solely because she was led to believe that she was guilty and presently felt that she was not guilty.

Murray Berger, president and a principal stockholder of the corporate licensee, testified in defense of the charges that he was not in the establishment on the day of alleged violation. The following testimony was then elicited of this witness:

Q. Did you either advise Miss Fitzgerald as to how she should plead in this matter or offer to get counsel for her?

A. They called me up and told me about it, and I called the Pennsaukin police report, and I spoke to an officer Nickaregga (phonetic) and he told me that it was a minor who is no longer a felony thing, that they have changed the law, that it was

a misdemeanor thing and would be a \$25. fine, and that it was no ABC involved. It was local police and it would be just a \$25. fine, so I advised Miss Fitzgerald. I said to her - - that's why I didn't get any attorney. I figured if it was a local thing, and I felt if she thought she was guilty to plead guilty.

Preliminarily, I observe that we are dealing with a purely disciplinary action; such action is civil in nature and not criminal. In re Schneider, 12 N.J. Super. 449 (App. Div. 1951). Thus, the proof must be supported by a fair preponderance of the credible evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956).

Since the matter sub judice presents a factual situation, the credibility of witnesses must be weighed. Evidence, to be believed, must not only proceed from the mouths of credible witnesses, but must be credible in itself, and must be such as common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961).

I have had the opportunity to observe the demeanor of the witnesses as they testified and have made a careful analysis and evaluation of their testimony.

I have set forth in considerable detail the testimony in the record in order to objectively arrive at a determination herein.

I am persuaded that the account given by Kathy to the effect that she imbibed gin and ginger ale in the licensed premises was accurate and forthright. This was corroborated by the testimony of the detective to whom Kathy made admissions, and further corroborated by her male companion who made similar admissions to the detective of their drinking activity in the licensed premises, which are admissible evidence as an exception to the hearsay rule.

The presence of Kathy in the licensed premises was admitted. Additionally, Fitzgerald, in the solemnity of a Municipal Court proceeding, admitted the charge by pleading guilty.

I find Fitzgerald's disavowal of her prior plea of guilt devoid of factual substance, and was impelled by her desire to exculpate the licensee of this charge.

My examination of the facts and the applicable law generates no doubt that this charge was established by a fair preponderance of the credible evidence.

I, therefore, recommend that the licensee be found guilty of this charge.

- II -

Charge No. 2

This charge was amended to read that licensee improperly answered question number thirteen instead of number eleven.

With respect to this charge, the unchallenged proofs reveal that in its short-form application for the renewal of its license, filed in June 1977, the licensee failed to reveal in answer to question number thirteen therein, that there was a change in the facts set forth in the last prior long-form application for license renewal (filed July 3, 1974); to wit, that licensee pleaded non vult to a charge alleging that, on July 11, 1975, it sold an alcoholic beverage to a minor, age 17, and that, by Conclusions and Order of the Director dated September 12, 1975 (S-10,512), the licensee paid a fine of \$1,000.00 in lieu of suspension of its license for ten (10) days.

In defense of this charge, Berger testified that he and his wife had no interest in the establishment at the time that the long-form application was filed. The long-form application was filed by the prior corporate stockholder and he did not have such application upon the licensed premises in December 1977, when an ABC agent asked for a copy thereof. He did not know that a copy thereof was on file at the local City Hall and that he could obtain a copy thereof at City Hall. It was his opinion that question number thirteen in the short-form application, which he filed in June 1977, related solely to whether there had been any change in the ownership of the business.

Licensee argued that, in its pertinent part, N.J.S.A. 33:1-25 provides:

All statements in said applications
required to be by law or by rules
and regulations shall be deemed

material, and any persons who shall knowingly misstate any material fact, under oath, in said application shall be guilty of a misdemeanor. (underlining added)

Such contention is without merit. That argument may only be valid in a criminal prosecution. This proceeding is in nowise a criminal prosecution. It is a civil proceeding to suspend or revoke a license. The aforesaid statute further provides as follows: "Fraud, misrepresentation, false statements, misleading statements, evasions or suppression of material facts in the securing of a license are grounds for suspension or revocation of a license." It does not provide that such statements need be knowingly made in an action to suspend or revoke a license.

The statute does set forth a presumption that all statements in the applications shall be deemed material. A mere misleading statement or suppression is malum prohibitum. A guilty scienter is not an ingredient in the proof of the charge. Thus, the lack of improper motivation for the admitted failure of compliance with the statute (N.J.S.A. 33:1-25) goes solely toward mitigation. The intent of Berger, however well meaning, is not a substitute for the requirements that all licensees are obliged to follow.

Thus, it is recommended that the licensee be found guilty of this charge.

- III -

Penalty Recommendations

It is recommended that the licensee be suspended on the first charge for twenty-five (25) days and on the second charge for ten (10) days, and that there be added ten (10) days by reason of the aforementioned prior similar record of having paid a fine of \$1,000.00 in lieu of suspension of license for ten (10) days within the past five years; making a total suspension of license of forty-five (45) days.

CONCLUSIONS AND ORDER

Written Exceptions to the Hearer's Report were filed by the licensee pursuant to N.J.A.C. 13:2-19.6.

The licensee argues, in its Exceptions, that the evidence relating to the sale of alcoholic beverages to a minor was contradictory at best. To the contrary, the proofs adduced clearly establish a direct sale to the minor, Kathy _____. The minor testified she was sold alcoholic beverages at the licensed premises, the investigating police officer confirmed said fact in his investigation, and the licensee's employee pleaded "guilty" in the Municipal Court to such violation. Thus, I find this Exception to be baseless in law or fact.

The balance of the licensee's Exceptions assert that the recommended penalty of forty-five days on the sale to minor charge and the improper license application charge, with additur of ten days for a prior similar violation, is excessive.

The sale of alcoholic beverages to a fifteen year old is a serious breach of a licensee's obligation to properly conduct its licensed business. That offense in itself warrants a most severe suspension. In addition, the ability of the Director to increase a penalty in consideration of prior violations has been sustained and is a general practice of the Division. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956). See also Re Cramp's Liquor Store, Inc., Bulletin 2275, Item 3, where the Director imposed a fifty (50) day suspension for one sale to a minor, age fourteen, with additur of ten days for a prior similar violation within the past five years, for a total suspension of sixty (60) days. Thus, I find the recommended penalty under the circumstances herein, to be reasonable. I, therefore reject these Exceptions as lacking in merit.

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits, the Hearer's Report and the written Exceptions filed thereto, I concur in the findings and recommendations of the Hearer, and adopt them as my conclusions herein. I find the licensee guilty of the Division charges. Its request for a fine in lieu of suspension is denied, and the license will be suspended for forty-five (45) days.

Accordingly, it is, on this 9th day of March, 1979,

ORDERED that Plenary Retail Consumption License 0427-33-039-001 issued by the Township Committee of the Township of Pennsauken to The 223 Corporation, t/a The Colonial Room, for premises Pennsauken Mart, Routes 130 and 73, Pennsauken be and the same is hereby suspended for forty-five (45) days commencing 3:00 a.m. Monday, March 19, 1979 and terminating 3:00 a.m. Thursday, May 3, 1979.

JOSEPH H. LERNER
DIRECTOR

- 2. DISCIPLINARY PROCEEDINGS - LIMITED WHOLESALE LICENSES - SOLE STOCKHOLDER OF BOTH CORPORATIONS STATUTORILY DISQUALIFIED - LICENSES CANCELLED - PENDING APPLICATIONS FOR RENEWALS OF BOTH LICENSES ARE DENIED.

In the Matter of Disciplinary Proceedings against

C. Schmidt & Sons, Inc.
127 Edward Street
Philadelphia, Pa.

Holder of Limited Wholesale License WL-67 issued by the Director of the Division of Alcoholic Beverage Control

and

In the Matter of Disciplinary Proceedings against

C. Schmidt & Sons, Inc. of N. J.
500-A Benigno Boulevard
Interstate Industrial Park
Bellmawr, N. J.

Holder of Limited Wholesale License WL-11 issued by the Director of the Division of Alcoholic Beverage Control.

SUPPLEMENTAL
CONCLUSIONS
AND ORDER

Greenberg & Mellk, Esqs., by Arnold M. Mellk, Esq., Attorneys for Licensee Leonard A. Peduto, Jr., Esq., Deputy Attorney General, Appearing for Division

BY THE DIRECTOR:

On March 10, 1977 Conclusions and Order were entered herein suspending Limited Wholesale Licenses WL-67 and WL-11, issued by the Director of the Division of Alcoholic Beverage Control to C. Schmidt & Sons, Inc. for premises at 127 Edwards Street, Philadelphia, Pennsylvania and 500-A Benigno Boulevard, Interstate Industrial Park, Bellmawr, New Jersey, respectively, for the balance of their terms, to wit, midnight, June 30, 1977, upon a finding of guilt to charges that the sole stockholder of the corporate licensees, William H. Pflaumer, was statutorily disqualified from exercising an interest in a liquor license by virtue of his convictions of crimes involving moral turpitude, in violation of N.J.S.A. 33:1-25. IMO C. Schmidt & Sons, Inc., et al., Bulletin 2259, Item 3.

On appeal filed to the Superior Court, Appellate Division, the action of the Director was stayed; and ad interim license extensions were issued for subsequent license terms pending determination of the appeal. By decision dated April 18, 1978, the Appellate Division affirmed, and reversed, in part, and remanded to the Division for further action. C. Schmidt & Sons, et al. v. Division of ABC, 158 N.J. Super. 595 (App. Div. 1978), also reported in Bulletin 2287, Item 1.

On further Petitions and Cross-Petitions for Certification to the Supreme Court of New Jersey, the status quo was maintained as to the wholesale licenses. On March 21, 1979, the Supreme Court reversed that portion of the Appellate Division decision which held that the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., was applicable to the licensure function of the Division of Alcoholic Beverage Control. The effect of same was to affirm the action of the Director in all aspects C. Schmidt & Sons, et al. v. Division of ABC, ___ N.J. ___ (1979) (A-57/58- September Term 1978), also reported in Bulletin 2287, Item 1.

During the pendency of these proceedings, C. Schmidt & Sons, Inc. filed applications for renewal of Limited Wholesale License WL-67 for premises in Philadelphia, Pennsylvania. Determination thereon was deferred pending the appeals. Absent any change in stock ownership or disqualified status of William H. Pflaumer, the license renewal applications for WL-67 will be denied.

There was no license renewal application filed for the 1978-79 license term concerning License WL-11 for premises in Bellmawr, New Jersey. Active operations at that location ceased some time prior to July 1, 1978. Thus, this license has lapsed, and no supplemental order is required therein.

Accordingly, it is, on this 29th day of March, 1979,

ORDERED that Limited Wholesale Licenses WL-67 and WL-11 issued by the Director to C. Schmidt and Sons, Inc. and C. Schmidt and Sons, Inc. of New Jersey, and any extensions of licenses which may have been granted pending determination of the appeals be and the same are hereby cancelled, effective 8:00 A.M. Monday, April 9, 1979; and it is further

ORDERED that the applications for renewals of the aforesaid licenses pending in this Division be and the same are hereby denied, predicated upon the reasons set forth in my Conclusions and Order of March 10, 1977, as affirmed by the New Jersey Supreme Court, as heretofore noted.

Joseph H. Lerner
Director

- 3. APPLICATION FOR LIMITED TRANSPORTATION PERMIT AND TRANSPORTATION LICENSE - CORPORATION CONTROLLED BY ANOTHER ENTITY DISQUALIFIED FROM EXERCISING AN INTEREST IN AN ALCOHOLIC BEVERAGE LICENSE DUE TO ITS SOLE STOCKHOLDER BEING STATUTORILY DISQUALIFIED - DENIED.

In the Matter of the Application of)
 William H. P., Inc. of N. J.)
 for Limited Transportation Permit and)
 Transportation License.)

SUPPLEMENTAL
 CONCLUSIONS
 AND ORDER

 Greenberg & Mellk, Esqs., by Arnold M. Mellk, Esq., Attorneys for Applicant
 Leonard A. Peduto, Jr., Esq., Deputy Attorney General, Appearing for Division

BY THE DIRECTOR:

On March 10, 1977 Conclusions and Order were entered herein denying the application of William H. P., Inc. of N. J. for a Limited Transportation Permit based upon proofs that the said corporation was effectively controlled and completely intertwined with the brewery operation of C. Schmidt & Sons, Inc., which entity was disqualified from exercising an interest in an alcoholic beverage license by virtue of the statutory disqualification of its sole stockholder, William H. Pflaumer. IMO William H. P., Inc. of N. J., Bulletin 2259, Item 4.

On appeal filed to the Superior Court, Appellate Division, the action of the Director was stayed, and ad interim permit extensions were issued for subsequent permit terms pending determination of the appeal. By decision dated April 18, 1978, the Appellate Division affirmed and reversed, in part, and remanded to the Division for further action. C. Schmidt & Sons, et al. v. Division of ABC, 158 N.J. Super. 595 (App. Div. 1978), also reported in Bulletin 2287, Item 1.

On further Petitions and Cross-Petitions for certification to the Supreme Court of New Jersey, ad interim special permits were issued on a monthly basis to permit the continued transportation by the applicant pending determination of the appeal. On March 21, 1979, the Supreme Court reversed that portion of the Appellate Division decision which held that the Rehabilitated Convicted Offenders Act, N.J.S.A. 2A:168A-1 et seq., was applicable to the licensure function of the Division of Alcoholic Beverage Control. The effect of same was to affirm the action of the Director in all aspects C. Schmidt & Sons, et al. v. Division of ABC, ___ N. J. ___ (1979) (A-57/58 - September Term 1978), also reported in Bulletin 2287, Item 1.

During the pendency of the appeals, William H. P., Inc. of N. J. filed further applications for a Class D Transportation License pursuant to N.J.S.A. 13:1-13. Determination thereon was deferred pending the appeals. Absent any change in the control and interest by William H. Pflaumer, the applications for the issuance of a Transportation License will be denied.

Accordingly, it is, on this 29th day of March, 1979,

ORDERED that the applications of the applicant, William H. P., Inc. of N. J. for a Transportation License or a Limited Transportation Permit be and the same are hereby denied; and it is further

ORDERED that no further special transportation permits, issued pursuant to N.J.S.A. 33:1-74, be and the same shall be issued to William H. P., Inc. of N. J. as long as the disqualified status of William H. Pflaumer is connected therewith.

Joseph H. Lerner
 Director

- 4. DISCIPLINARY PROCEEDINGS - FAILED TO KEEP TRUE BOOKS OF ACCOUNT - EMPLOYED DISQUALIFIED PERSON - HEARD EX PARTE - LICENSE SUSPENDED FOR BALANCE OF TERM - NOT LESS THAN 90 DAYS.

In the Matter of Disciplinary Proceedings against :

Right Back Lounge, Inc. :
 45 Martin Luther King Drive :
 Jersey City, N.J. :

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption Lic. #0906-33-389-001, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. :

. :

Leonard A. Peduto, Jr., Esq., Deputy-Attorney General, Appearing for Division.

BY THE DIRECTOR:

Charges were preferred against the licensee by this Division alleging that, from November 1974 to November 1, 1977 it: (1) failed to keep true books of account in connection with the licensed premises, and (2) it employed one John Britt Sr., who was statutorily disqualified from employment in any wise, by the holder of an alcoholic beverage license; in violation of Rule 36 of State Regulation No. 20 (now N.J.A.C. 13:2-23.32) and Rule 1 of State Regulation No. 13, (now N.J.A.C. 13:2-14.1), respectively.

At the outset of the hearing in this Division, held pursuant to N.J.A.C. 13:2-19.6, no one was in appearance for or on behalf of the licensee corporation. It further appeared that notice of the hearing had been provided the licensee by personal service of such notice upon the principal stockholder and officer of the corporation. Accordingly, the matter proceeded ex parte, and the Division file was accepted into evidence.

ABC Agent C testified that he had investigated the licensed premises and obtained its records. Review of same disclosed that one John Britt Sr. had been employed by the licensee from June through December 1976. He further ascertained from police records that the said Britt had a record of convictions for working a lottery business and possessing lottery paraphernalia, both crimes involving moral turpitude.

A certified copy of the conviction against John Britt was admitted into evidence as part of the Division case.

Agent C further testified that he had requested the records of the licensed business from its corporation president, Francine Graves. He did receive three ledger sheets representing three years of activity at the licensed premises for 1974, 1975 and 1976. He ascertained that these ledger sheets were patently inadequate as business records of any business, and particularly inadequate for these licensed premises. Additionally, Ms. Graves exhibited bank account statements, presumably for the licensed business, which included personal expenses for her home comingled with expenses for the business.

The Agent affirmed that the bank account was not maintained in the corporation name and from the meager records furnished him, he was unable to establish any cash flow for the business.

The charges have been adequately proven by a preponderance of the credible evidence. I, thus, find that the licensee is guilty of the said charges. The licensee has no prior adjudicated record.

Accordingly, it is, on this 3rd day of April, 1979,

ORDERED that Plenary Retail Consumption Lic. 0906-33-389-001, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Right Back Lounge, Inc., for premises 45 Martin Luther King Drive, Jersey City, be and the same is hereby suspended for the balance of its term, viz., midnight, June 30, 1979, effective 2:00 A.M., Monday, April 16, 1979 and for the term of any renewal of said license which may be granted, with leave to the licensee or any bona fide transferee of the license or of any renewal of said license which may be granted, to apply to the Director by Verified Petition for the lifting of the suspension whenever the unlawful situation has been corrected; but, in no event shall the lifting of the suspension be sooner than ninety (90) days from the commencement of the suspension herein.

JOSEPH H. LERNER
DIRECTOR

BULLETIN 2329


5. STATE LICENSES - NEW APPLICATIONS FILED.

Vasco B. Gomes
t/a Universal Enterprises
RD 2, Box 87, Route 528
Jackson, New Jersey
Application filed September 12, 1979
for limited wholesale license.

Lauber Imports Ltd. Inc.
311 Grant Avenue
Nutley, New Jersey
Application filed September 18, 1979
for limited wholesale license.

G. Wanda Erickson & Ivy L. Bird
t/a Family Beer & Soda Distributors
21 Clementon Road
Berlin, New Jersey
Application filed September 21, 1979
for person-to-person and place-to-
place transfer of State Beverage
Distributor's License 3400-19-204-001
from Charles H. Bensel, t/a Thrifty
Beer & Soda Mart, 666 Mantua Avenue,
Woodbury, New Jersey.

Renault Winery Inc.
Bremen Avenue
Egg Harbor City, New Jersey
Application filed September 27, 1979
for wine wholesale license.


Joseph H. Lerner
Director