

BULLETIN 1321

FEBRUARY 2, 1960

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which was read into the record herein by the Borough Clerk:

'Be it resolved by the governing body of the Borough of Pine Hill, County of Camden in the State of New Jersey, that the Borough solicitor be and he is hereby directed not to appear and contest the hearing of the appeal for the transfer of alcoholic beverage license C 4.'

"Michael O'Brien, who holds a plenary retail distribution license in the Borough appeared at the hearing herein and voiced objections to the transfer. It appears, however, that his main concern is that he will have a competitor should this license be transferred.

"Considering the evidence adduced herein, the correspondence between the Division and respondent Mayor and other data in the Division's file X-35,349-A, of which I have taken judicial notice, I find that the erected addition is merely an enlargement of appellant's barroom and complies with the 'Broad Package Privilege' Act of 1948 (R.S. 33:1-12.23), the pertinent section of which provides that the holder of a plenary retail consumption license which does not carry the Broad Package Privilege 'may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises...' See Mayor and Council Boro of Totowa v. Chicken Barn, Inc., 41 Super. 459 (1956).

"In view of the aforesaid, I conclude that the respondent's action in denying appellant's application for transfer of its license was erroneous. I, therefore, recommend that an order be entered reversing respondent's action and directing respondent Borough Council to grant said application."

No exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the facts and circumstances herein, I concur in the Hearer's findings and conclusions and adopt his recommendations.

Accordingly, it is, on this 23d day of December 1959,

ORDERED that the action of respondent Borough Council be and the same is hereby reversed and respondent is hereby directed to grant the application filed by appellant.

WILLIAM HOWE DAVIS  
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALE TO MINOR DISMISSED.

In the Matter of Disciplinary Proceedings against )

ERNEST'S BAR, INC. )  
t/a ERNEST'S BAR )  
64 E. Main Street )  
Penns Grove, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-8, issued by the Borough Council of the Borough of Penns Grove. )

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Joseph Narrow, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant entered a plea of not guilty to a charge alleging that it sold, served and delivered and permitted the sale, service and delivery of alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

"At the hearing herein, the Division called as its witnesses Clifford ---, Joseph --- and an ABC agent.

"Clifford testified that he is 19 years of age; that on Saturday, September 26, 1959, he and four minor companions decided to get some beer and drove six miles from Pennsville to Penns Grove and parked their car in front of defendant's licensed premises; that between 7:30 and 8:00 p.m., he alone entered the package goods department of said premises and asked a lady for a case of beer; that the lady said she had 'Piel's' and 'Esslinger' and that he said he would take 'Esslinger'; that 'She went and got it. I think she sent some man for it. I'm not sure, I didn't notice'; that the lady did not require any written proof of his age; that he gave the lady five dollars in payment, received some change, took the case of beer from the premises and rejoined his companions.

"Joseph testified that he drove Clifford and four other minors to a tavern, 'I guess it was Ernest's Bar'; that Clifford was selected to get a case of beer; that he saw him headed toward the bar and kept his eye on him until, 'He was almost up to the door' and that the next time he saw Clifford was 'when he came up to the car...right at the window' with a case of beer which he put in the back seat. Joseph also testified that he had never been to this place before.

"It was stipulated that if Edgar ---, Fred --- and Edward ---, the three other minors who were in the car, were called as witnesses, their testimony would be the same as Joseph's.

"The ABC agent testified that on September 30, 1959, the five minors directed him to defendant's licensed premises and pointed it out as the place where the beer was obtained; that Mrs. Adeline Price, president of the corporate-licensee, was present therein and that Clifford was unable to identify her as the person who allegedly made the sale; that Mrs. Price said that she was the only person employed in the package goods department from 6:00 to 8:00 p.m. on September 26, 1959; that she had never before seen Clifford; that 'they didn't sell Esslinger' and that at her request he (the agent) checked

her stock and didn't find any beer of that brand. He further testified that in the immediate vicinity of defendant's licensed premises there are three taverns, one '50 feet or maybe 25 or 75 feet from Ernest's Bar' on the same side of the street, another across the street and the third about a block away.

"Mrs. Price, who is president of, and who holds 97 per cent of the stock of defendant corporate licensee, testified that she lives in the licensed premises; that she works there with the help of a bartender; that at 7:15 p.m., September 26, 1959, she went into the package goods store and remained there until 8:00 p.m.; that Clifford did not come into her place that evening, and that after her husband died nine years ago, she discontinued Esslinger beer. On cross-examination, she testified that she goes on duty from 10:00 a.m. to 2:00 p.m.; that her bartender then takes over; that she relieves him from 6:00 p.m. to 8:00 p.m.; that during her tour of duty, she works both the barroom and package goods store and that her bartender does likewise during his tour; that at 7:15 p.m. on the date alleged, she sold a case of Schmidt's beer to a man about 26 years of age who said he was the manager of a supermarket; that she couldn't carry the case of beer and had her 'sandwich man' get the case from the 'walk-in box in the back'; that the man gave her five dollars in payment and she gave him change; that she had never seen the man before and that she had never seen Clifford until the agent brought him to her premises, at which time the minor failed to identify her, 'He didn't even look at me. He held his head down over the counter'.

"Considering the evidence adduced herein, I find that Clifford's four companions were not certain that it was Ernest's Bar which Clifford approached when he left the car; that none of the four actually saw him go into the tavern or emerge therefrom; that Clifford testified he asked for 'Esslinger'; that when the agent checked defendant's stock, he found no Esslinger beer and that there was no contradiction of Mrs. Price's testimony that 'Esslinger' was a brand of beer she discontinued more than nine years ago. I find further that since the minors had never before been in Penns Grove, and because there are several taverns in the immediate vicinity of defendant's licensed premises, it is reasonable to infer that the beer may have been purchased elsewhere. In view of the aforesaid, I conclude that the Division has not established the truth of the charge by a fair preponderance of the believable evidence and I recommend that the charge herein be dismissed."

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

After carefully considering the evidence, I concur in the conclusions of the Hearer and shall adopt his recommendation. I find defendant not guilty of the charge herein.

Accordingly, it is, on this 22nd day of December 1959,

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

WILLIAM HOWE DAVIS  
DIRECTOR

3. AUTOMATIC SUSPENSION - STAYED BY DIRECTOR PENDING OUTCOME OF DISCIPLINARY PROCEEDINGS BY LOCAL ISSUING AUTHORITY.

Auto. Susp. #178

In the Matter of a Petition to Lift the Automatic Suspension of License D-1, issued by the Township Committee of the Township of Monroe (Middlesex County), to

ON PETITION ORDER

CLEMENS AND JADWIGA KRYGIER t/a KRYGIER'S LIQUOR STORE Jamesburg-Helmetta Road Monroe Township PO Helmetta, N. J.

The petition herein discloses that on December 17, 1959, Jadwiga Krygier (one of the petitioners herein) was fined the sum of \$50 after being adjudged guilty in the Municipal Court of the Township of Monroe of a charge alleging that she sold alcoholic beverages to a minor, in violation of R.S. 33:1-77. Said conviction resulted in the automatic suspension of the license held by Clemens and Jadwiga Krygier. R.S. 33:1-31.1. Because the Division was informed that the licensees intended to apply for a stay, the license has not yet been picked up.

Disciplinary proceedings have not yet been disposed of by the Monroe Township Committee. A supplemental petition to lift the automatic suspension may be filed with me by petitioners after the disciplinary proceedings have been decided. In fairness to petitioners, I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Bednarz, Bulletin 1294, Item 8.

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

ORDERED that the aforesaid automatic suspension be stayed pending the entry of a further order herein.

WILLIAM HOWE DAVIS DIRECTOR

By: Edward J. Dorton, Deputy Director

4. SEIZURE - FORFEITURE PROCEEDINGS - INTERSTATE TRANSPORTATION OF TAXPAID ALCOHOLIC BEVERAGES - MOTOR VEHICLE RETURNED TO INNOCENT OWNER UPON APPLICATION IN ADVANCE OF STATUTORY HEARING - DISPOSITION OF ALCOHOLIC BEVERAGES RESERVED PENDING PRESENTATION OF REQUISITE PERMITS FROM STATE OF DESTINATION.

In the Matter of the Seizure on December 12, 1959 of a quantity of taxpaid alcoholic beverages and a Dodge station wagon on the New Jersey Turnpike at the 34 Mile Post, in the Township of Mt. Laurel, County of Burlington and State of New Jersey.	)	Case No. 10,173
	)	APPLICATION FOR RETURN
	)	OF SEIZED PROPERTY IN
	)	ADVANCE OF STATUTORY
	)	HEARING.

Celia Herbe, Pro Se.

BY THE DIRECTOR:

Application has been made for the return of the property seized in this case, pursuant to Rule 1 of State Regulation No. 28, on the allegation that irreparable injury would result from awaiting a statutory hearing, and requesting a preliminary hearing.

It appears that a New Jersey State Trooper during the course of his routine patrol of traffic on the highway, took possession of Celia Herbe's station wagon being operated by her son, Raymond Leo Audett and the taxpaid alcoholic beverages being transported therein, pending determination of the source and destination of such beverages, since Raymond Leo Audett did not have any license or permit from the Division of Alcoholic Beverage Control authorizing such transportation. Thereafter the motor vehicle and alcoholic beverages were turned over to ABC agents.

It appears that Raymond Leo Audett purchased the alcoholic beverages from a retail licensee in Washington, D.C. and had in his possession an invoice for all of the alcoholic beverages which invoice failed to name the consignee thereof.

At the hearing held on the application Raymond Leo Audett testified that he has been employed by an industrial concern for the last two years, is married, resides with his family, is a member of a volunteer fire organization in Long Island and has no criminal record. About a week prior to the seizure, while decorating the fire headquarters, a suggestion was made that the members of the organization purchase alcoholic beverages for the holidays in Washington, D.C. because of the lower cost there, and Raymond Leo Audett was selected to obtain it there. During the week individual members of the organization gave him a list of what they desired, and before he left he wrote out a complete listing of the names of the purchasers, the quantity and brands desired, and the money received by him from the members in payment thereof. This list was presented at the hearing.

Raymond Leo Audett testified under oath that the alcoholic beverages were purchased for personal consumption by himself and his fellow firemen, without any profit to himself, although the group contributed towards the expenses of the trip. His motor vehicle was not large enough to transport the alcoholic beverages, hence he borrowed his mother's station wagon.

Celia Herbe testified that her husband is a building contractor and uses the station wagon in his business, and is severely handicapped in attending to his business and transporting building materials by reason of the detention of the station wagon.

I am satisfied that Celia Herbe and Raymond Leo Audett acted in good faith and I accept their account of what happened. The Dodge station wagon will therefore be returned to Celia Herbe upon payment of the costs of its seizure and storage.

The alcoholic beverages will be retained until my further Order pending receipt of the required permits from the New York State Liquor Authority authorizing importation of such liquor, which permits I understand are presently being applied for.

Accordingly, it is DETERMINED and ORDERED that if on or before the 24th day of December 1959, Celia Herbe pays the costs incurred in the seizure and storage of the Dodge station wagon, described in Schedule "A" attached hereto, such motor vehicle will be returned to her.

Dated: December 21, 1959

WILLIAM HOWE DAVIS  
DIRECTOR

SCHEDULE "A"

- 1 - Dodge Station Wagon, Serial No. 3800-8254, Engine No. KDS-120-156, New York Registration 141-529.

- 5. SEIZURE - FORFEITURE PROCEEDINGS - INTERSTATE TRANSPORTATION OF TAXPAID ALCOHOLIC BEVERAGES - MOTOR VEHICLE AND ALCOHOLIC BEVERAGES AND TRAILER RETURNED TO UNWITTING VIOLATOR UPON APPLICATION IN ADVANCE OF STATUTORY HEARING AFTER OBTAINING REQUISITE PERMITS FROM STATE OF DESTINATION.

Case No. 10,180

In the Matter of the Seizure on December 19, 1959 of a quantity of taxpaid alcoholic beverages, an Oldsmobile sedan and a U-Haul trailer on the New Jersey Turnpike at the 34 Mile Post, in the Township of Mount Laurel, County of Burlington and State of New Jersey.

- ) APPLICATION FOR RETURN OF SEIZED PROPERTY IN ADVANCE OF STATUTORY HEARING
- ) CONCLUSIONS AND ORDER

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Dennis L. Hicks, Pro Se.  
I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Application has been made pursuant to Rule 1 of State Regulation No. 28 for the return of property seized in the case in advance of statutory hearing.

It appears that on the above date and location a New Jersey State trooper halted the Oldsmobile sedan and a trailer during his routine patrol of traffic on the highway. The trooper ascertained that Billy B. Foxx was the owner and operator of the motor vehicle and that Dennis L. Hicks and another person were passengers therein. When the trooper discovered that 192 four-fifth quart bottles of taxpaid whiskey were being transported in the trailer and that none of these persons in the car held a New Jersey license or permit to transport alcoholic beverages in this state, the trooper took possession of the alcoholic beverages and motor vehicle pending determination of the source and destination of such alcoholic beverages. Thereafter such property was turned over to ABC agents.

Dennis L. Hicks, a resident of the Bronx, New York, told the trooper that he had purchased the alcoholic beverages from a retail

licensee in Washington, D.C. for distribution to the employees of John Chatillon Co. located in New York City where he is employed, such employees having contributed to the purchase thereof and he had rented the trailer in Washington as a means of transportation of such whiskey, Foxx having transported him to Washington and return to New York as an accommodation.

Angelo La Barbera, shop steward of the John Chatillon Co. has corroborated Hicks' account that the whiskey was purchased for distribution to employees of the plant. Hicks has presented an invoice from such retailer for such whiskey, which invoice, in some respects, does not conform to the requirements of Rule 2 of State Regulation No. 18. Furthermore, Hicks did not have any permit to import the alcoholic beverages into New York, in accordance with the requirements of that state. Bulletin 1204, Item 8. Rule 2 of State Regulation No. 18 governing the transportation of alcoholic beverages through New Jersey for delivery to another state requires the transporter to establish that such alcoholic beverages may lawfully be delivered to their destination. Absent such proof, the transportation of such alcoholic beverages is unlawful and subjects the property to forfeiture and subjects the transporter to criminal prosecution.

There has now been presented two permits issued by the New York State Liquor Authority to Dennis L. Hicks authorizing the importation into that state of 30 gallons of whiskey, described as four-fifth quarts, and as originating in Washington, D.C. and two receipts for New York State Tax on such alcoholic beverages, issued by the Commodities Tax Bureau of New York State. Hence the transportation and delivery of the alcoholic beverages in question is now in full compliance with the law of that state and that of New Jersey insofar as seizure proceedings are concerned. No opinion is expressed as to whether these permits obtained after the event affect the criminal proceedings, which are within the sole jurisdiction of the Prosecutor of the county of Burlington.

Accordingly, it is DETERMINED and ORDERED that if on or before the 28th day of December 1959, Dennis L. Hicks pays the costs incurred in the seizure and storage of the Oldsmobile sedan, trailer and alcoholic beverages as listed in Schedule "A" attached hereto, such motor vehicle, trailer and alcoholic beverages will be returned to him.

Dated: December 23, 1959

WILLIAM HOWE DAVIS  
DIRECTOR

SCHEDULE "A"

- 192 - 4/5 quart bottles of various brands of taxpaid alcoholic beverages
- 1 - U-Haul trailer, License plate #T-459 West Virginia
- 1 - Oldsmobile sedan, Serial No. 53828140, Engine No. 8223946, New York Registration QU8167.

6. SEIZURE - FORFEITURE PROCEEDINGS - INTERSTATE TRANSPORTATION OF TAXPAID ALCOHOLIC BEVERAGES - MOTOR VEHICLE AND ALCOHOLIC BEVERAGES RETURNED TO UNWITTING VIOLATOR UPON APPLICATION IN ADVANCE OF STATUTORY HEARING AFTER OBTAINING REQUISITE PERMITS FROM STATE OF DESTINATION.

In the Matter of the Seizure	)	Case No. 10,174
on December 13, 1959 of a Buick convertible, and a quantity of taxpaid alcoholic beverages on the New Jersey Turnpike at the 10 Mile Post, in the Township of Woolwich, County of Gloucester and State of New Jersey.	)	APPLICATION FOR RETURN OF SEIZED PROPERTY IN ADVANCE OF STATUTORY HEARING
	)	CONCLUSIONS AND ORDER

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 Thomas V. La Fauci, Esq., Attorney for Joseph Della Vecchia.  
 I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Application has been made pursuant to Rule 1 of State Regulation No. 28 for the return of property seized in the case in advance of statutory hearing.

It appears that on the above date and location a New Jersey State trooper halted the Buick convertible during his routine patrol of traffic on the highway. The trooper ascertained that Joseph Della Vecchia was the owner and operator of the motor vehicle, and that three other men were passengers therein. When the trooper discovered 88 four - fifth quart bottles of taxpaid alcoholic beverages of various brands were being transported in the car, and that none of these persons in the car held a New Jersey license or permit to transport alcoholic beverages in this State, the trooper took possession of the alcoholic beverages and motor vehicle pending determination of the source and destination of such alcoholic beverages. Thereafter such property was turned over to ABC agents.

Joseph Della Vecchia, a resident of Long Island City, New York, told the trooper that he and his companions, also residents of Long Island City, had purchased the alcoholic beverages from a retail licensee in Washington, D.C. for the personal consumption of themselves and their friends, and presented invoices from such retailer which in some respects do not conform to the requirements of Rule 2 of State Regulation No. 18. Furthermore, none of the persons in the motor vehicle presented any permit to import the alcoholic beverages into New York, in accordance with the requirements of that state. Bulletin 1204, Item 8. Rule 2 of State Regulation No. 18 governing the transportation of alcoholic beverages through New Jersey for delivery to another state requires the transporter to establish that such alcoholic beverages may lawfully be delivered to their destination. Absent such proof, the transportation of such alcoholic beverages is unlawful and subjects the property to forfeiture and subjects the transporter to criminal prosecution.

There has now been presented two permits issued by the New York State Liquor Authority to Joseph Della Vecchia authorizing the importation into that state of 18 gallons (90 - 4/5 quart bottles) of alcoholic beverages, described as four-fifth quarts and as originating in Washington, D.C. and two receipts for New York State Tax on such alcoholic beverages, issued by the Commodities Tax Bureau of New York State. Hence the transportation and delivery of the alcoholic beverages in question is now in full compliance with the law of that state and that of New Jersey insofar as seizure proceedings are

concerned. No opinion is expressed as to whether these permits obtained after the event affect the criminal proceedings, which are within the sole jurisdiction of the Prosecutor of the county of Gloucester.

Accordingly, it is DETERMINED and ORDERED that if on or before the 28th day of December, 1959, Joseph Della Vecchia pays the costs incurred in the seizure and storage of the Buick convertible and alcoholic beverages as listed in the aforesaid Schedule "A" such motor vehicle and alcoholic beverages will be returned to him.

WILLIAM HOWE DAVIS  
DIRECTOR

Dated: December 23, 1959

SCHEDULE "A"

- 88 - 4/5 quart bottles of various brands of taxpaid alcoholic beverages
- 1 - Buick convertible - Serial No. 6C-3061458, New York Registration 5Z-2726.

7. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN LUNCHEONETTE - STOCK OF ALCOHOLIC BEVERAGES, FIXTURES, FURNISHINGS AND EQUIPMENT ORDERED FORFEITED - MUSIC AND CIGARETTE VENDING MACHINES RETURNED TO INNOCENT OWNERS.

In the Matter of the Seizure on	)	Case No. 10,095
September 20, 1959 of a quantity of	)	
alcoholic beverages, furniture,	)	ON HEARING
fixtures, equipment, and \$2.85 in	)	CONCLUSIONS
cash at "Bertha's Luncheonette",	)	AND ORDER
located at 218 Plainfield Avenue	)	
in the City of Plainfield, County	)	
of Union and State of New Jersey.	)	

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Caesar A. Petruzzell, Esq., Attorney for City-State Vending Corporation.

Music By Jupiter by Harold Saunders, Vice President.

I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether a quantity of alcoholic beverages, \$2.85 in cash, and various fixtures, furnishings, and equipment, described in a schedule attached hereto, seized on September 20, 1959 at a luncheonette operated by Bertha Beach and James Beach, located at 218 Plainfield Avenue, Plainfield, 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 City-State Vending Corporation, which sought return of a cigarette vending machine and an appearance was entered for Music By Jupiter, which sought return of a music machine. No one opposed forfeiture of the balance of the property seized.

ABC agents testified substantially as follows: On September 13, 1959 two ABC agents entered the above luncheonette or small restaurant, seated themselves at a table and ordered food. They observed men enter the kitchen, overheard the men order alcoholic beverages, and two of these men left the premises, each with a bottle

of wine. One of the agents purchased a can of beer, and the other agent purchased a pint of wine, sold to them by a woman later identified as Bertha Beach.

The agents returned to the premises on September 20th, seated themselves at a table, ordered food, and observed Bertha Beach sell a bottle of wine to a person who entered the premises. Each of the agents purchased a bottle of wine from Bertha Beach, after which they left the premises and returned in a short time with other agents and local police officers. The agents revealed their identity and seized 13 bottles of wine and two bottles of whiskey, \$2.85 in cash on the kitchen table, and the furnishings, fixtures and equipment in the establishment.

Neither Bertha Beach nor James Beach held any license authorizing either of them to sell alcoholic beverages, and the premises were not licensed for that purpose. The agents obtained signed written statements from Bertha Beach and James Beach wherein they state that James Beach owns and operates the luncheonette, with the aid of Bertha Beach, his wife. Mrs. Beach admits the above described sales of alcoholic beverages and claims that she has engaged in such activities for about six weeks.

The seized alcoholic beverages were intended for sale without a license and hence are illicit. R.S. 33:1-1(i). Such illicit alcoholic beverages, the sum of \$2.85 in cash, and all other personal property seized in the premises constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

It appears from the evidence submitted that on December 28, 1958 the cigarette vending machine was placed by City-State Vending Corporation in the luncheonette shortly after it was opened for business, with the name of "Bertha's Luncheonette", at the instance of an officer of the vending company, and that the machine was serviced every two weeks, and that at such time no sales of alcoholic beverages were observed by the vending company employees.

From evidence submitted by Harold Saunders, Vice President of Music By Jupiter it appears that in 1946 the music machine seized by the Division was placed in the luncheonette, then known as "Mohawk Restaurant" and that in May 1959 Saunders purchased a route of vending machines, which included the one in question; that weekly collections were made of the receipts of the machine, and that there was no evidence on such occasions that alcoholic beverages were being sold there.

Bertha Beach and James Beach do not appear to have any previous criminal record. To all outward appearances the establishment was a small restaurant. I am satisfied that both claimants acted in good faith and did not know or have any reason to believe that alcoholic beverages were being sold in the restaurant in question. I shall therefore recognize their claims R.S. 33:1-66(f).

Accordingly, it is DETERMINED and ORDERED that if on or before the 11th day of January, 1960 City-State Vending Corporation pays the costs of the seizure and storage of the cigarette vending machine, it will be returned to it; and it is further

DETERMINED and ORDERED that if on or before the 11th day of January, 1960 Music By Jupiter pays the costs of seizure and storage of the music machine, it will be returned to it; and it is further

DETERMINED and ORDERED that the balance of the seized property, including the \$2.85 in cash, 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 that it 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.

Dated: December 28, 1959

WILLIAM HOWE DAVIS  
DIRECTOR

SCHEDULE "A"

- |   |   |
|---|---|
| 13 - bottles of wine                                  | 1 - cash register                                 |
| 2 - bottles of whiskey                                | 1 - electric clock                                |
| 1 - cigarette vending machine<br>and currency therein | 1 - refrigerator                                  |
| 1 - music machine and currency<br>therein             | 1 - electric toaster                              |
| 15 - chairs   | 1 - radio   |
| 7 - tables  | Miscellaneous pots, pans,<br>dishes and tableware |
| 1 - serving table                                     | \$2.85 in cash                                    |
| 2 - electric fans                                     |   |

8. DISCIPLINARY PROCEEDINGS - SOLICITOR'S PERMIT - SALE BEYOND TERMS OF EMPLOYER'S LICENSE - UNLAWFUL TRANSPORTATION - FURNISHING THINGS OF VALUE TO RETAILER - INTEREST IN RETAIL LICENSE - FAILURE TO NOTIFY RE CHANGE OF RESIDENCE - PERMIT SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

DAVID FREIDMAN  
33-23 Halsey Road  
Fairlawn, N. J.

CONCLUSIONS  
AND ORDER

Holder of Solicitor's Permit No. 2529 (for the 1958-59 period) and No. 3004 (for the 1959-60 period), issued by the Director of the Division of Alcoholic Beverage Control.

Green and Yanoff, Esqs., by H. Kermit Green, Esq., Attorneys for Defendant-permittee.  
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

- "1. On or about September 10, 1958 and on divers occasions prior thereto extending to on or about September 18, 1957, you, the holder of a solicitor's permit, offered for sale and solicited orders for the sale of alcoholic beverages otherwise than to the extent duly allowed and permitted by law and by the New Jersey license of your employers, Federal Wine & Liquor Company and National Wine & Liquor Company, in that you offered for sale and solicited orders for the sale of alcoholic beverages to Lee Club, A Corporation, t/a Lee Club, 27 Church Street, Paterson, New Jersey, a retail licensee, other than on behalf of your said employers, wholesale vendors represented by you and designated in your permits, and beyond the terms of your solicitor's permit, contrary to Rule 2 of State Regulation No. 14; in violation of Rule 5 of State Regulation No. 14.

- "2. On or about September 10, 1958 and on divers occasions prior thereto extending to on or about September 18, 1957, you sold alcoholic beverages not pursuant to and within the terms of a license or as otherwise expressly authorized under the Alcoholic Beverage Law, in that you sold alcoholic beverages to the aforesaid Lee Club, A Corporation, a retail licensee, without your holding any license or permit authorizing you to do so and beyond the terms of your solicitor's permit, which action is contrary to R.S. 33:1-2; in violation of R.S. 33:1-50(a).
- "3. On or about September 10, 1958 and on divers occasions prior thereto extending to on or about September 18, 1957, you transported alcoholic beverages not pursuant to and within the terms of a license or as otherwise expressly authorized under the Alcoholic Beverage Law, in that you transported alcoholic beverages to the aforesaid retail licensed premises of Lee Club, A Corporation, in vehicles for which transit insignias had been issued to your aforesaid employers and for a purpose other than solely for your said employers' own businesses, contrary to R.S. 33:1-2; in violation of R.S. 33:1-50(a).
- "4. On or about April 17, 1958 and May 21, 1958, you engaged in conduct prohibited to your aforesaid employer, Federal Wine & Liquor Company, by Rule 1 of State Regulation No. 34, in that you delivered alcoholic beverages other than malt alcoholic beverages, viz., four bottles of Dewars Scotch Whisky, to the aforesaid retail licensee, Lee Club, A Corporation, without price listings thereof being first filed with this Division by said employer in conformity with Rule 2 of State Regulation No. 34; in violation of Rule 12 of State Regulation No. 14.
- "5. On or about December 12, 1957, you engaged in conduct prohibited to your aforesaid employer, National Wine & Liquor Company, by Rule 1 of State Regulation No. 34, in that you delivered alcoholic beverages other than malt alcoholic beverages, viz., twelve bottles of Dewars Scotch Whisky, at less than the price thereof listed by your said employer in the then currently effective quarter-annual Wholesale Price List published by the Director of the Division of Alcoholic Beverage Control; in violation of Rule 12 of State Regulation No. 14.
- "6. During July of 1958 you, the holder of a solicitor's permit, were directly and indirectly interested in the retail license of Bernard A. Naclerio and Rosalie S. Naclerio, 222 Market Street, Paterson, New Jersey, and the business conducted thereunder, and you were employed by and connected in a business capacity with these retail licensees in that you acted as broker in the sale of their licensed business to Richard Garod and Harriet Garod; in violation of Rule 7 of State Regulation No. 14.
- "7. During July of 1958 you, the holder of a solicitor's permit employed by a wholesaler of alcoholic beverages other than malt alcoholic beverages, furnished and offered to furnish, directly and indirectly, the aforesaid Bernard A. Naclerio and Rosalie S. Naclerio, retail licensees, a thing of value, viz., your services as broker in the sale of their licensed business to Richard Garod and Harriet Garod; in violation of Rule 3 of State Regulation No. 35.

- "8. You failed to file with the Director of the Division of Alcoholic Beverage Control, within ten days after the occurrence thereof, written notice of a change in fact set forth in answer to Question 2 of your application dated April 25, 1958, upon which you obtained your current solicitor's permit, such change in fact being that during the month of July 1958 you changed your residence from 33-23 Halsey Road, Fairlawn, New Jersey, to 9 Lafayette Place, Fairlawn, New Jersey; your failure to file such notice being in violation of Rule 10 of State Regulation No. 14."

From on or about September 18, 1957, to April 28, 1959 (the date of the filing of the within charges), David Freidman was the holder of solicitor's permit and was employed by two wholesale licensees -- National Wine & Liquor Company (September 18, 1957 to January 13, 1958) and Federal Wine & Liquor Company (January 13, 1958 to April 28, 1959). During said periods of employment Freidman obtained alcoholic beverages from sources other than his employers, sold them to a retail licensee (Lee Club, A Corporation, trading as The Lee Club) and retained the proceeds thereof. The deliveries of the alcoholic beverages were made by the defendant in his automobile which bore transit insignias issued to his employers for their businesses only. Two of aforesaid sales were made on or about April 17, 1958, and May 21, 1958, and covered four bottles of Dewars Scotch Whisky, the prices of which had not theretofore been listed with this Division by the Federal Wine and Liquor Company.

The investigation further discloses that (a) on or about December 12, 1957, the defendant sold a case of Dewars Scotch to aforesaid retail licensee for \$60, the wholesale price of which then in effect as listed with the Division was \$60.20; (b) in July 1958 defendant acted as a business broker on behalf of Bernard A. Naclerio and Rosalie S. Naclerio (retail licensees) and effected the sale of their licensed premises for which he received \$1,000, and (c) in July 1958 the defendant, without notifying the Director of the Division, made a change of his residence as set forth in his application for a solicitor's permit.

The illegal activities indulged in by the defendant indicate a disregard for the conditions and restrictions of his solicitor's permit. I find no excuse for his actions.

Defendant has no prior adjudicated record. Considering all the facts and circumstances of this case, I shall suspend defendant's permit for fifty days. Cf. Re N. Caine, Bulletin 1305, Item 2. Five days will be remitted for the plea entered herein, leaving a net suspension of forty-five days.

Accordingly, it is, on this 28th day of December 1959,

ORDERED that solicitor's permit No. 3004, issued by the Director of the Division of Alcoholic Beverage Control to David Freidman, now residing at 9 Lafayette Place, Fairlawn, be and the same is hereby suspended for forty-five (45) days, commencing at 9 a.m. Monday, January 11, 1960, and terminating at 9 a.m. Thursday, February 25, 1960

WILLIAM HOWE DAVIS  
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - CLUB LICENSE - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

LAMBERTVILLE LODGE LOYAL ORDER OF MOOSE )  
6 Lilly Street )  
Lambertville, N. J. )

CONCLUSIONS AND ORDER

Holder of Club License CB-1, issued by the Board of Commissioners of the City of Lambertville. )

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Thomas J. Beetel, 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 Sunday, September 13, 1959, you, through your officers, trustees, members, agents, servants, employees and other persons in your behalf, failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, inspection and examination at your licensed premises then and there being conducted by an Inspector and an Investigator of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of R.S. 33:1-35."

On Sunday, September 13, 1959 at about 11:45 a.m., an ABC agent entered defendant's premises and after identifying himself to several men present, seized a bottle of beer and a glass containing beer. The agent asked to whom the beer belonged but no one present claimed ownership thereof. The agent requested Raymond Myers and Augustus McElroy, trustees of defendant, to unlock the door leading to the barroom, but was told that they had no key and that the agents would have to await the arrival of the steward. When the steward arrived, he repeatedly refused the agent's request to open the door to the barroom, stating that he would do so when the defendant's attorney came to the premises. The agents waited for the attorney until 12:30 p.m. and when he failed to appear they left the premises.

In attempted mitigation of penalty the attorney for defendant characterized the refusal to permit the agents to enter the licensed part of the premises as a technical violation. I do not agree with this because hindering and failing to facilitate an investigation strikes at the very heart of enforcement and control.

Defendant has a prior adjudicated record. Effective July 6, 1942 defendant's license was suspended by the then Commissioner for twenty days for hindering and an "hours" violation. See Bulletin 520, Item 3. Since more than ten years have elapsed since said violations, they will not be considered in fixing the penalty herein. Re Hoffman, Bulletin 1275, Item 3. Effective November 1, 1956 its license was suspended by the local issuing authority for twenty days for sale of alcoholic beverages to non-members. I shall suspend defendant's license for ten days, the minimum penalty for a hindering violation (Re The Barracuda, Bulletin 1255, Item 6), to which will be added five days because of the dissimilar violation which occurred within the past five

years, making a total suspension of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is on this 6th day of January 1960,

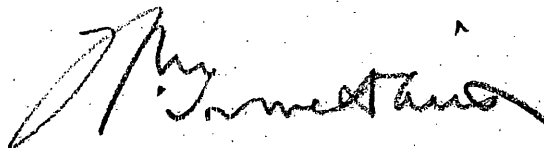
ORDERED that Club License CB-1, issued by the Board of Commissioners of the City of Lambertville to Lambertville Lodge Loyal Order of Moose, for premises 6 Lilly Street, Lambertville, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, January 18, 1960 and terminating at 2:00 a.m., Thursday, January 28, 1960.

WILLIAM HOWE DAVIS  
DIRECTOR

10. STATE LICENSES - NEW APPLICATION FILED.

Admiral Wine Co. Inc.  
88 Shipman Street  
Newark, N. J.

Application filed January 28, 1960 for Wine Wholesale License.



William Howe Davis  
Director