

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

BULLETIN 1275

May 13, 1959.

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

May 13, 1959

BULLETIN 1275

1. APPELLATE DECISIONS - BERTELLI ET ALS. v. CLIFTON AND THE
GREAT ATLANTIC & PACIFIC TEA COMPANY;

ZWIER v. CLIFTON AND THE GREAT ATLANTIC
& PACIFIC TEA COMPANY.

ANGELO BERTELLI, MAY L. DUDIAK)
and CORNELIA DeVRIES, individually,)
and FIELD LIQUORS, INC., a corpora-)
tion of the State of New Jersey,)

Appellants,)

-vs-)

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY OF)
CLIFTON, and THE GREAT ATLANTIC &)
PACIFIC TEA COMPANY,)

Respondents.)

ON APPEAL

-----)
STANLEY ZWIER,)

Appellant,)

CONCLUSIONS AND ORDER

-vs-)

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE)
CONTROL OF THE CITY OF CLIFTON, and)
THE GREAT ATLANTIC & PACIFIC TEA)
COMPANY,)

Respondents.)

-----)
Koribanics & Koribanics, Esqs., by Steven Koribanics, Esq.,)
Attorneys for Appellants Angelo Bertelli et al.)
John G. Dluhy, Esq., Attorney for Appellant Stanley Zwier.)
Manfred Triebel, Esq., Attorney for Respondent Municipal Board.)
Heller & Laiks, Esqs., by Murray A. Laiks, Esq., Attorneys)
for Respondent The Great Atlantic & Pacific Tea Company.)
Maurice F. Karp, Esq., Attorney for Jack Shapiro.)

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Both of the above appeals concern substantially the same issues, were consolidated at the hearing and may be decided at the same time. The appellants in the first case are the stockholders of Field Liquors, Inc. and the corporation itself which holds a liquor license. Said appellants will hereinafter be referred to as Field. Appellant in the second case is the Mayor of the City of Clifton.

"Both appeals have been taken from the action of respondent Board whereby, on July 28, 1958, it adopted a resolution granting a person-to-person transfer to The Great Atlantic & Pacific Tea Company (hereinafter referred to as A & P) of Plenary Retail Distribution License D-13 which had been issued to Jack H. Shapiro for premises at 431 Lakeview Avenue, and a resolution granting a place-to-place transfer of said license to a building then being erected at North Side Route 46, below Rock Hill Road and VanHouten Avenue.

At the same time, the Board adopted additional resolutions

transfer) unless and until the new building shall first be completed in accordance with approved plans and specifications and providing further that the above transfers are approved, subject to receipt of favorable fingerprint reports and subject to the following restrictions:

'The area in which the liquor is to be sold must be entirely enclosed from the remainder of the store (separate cash register and separate employees must be used).

'The storage department for liquor must also be enclosed.

'The only people permitted into the storage department are personnel authorized to work in the liquor department.

'All persons handling alcoholic beverages in the store must be fully qualified.'

"The resolutions referred to above were adopted by a two-to-one vote; Commissioners Blackman and Rubin voting in the affirmative and Chairman Stufko voting in the negative.

"Both petitions of appeal allege in effect that the favorable action of respondent Board was contrary to the provisions of municipal ordinances numbered 2291, 2866 and 2860 and that said action was erroneous because existing licensed premises in the vicinity of the new building are sufficient to serve adequately the residents and the public. An amended petition of appeal in the Field case alleges that respondent Board was without authority to condition the person-to-person transfer upon completion of the new building; that said Board acted without complete information as to the answers given to Questions 33 to 36 in the application and without certificates of approval by the Fire Department and Health Department.

"The pertinent portion of Ordinance No. 2291 provides:

'No Plenary Retail Distribution License shall be issued for or be transferred to any premises within 500 feet of any other premises for which a Plenary Retail Distribution License is outstanding ***. The said distances shall be measured in the normal way that a pedestrian would properly walk from the nearest entrance of the licensed premises to the nearest entrance of the premises sought to be licensed.'

"The pertinent sections of Ordinance No. 2866 provide:

'1. All applicants and transferees of *** plenary retail distribution licenses *** shall appear and submit to fingerprinting and be so fingerprinted by the Police Department of the City of Clifton, prior to the issuance or transfer of said license.

'2. The Chief of Police shall cause to be filed with the Board of Alcoholic Beverage Control a report containing the name of each person fingerprinted pursuant to the terms of this ordinance; and any Police or criminal record of the said person as shown by the Police files.

'3. In the event that the applicant or licensee referred to in Section 1 hereof is a corporation, then

each and every officer and Director of the said corporation shall, for the purposes of this ordinance, be considered an applicant or licensee; ***. Shareholders having more than a 5% interest in the corporation, for the purposes of this ordinance shall be considered as officers.'

"The pertinent portion of Ordinance No. 2860 provides:

'No holder of a plenary retail distribution license for premises upon which any mercantile business other than the sale of alcoholic beverages is conducted, shall advertise or display any alcoholic beverage on the licensed premises, otherwise than in the show window, or sell or offer for sale any alcoholic beverage, except from shelves, table, counters, racks and stands, used exclusively for that purpose, in an area separated from the rest of the store by a structural partition, wall or fence at least three feet in height, through which access is provided by a gate or door on or over which shall be maintained a sign in letters at least two inches high, reading 'Liquor Department.' The foregoing shall not prevent the storage of alcoholic beverages in any refrigerating device on the licensed premises but outside of the liquor department, provided the alcoholic beverages so stored are not in public view.'

"The appeals herein concern two large, adjacent shopping centers which, in accordance with the modern trend of business, are being established on Route 46. A plenary retail distribution license had been transferred, in June 1958, to Field, subject to completion of its premises, for a small store in one of these shopping centers designated as the Clifton Plaza. In July 1958 the A & P filed two separate applications (one person-to-person and one place-to-place) for the transfer of Shapiro's plenary retail distribution license to enable it to sell alcoholic beverages at its premises being constructed on a large plot which adjoins Clifton Plaza and is separated therefrom by a cyclone fence. On July 28 respondent Board adopted the resolutions hereinabove referred to. Prior thereto the City Engineer had advised the Board that the distance between the entrance to the Field premises and the entrance to the A & P premises was more than 550 feet. On August 7, 1958, the City Engineer advised the Board in writing that, at the request of Mr. Bertelli, he had had the distance from the rear door of the Field premises to the nearest entrance of the A & P measured and reported that this measurement was less than 500 feet. He explained that 'the original measurement given to you by this office was from the front entrance of the Field Liquor Store to the nearest entrance to the A & P.' Having previously decided the case, respondent Board had no jurisdiction to reconsider its decision. Plager v. Atlantic City et al., Bulletin 80, Item 11. At the hearing held herein numerous exhibits were introduced into evidence setting forth various methods of measuring the distance between these premises in the manner set forth in Ordinance No. 2291. The exhibits introduced by appellants show that, by certain methods of measuring, the distance between the proposed rear door of Field's premises and the proposed entrance to the A & P premises is less than 500 feet. The exhibits introduced by respondent-licensee show that, by other methods of measuring, that distance is more than 500 feet. The prime difficulty arises in determining the normal way that a pedestrian would properly walk from one premises to the other premises. Various car-stalls are depicted on the

plans for the A & P property, but no paths for pedestrians are depicted on said plans. The differences in the measurements made on behalf of appellants and respondent-licensee are due, in part at least, to the various courses which a pedestrian might take to avoid crossing any car-stall. It is also difficult to determine whether such a pedestrian, after walking from the A & P store and entering the Clifton Plaza Shopping Center, would properly walk to the proposed rear door or the proposed front door of Field's premises. The proposed rear door faces on a bituminous driveway, about twenty feet wide, between the cyclone fence and the building. The proposed front door permits entrance from a concrete sidewalk. In my opinion, a pedestrian would properly walk to the front door along the sidewalk and not to the rear door along the bituminous strip, which appears to be intended as a service driveway. The distance between the entrance to the A & P and the front entrance to Field's premises is clearly more than 500 feet. In any event, all measurements should consider the cyclone fence as extended (even if it is not now so extended) to the point where the cyclone fence meets the property lines on Route 46. Measuring in this manner I find that the distance between the entrance to the A & P premises and the rear entrance to Field's premises is about 506.6 feet as shown on Exhibit L-2. I have examined the decision in Presbyterian Church of Livingston v. Division of Alcoholic Beverage Control et al., 53 N. J. Super. 271 (A. D. 1958), and find nothing therein which would lead to a different result. I conclude that the action of respondent Board did not violate the provisions of Ordinance No. 2291.

"As to the other issues in these cases, it is clear that the adoption of the resolution authorizing the transfer does not of itself automatically transfer the license. The license is not effectively transferred until it is endorsed by the Clerk. Re Volcker, Bulletin 140, Item 9; Re Englander, Bulletin 314, Item 6; Delaware Tavern, Inc. v. Atlantic City et al., Bulletin 758, Item 1. Hence, there was nothing improper in the action taken by respondent Board whereby it approved the transfer, subject to receipt of favorable fingerprint reports and subject to completion of the new building in accordance with approved plans and specifications. Respondent-licensee must comply with the provisions of Ordinance No. 2866 concerning fingerprinting and properly complete the new building in accordance with the plans and specifications and fire and health regulations before the license may be endorsed in its name and before the licensee may conduct any activity under said license. In construing Ordinance No. 2866, however, it would appear unreasonable to require that the fingerprints must be taken by the Police Department of Clifton and it would appear sufficient if fingerprints, properly taken elsewhere, are submitted to said Police Department for processing.

"I find, however, that the restrictions imposed must be set aside. The restriction that 'all persons handling alcoholic beverages in the store must be fully qualified' is unnecessary because that point is covered by the provisions of the Alcoholic Beverage Law. The physical arrangement of premises for which a plenary retail distribution license has been issued and upon which other mercantile business is carried on is fully covered by Ordinance No. 2860 and, hence, the three other restrictions should also be set aside.

"There is evidence in the case establishing that a license is held by Maple Valley Liquor for premises on Route 46 about 573 feet from the A & P premises. Mayor Zwier and another witness testified that, in their opinions, there is

no need for another distribution license in this section of the City. However, this is a developing business section and the number of licenses which should be permitted in such a section is a matter confided to the sound discretion of the issuing authority. Kalish v. Linden et al., Bulletin 71, Item 14. The evidence is not sufficient to show that respondent Board abused its discretion.

"I find that respondent Board had sufficient information as to the past record of respondent-licensee which is set forth in the answers given to Questions 33 to 36.

"After carefully considering the evidence and exhibits and the briefs submitted on behalf of appellants and respondents, I recommend that an order be entered affirming the action of respondent Board except as to the imposition of the four restrictions mentioned above, which restrictions should be set aside."

Written exceptions to the Hearer's Report and written argument thereto were filed with me by the attorneys for appellants and written answering argument was filed with me by the attorney for respondent-licensee, pursuant to Rule 14 of State Regulation No. 15. I have carefully considered the various exceptions together with the evidence taken and exhibits introduced at the hearing and the briefs and written arguments filed herein. I agree with the conclusions of the Hearer and adopt said conclusions as my conclusions herein.

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

ORDERED that the action of respondent Board be and the same is hereby affirmed except as to the four restrictions affecting the physical arrangement of the proposed premises, which restrictions are hereby set aside.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AND PERMITTING PERSONS ON LICENSED PREMISES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

CANZANO, INC.)
t/a CAVEN POINT BAR & GRILL)
784-86-88 Garfield Ave.)
Jersey City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-378, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Davidson & Miniutti, Esqs., by Joseph S. Nester, Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On Sunday, March 15, 1959, between 2:00 a.m. and 2:40 a.m., you conducted your licensed business; in violation of Section 4 of Ordinance K-1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950.

"2. On Sunday, March 15, 1959, between 2:00 a.m. and 2:40 a.m., you suffered and permitted persons except yourself and your actual employees and agents in and upon your licensed premises; in violation of Section 4 of Ordinance K-1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950."

Two ABC agents entered defendant's licensed premises on Sunday, March 15, 1959, at about 2:40 a.m., after observing that six men were present therein. The agents ascertained that three of the men were not employees or otherwise connected with the licensee. Two of these men were seated at the bar drinking beer, one of whom stated that he had just been served with the beer.

The local ordinance prohibits the conduct of the licensed business on the premises between the hours of 2:00 a.m. and 1:00 p.m. on Sundays, and further provides that a licensee shall not suffer or permit any person whatsoever, except the licensee and his actual employees, upon the licensed premises during prohibited hours.

Defendant has a prior adjudicated record. Effective March 24, 1958, its license was suspended by the Director for ten days for sale of alcoholic beverages in original containers for off-premises consumption during prohibited hours. Bulletin 1222, Item 8. It is urged in alleged mitigation that, in imposing penalty herein, consideration be given to the fact that such violation was not exactly similar to the present violation. However, both are "hours" violations and the licensee should not expect any fine distinction of degree to be made. The minimum suspension of fifteen days for the instant violation (Re Ollie's Bar, Inc., Bulletin 1218, Item 7) will be doubled because of the similar violation which occurred within a five-year period (Re Mekis & O'Shaughnessy, Bulletin 952, Item 6). I shall suspend defendant's license for thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

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

ORDERED that Plenary Retail Consumption License C-378, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Canzano, Inc., t/a Caven Point Bar & Grill, for premises 784-86-88 Garfield Avenue, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, April 6, 1959, and terminating at 2:00 a.m. Friday, May 1, 1959.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against)

ETHEL HOFFMAN)
 Poplar Ave. & Bargaintown Rd.)
 Egg Harbor Township)
 PO Route #1, Linwood, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-27, issued by the Township Committee of the Township of Egg Harbor.)

 Ethel Hoffman, 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 she sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20.

On Saturday, February 14, 1959, at about 9:30 p.m., Everett --- (age 19) purchased three quarts of beer at defendant's licensed premises from the defendant-licensee without being questioned as to his age or required to sign any written representation thereof. Everett was accompanied by three companions who waited outside in a motor vehicle while Everett entered the licensed premises, emerged with the beer and rejoined them in the car. When confronted by Everett at a later date, the licensee admitted the sale of the three bottles of beer to him at the time hereinabove set forth.

Defendant has a prior adjudicated record. Effective July 9, 1945 her license was suspended for five days by the local issuing authority for sale to minors. However, since this similar violation occurred more than ten years ago, it will not be considered in fixing the penalty herein. Re DiTerlizzi, Bulletin 1255, Item 1. Effective September 18, 1951 her license was suspended for twenty days by the then Director for sale of alcoholic beverages to minors. See Bulletin 916, Item 4. I shall suspend defendant's license for fifteen days, the minimum penalty for sale to a 19-year-old minor (Re Hanover Liquor Store, Inc., Bulletin 1253, Item 6), to which will be added five days because of the similar violation which occurred more than five but less than ten years ago (Re Jednosc T. Kosciuszko Association, Bulletin 1265, Item 8), making a total suspension of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 31st day of March, 1959,

ORDERED that Plenary Retail Consumption License C-27, issued by the Township Committee of the Township of Egg Harbor to Ethel Hoffman, for premises on Poplar Avenue & Bargaintown Road, Egg Harbor Township, be and the same is hereby suspended for fifteen (15) days, commencing at 7:00 a.m. Wednesday, April 8, 1959, and terminating at 7:00 a.m. Thursday, April 23, 1959.

WILLIAM HOWE DAVIS
 Director.

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

In the Matter of Disciplinary Proceedings against)

JAMES DUFFY)
t/a DUFFY'S TAVERN)
Route #35)
Madison Township)
PO Laurence Harbor, N. J.,)

CONCLUSIONS AND ORDER

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

James Duffy, 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 he sold alcoholic beverages to a minor in violation of Rule 1 of State Regulation No. 20.

On January 31, 1959, Richard ---, 17 years of age, purchased from James Duffy, Jr., who was then tending bar in defendant's premises, six one-quart bottles of beer. The employee thereafter verbally admitted to ABC agents the sale of the beer to the minor in question.

Defendant has a prior adjudicated record. Effective June 22, 1949 his license was suspended for ten days for possession of a bottle of whiskey which bore a label that did not truly describe its contents. Re Duffy, Bulletin 847, Item 11. In view of the fact that more than five years have elapsed since this dissimilar violation, I shall not take it into consideration in fixing the penalty herein. I shall suspend defendant's license for twenty days. Re Silverstein, Bulletin 1249, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

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

ORDERED that Plenary Retail Consumption License C-5, issued by the Township Committee of Madison Township to James Duffy, t/a Duffy's Tavern, for premises Route #35, Madison Township, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Wednesday, April 1, 1959, and terminating at 2:00 a.m. Thursday, April 16, 1959.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary)
 Proceedings against)
)
 GOLDEN MOON CAFE, INC.)
 t/a GOLDEN MOON CAFE)
 Rt. 206 & Chambers Corner)
 Springfield Township)
 (Burlington County))
 PO Mount Holly, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-2, issued by the)
 Township Committee of Springfield)
 Township.)

Malandra & Tomaselli, Esqs., by Joseph Tomaselli, Esq.,
 Attorneys for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for the Division of
 Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On February 20, 1959, at about 11:45 p.m., Robert ---, age 20, and a 21-year-old companion entered defendant's licensed premises and remained there until about 1:45 a.m., February 21, 1959, during which period Robert drank five or six glasses of beer which had been served to him by William J. Hare, the bartender. Hare, when confronted by Robert on February 25th, claimed that he served beer at the time in question to Robert after the latter had displayed to him a draft card and a red driver's license of a person over the age of 21. Robert denied that he displayed any such documents.

Defendant has a prior adjudicated record. Effective September 16, 1957 its license was suspended for ten days by the Director for sale to minors. Bulletin 1191, Item 5. Since the present offense is the second similar violation within a period of five years, I shall double the minimum suspension of ten days for sale to a minor 20 years of age and suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

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

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of Springfield Township to Golden Moon Cafe, Inc., t/a Golden Moon Cafe, for premises on Rt. 206 & Chambers Corner, Springfield Township, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Wednesday, April 1, 1959, and terminating at 2:00 a.m. Thursday, April 16, 1959.

WILLIAM HOWE DAVIS
 Director.

NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1958 TO MARCH 31, 1959 AS REPORTED TO THE DIRECTOR
 OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19

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CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Number Surrendered Revoked Expired	Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	487	\$ 208,450.41	72	\$ 27,625.00	24	\$ 2,295.00						583	\$ 238,370.41
Bergen	811	307,734.04	301	87,988.00	113	10,525.48	53	\$ 2,496.50	5	\$ 1,381.63	5	1278	410,125.65
Burlington	187	81,380.55	40	12,225.00	45	6,350.00	1	50.00				273	100,005.55
Camden	453	224,457.53	82	33,925.00	75	7,457.54			1	375.00	1	610	266,215.07
Cape May	135	76,800.00	11	4,000.00	16	1,950.00						162	82,750.00
Cumberland	80	40,875.00	14	3,700.00	30	4,060.00						124	48,635.00
Essex	1347	759,351.10	350	209,718.90	104	14,159.44	28	1,400.00	2	1,500.00	2	1829	986,129.44
Gloucester	108	38,595.00	15	3,920.00	22	1,950.00						145	44,465.00
Hudson	1539	697,784.25	298	122,400.00	84	9,658.21	63	2,700.00			1	1983	832,542.46
Hunterdon	79	28,000.00	10	3,560.00	10	1,100.00						99	32,660.00
Mercer	422	258,550.00	51	21,400.00	58	7,925.12			1	391.63	3	529	288,266.75
Middlesex	632	312,437.19	79	25,388.71	99	8,681.79	4	200.00			1	813	346,707.69
Monmouth	551	287,710.71	122	43,620.00	44	4,950.00	10	435.00	26	11,843.02	26	727	348,558.73
Morris	357	132,149.28	97	32,750.00	54	4,842.20	19	950.00	5	1,312.50	5	527	172,003.98
Ocean	193	109,867.00	47	19,680.00	24	2,575.00						264	132,122.00
Passaic	869	357,105.36	167	51,330.00	42	5,068.75	9	425.00				1087	413,929.11
Salem	51	19,300.00	8	1,550.00	20	1,658.76						79	22,508.76
Somerset	187	85,700.00	41	12,595.00	28	3,190.55						256	101,485.55
Sussex	165	45,805.00	21	4,185.00	9	545.00	1	50.00	1	225.00	1	196	50,810.00
Union	550	306,316.10	144	66,860.00	78	9,033.49	28	1,375.00			2	798	383,584.59
Warren	148	44,070.00	20	5,060.00	28	3,100.00			2	318.84	2	196	52,548.84
Total	9,351	\$4,422,438.52	1990	\$793,480.61	1007	\$ 111,076.33	216	\$10,081.50	43	\$ 17,347.62	49	12558	\$5,354,424.58

William Howe Davis
 Director

April 27, 1959

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7. DISCIPLINARY PROCEEDINGS - DELIVERY OF ALCOHOLIC BEVERAGES WITHOUT INVOICES OR MANIFESTS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ISRAEL YACKER and SAMUEL YACKER)
t/a SOUTH WOOD LIQUORS)
1101 S. Wood Avenue)
Linden, N. J.,)

CONCLUSIONS AND ORDER

Holders of Plenary Retail Distribution License D-4, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden.)
-----)

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

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they transported and delivered alcoholic beverages in their licensed vehicle without the driver thereof having in his possession bona fide invoices or manifests, in violation of Rule 3 of State Regulation No. 17.

On December 17, 1958, Samuel Yacker (one of the defendants) sold and delivered divers cases of alcoholic beverages to a customer but did not list on the delivery slip the size of the containers nor the brand of liquors transported, as required by the aforementioned Rule.

Defendants have no prior adjudicated record. I shall suspend their license for ten days (Re Bodnar, Bulletin 1032, Item 8). Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 23rd day of March, 1959,

ORDERED that Plenary Retail Distribution License D-4, issued by the Municipal Board of Alcoholic Beverage Control of the City of Linden to Israel Yacker and Samuel Yacker, t/a South Wood Liquors, for premises 1101 S. Wood Avenue, Linden, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. Monday, March 30, 1959, and terminating at 9:00 a.m. Saturday, April 4, 1959.

WILLIAM HOWE DAVIS
Director.

8. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT STILL, ALCOHOL AND MOTOR VEHICLE ORDERED FORFEITED - PADLOCKING WAIVED.

In the Matter of the Seizure on) Case No. 9687
 April 18, 1958 of a number of)
 various still parts, a quantity of)
 alcohol, other personal property,) ON HEARING
 and a Chevrolet truck at the prem-) CONCLUSIONS AND ORDER
 ises of Armor Wrecking Company at)
 the intersection of Randolph and)
 Martin Streets, Avenel, in the Town-)
 ship of Woodbridge, County of Middlesex)
 and State of New Jersey.)

-----)
 Anthony A. Calandra, Esq., Attorney for Joseph Cepiel and
 Edward Cepiel.

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, Chapters 1 and 2, Revised Statutes of New Jersey, to determine whether a still, a quantity of alcohol, other personal property and a Chevrolet truck, described in a schedule attached hereto, seized on April 18, 1958 at premises of Armor Wrecking Company located at the intersection of Randolph and Martin Streets, Avenel, in the Township of Woodbridge, New Jersey, constitute unlawful property and should be forfeited and further to determine whether the premises should be padlocked.

When the matter came on for hearing pursuant to R.S. 33:1-66 and R.S. 33:2-4, an appearance was entered on behalf of Joseph Cepiel and Edward Cepiel, who sought waiver of padlocking of the premises. No one appeared to oppose forfeiture of the seized property.

Evidence of ABC agents was presented at such hearing which establishes that there was a large illicit still on the premises, and a quantity of alcohol and mash. The Chevrolet truck was parked on the premises. The agents seized the still, alcohol, mash, truck, and other various items.

A sample of the alcohol was analyzed by the Division chemist who reports that it is alcohol fit for beverage purposes when diluted with water, with an alcoholic content by volume of 83 percent.

The still was not registered with the Director of the Division of Alcoholic Beverage Control as required by R. S. 33:2-1. The alcohol is illicit because it was manufactured illegally and without payment of tax on alcoholic beverages. Such illicit still, illicit alcohol, the Chevrolet truck, and all other personal property seized on the premises constitute unlawful property and are subject to forfeiture and the premises are subject to padlocking. R. S. 33:1-1(i and y); R.S. 33:1-2, R.S. 33:1-66, R.S. 33:2-2, 5.

The record owner of the premises is Armor Wrecking Company, of which Joseph Cepiel and Edward Cepiel are officers. It was a junk yard, for wrecked motor vehicles, with a few dilapidated buildings or sheds thereon. The particular part of the premises where the still was seized was ostensibly leased by the Capiels to a rubber reclaiming company. It is not necessary to determine whether the owners of the property

Reports of ABC agents and other documents in the file, presented in evidence with the consent of Mr. Davis, disclose the following facts:

A New Jersey State Trooper on the above date and location halted the Buick sedan during his routine patrol of traffic on the highway. The trooper ascertained that Haywood Perry was driving the car, and that there were three other passengers therein. When the trooper discovered the 45 jars of alcohol in the trunk of the car, without any stamp indicating the payment of tax on alcoholic beverages on any of the jars, he took into custody the car, alcohol, and Haywood Perry, who in a signed statement, declared that he purchased the "moonshine" alcohol in Virginia. 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 45.5 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 alcohol and the Buick sedan in which such illicit alcohol 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.

James Mason Davis testified to the following effect:

He has been employed as a laborer for many years and resides with his wife and seven children. He has owned a car since 1951 and purchased the Buick sedan in question in June 1958, and there is a balance of about \$260.00 due to the finance company which financed such purchase. He loaned the car to Haywood Perry, whom he had known for many years, and who was employed by a house wrecking concern. Perry's car had been burned, and Perry told him he wanted to borrow the car to visit his father in Virginia. He did not have any reason to suspect that Perry would use the car to transport illicit alcohol.

Haywood Perry does not appear to have any previous criminal record.

I am satisfied from the evidence presented that James Mason Davis acted in good faith, and did not know or have any reason to suspect that his car would be used by Haywood Perry for the unlawful transportation of alcoholic beverages. Hence, I shall return the Buick sedan to him.

Accordingly, it is DETERMINED and ORDERED that if on or before the 3rd day of April 1959, James Mason Davis pays the costs incurred in the seizure and storage of his Buick sedan, 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
Director.

Dated: March 23, 1959.

SCHEDULE "A"

- 45 - two-quart "Mason" jars of alcohol
- 1 - Buick sedan, Engine No. 68042395,
Serial No. 36616772, New York
Registration 2L4532

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

In the Matter of Disciplinary Proceedings against)

CHARLES SEDDON)
t/a MELODY BAR.)
795 Summerfield Avenue)
Madison Township)
PO Laurence Harbor, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-21, issued by the Township Committee of Madison Township.)

-----)
Charles Seddon, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On February 25, 1959, a local police officer apprehended Edward --- (age 18) when the officer observed Edward emerge from the defendant's licensed premises with a paper bag in which there was a quart bottle of beer. The officer then entered the premises with the minor and confronted the bartender who admitted that he had sold the beer in question to the minor. The bartender, subsequently questioned by ABC agents, reiterated his admission.

Defendant has a prior adjudicated record. Effective October 9, 1957, his license was suspended by the Director for thirty-five days on three charges, one of which was sale to minors (Bulletin 1195, Item 2). The minimum penalty of fifteen days for sale of alcoholic beverages to an eighteen-year-old minor will be increased to suspension of the license for the period of twenty-five days in view of the prior record including the second similar violation within the period of five years (Re Guariglia, Bulletin 1234, Item 5). Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

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

ORDERED that Plenary Retail Consumption License C-21, issued by the Township Committee of Madison Township to Charles Seddon, t/a Melody Bar, for premises 795 Summerfield Avenue, Madison Township, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Thursday, April 2, 1959, and terminating at 2:00 a.m. Wednesday, April 22, 1959.

WILLIAM HOWE DAVIS
Director.

11. DISCIPLINARY PROCEEDINGS - SUSPENSION REIMPOSED AFTER AFFIRMANCE BY APPELLATE DIVISION.

1275

MICHAEL DeLUCCIA, t/a)
CLUB 25,)

Appellant,)

-vs-)

O R D E R

BOARD OF ALCOHOLIC BEVERAGE)
CONTROL FOR THE CITY OF)
PATERSON,)

Respondent.)

BY THE DIRECTOR:

On July 22, 1958, I affirmed the ten-day suspension of appellant's license theretofore imposed by respondent. See Bulletin 1240, Item 1. Pending appellant's appeal to the Superior Court, Appellate Division, the Court stayed the suspension. On March 17, 1959, the Court affirmed my determination and the suspension may now, therefore, be reimposed.

Accordingly, it is, on this 31st day of March, 1959,

ORDERED that the ten-day suspension of Plenary Retail Consumption License C-162, held by appellant for premises 13 No. Main Street, Paterson, be and the same is hereby reimposed to commence at 3:00 a.m. Monday, April 6, 1959, and to terminate at 3:00 a.m. Thursday, April 16, 1959.



WILLIAM HOWE DAVIS
Director