

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 1009

APRIL 15, 1954.

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New Jersey State Library

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APRIL 15, 1954.

1. SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC BEVERAGES, FIXTURES AND FURNISHINGS IN SPEAKEASY (GROCERY) ORDERED FORFEITED - VARIOUS ARTICLES RETURNED TO INNOCENT CLAIMANT.

In the Matter of the Seizure on)
January 24, 1954, of a quantity of)
alcoholic beverages and various)
fixtures, furnishings, equipment)
and merchandise, at 10 Flagler)
Street, in the Town of Morristown,)
County of Morris and State of New)
Jersey.)

Case No. 8505

ON HEARING
CONCLUSIONS AND ORDER

-----)
Fisher & Hughes, Inc., by John W. Fisher, President.
Harry Castelbaum, 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 and various fixtures, furnishings, equipment and merchandise, described in a schedule attached hereto, seized on January 24, 1954 at 10 Flagler Street, Morristown, New Jersey, constitute unlawful property and should be forfeited.

The seizure was made by ABC agents because of the alleged unlicensed sale of alcoholic beverages by Frank Goduto in a grocery store located at the above address.

When the matter came on for hearing pursuant to R. S. 33:1-66 an appearance was entered on behalf of Fisher & Hughes, Inc., which sought return of an Evans display case and refrigeration unit. No one appeared to oppose forfeiture of the balance of the seized property.

Reports of ABC agents and other documents in the file, presented in evidence without objection, disclose the following facts:

On the morning of Sunday, January 24, 1954 an ABC agent entered the above grocery store to investigate a complaint that alcoholic beverages were being sold there without a license. Frank Goduto was in charge of the store. The agent asked Goduto to sell him a pint of wine. Goduto asked him whether he had an empty bottle. Since he did not have any bottle, the agent left and returned with an empty bottle and a one dollar bill of which the serial number had been noted. He handed this bottle to Goduto. Goduto filled the bottle with wine and handed it to the agent who paid Goduto with the marked dollar bill. Shortly thereafter, the agent and other agents who had joined the first agent, disclosed their identities to Goduto. Goduto admitted that he sold the wine and signed a statement to that effect, including the admission that he had been selling alcoholic beverages without a license for about a year.

Frank Goduto did not hold any license authorizing him to sell alcoholic beverages and the premises were not licensed for that purpose. The ABC agents seized a quantity of wine, whiskey, and beer and the fixtures, furnishings, equipment and merchandise in the grocery store and recovered the dollar bill from the cash register.

The circumstances in the case justify the inference that the seized wine was intended for unlawful sale. The seized whiskey and beer probably were intended for like unlawful sale. The seized alcoholic beverages are therefore illicit. R. S. 33:1-1(i). Such

illicit alcoholic beverages and all personal property seized therewith in the grocery store including the one dollar bill constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

I am authorized, in my discretion, to return property subject to forfeiture to a person who has established to my satisfaction that he acted in good faith and had no knowledge of the unlawful use to which his property was put or of such facts as would have led a person of ordinary prudence to discover such use. R.S. 33:1-66(f).

John W. Fisher testified that on July 10, 1952 Fisher & Hughes, Inc. sold to Frank Goduto an Evans display case with refrigeration unit for the purchase price of \$500.00. He presented in evidence a conditional sales contract covering these articles which have been identified as those seized by this Division. The balance due on such contract is \$100.00. Mr. Fisher testified that Mr. Goduto personally bought the articles in question; that he had seen Goduto around town but previously had not been personally acquainted with him; that so far as he knew Goduto was employed as a mason or similar work and that he had heard nothing detrimental to Goduto's reputation.

The grocery store was to all outward appearance a legitimate enterprise. Goduto does not appear to have any criminal record for violating any liquor laws. Mr. Fisher testified that he has been in the grocery store on a number of occasions but did not see any alcoholic beverages on display nor have any reason to suspect that alcoholic beverages were being sold there.

I am satisfied that Fisher & Hughes, Inc. acted in good faith and did not know or have any reason to suspect that alcoholic beverages were being sold in the grocery store. I shall therefore recognize its lien. R. S. 33:1-66(f).

I am advised that it is not desirable to retain the Evans display case and refrigeration unit for the use of the State, conditioned upon the payment of the lien of \$100.00, and that the retail value of such articles does not exceed the amount of such lien and the costs of the seizure and storage thereof.

Accordingly, it is DETERMINED and ORDERED that if on or before the 25th day of March 1954 Fisher & Hughes, Inc. pay the costs incurred in the seizure and storage of the Evans display case and the refrigeration unit described in Schedule "A" attached hereto, such articles will be turned over to Fisher & Hughes, Inc.; and it is further

DETERMINED and ORDERED that the balance of seized property listed in the aforesaid Schedule "A" 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.

WILLIAM HOWE DAVIS
Director.

Dated: March 15, 1954.

SCHEDULE "A"

35 - bottles of beer	1 - chewing gum machine and currency therein
3 - gallon jugs of wine	
3 - bottles of other alcoholic beverages	1 - nut vending machine and currency therein
1 - Servel gas refrigerator	1 - Boller soda rack
1 - Evans refrigerator case	1 - Frigidaire refrigerator unit
1 - American Slicer	Miscellaneous merchandise and supplies
1 - Detecto scale	
1 - National cash register	\$1.00 in cash

2. SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC BEVERAGES, FIXTURES AND FURNISHINGS IN SPEAKEASY ORDERED FORFEITED - RETURN OF PART OF PROPERTY DENIED FOR LACK OF PROOF OF OWNERSHIP THEREOF AND UNRESTRICTED USE OF ARTICLE IN SPEAKEASY OVER LONG PERIOD OF TIME.

In the Matter of the Seizure on November 24, 1953, of a quantity of alcoholic beverages and various fixtures, furnishings and equipment, at 36 Market Street, in the City of Paterson, County of Passaic and State of New Jersey.

Case No. 8460

ON HEARING CONCLUSIONS AND ORDER

Nicholas Alvino, Pro Se. Harry Castelbaum, Esq., appearing for 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 and various fixtures, furnishings and equipment, described in the schedule attached hereto, seized on November 24, 1953, at 36 Market Street, Paterson, New Jersey, constitute unlawful property and should be forfeited.

The seizure was made by ABC agents because of the alleged unlawful sale of alcoholic beverages in a so-called social club at the above address.

Nicholas Alvino appeared on the date fixed for hearing in the matter unaware that such hearing had been adjourned at the request of another claimant. Alvino stated that he desired to present his testimony under his stipulation that he would be bound by the evidence presented at the adjourned hearing. Thereafter the other claimant advised that he did not intend to present any claim.

Hence, when the matter came on at the adjourned hearing, in accordance with R. S. 33:1-66, the only claim presented was that of Alvino who sought return of a television set. Forfeiture of the balance of the seized property was not opposed as hereinabove stated.

Report of ABC agents and other documents in the file presented in evidence disclose the following facts:

On November 18, 1953, ABC agents visited the above premises, described as "Al's Social Club", to investigate a complaint that alcoholic beverages were being sold there without a license. One of the agents purchased there a demi-tasse for himself and a drink of whiskey, poured into another demi-tasse, purchased for a patron on the premises. The agents observed cases of beer in a back room and a bottle of wine in a front room.

On November 21, 1953, two ABC agents entered the premises. Various alcoholic beverages were on display. The agents each purchased two drinks of whiskey poured into demi-tasse cups and observed other persons purchasing similar drinks.

On November 24, 1953, two ABC agents returned to the premises with two one-dollar bills identified by serial numbers. Alfred Pellicciotti, later identified as the proprietor of the establishment, was in charge. One of the agents purchased a demi-tasse into which a drink of whiskey had been poured, and the other agent purchased a can of beer. One of the agents paid Pellicciotti for these drinks with one of the marked dollar bills. The agents observed two other patrons

drinking beer. Later the agents repeated their purchase of their respective drinks, and paid Pellicciotti with the other marked dollar bill. Other ABC agents then entered the establishment, and all of the agents disclosed their identity.

Alfred Pellicciotti did not hold any license authorizing him to sell alcoholic beverages, and the premises were not licensed for that purpose. The agents seized nine cans of beer, four gallon jugs of wine and a bottle of whiskey which were in the premises. They also seized the furnishings, fixtures and equipment of the place and \$13.54 in the cash register, which sum included the two marked dollar bills.

The agents obtained signed statements from Alfred Pellicciotti and Anthony James Pallotta (the latter identified as the person who sold the alcoholic beverages on November 18 and November 21). In his statement Pellicciotti declares that he has operated Al's Social Club for about two years; that he sold alcoholic beverages to the agents on November 24; that he had made a practice of selling alcoholic beverages there for about three weeks, and that Pallotta helped operate the place and sold alcoholic beverages there with Pellicciotti's permission. Pallotta's statement confirms the account given by Pallotta concerning the sale of alcoholic beverages at the premises and acknowledges the sale of alcoholic beverages by Pallotta on November 21, 1953.

The seized alcoholic beverages are illicit because they were intended for unlawful sale. R. S. 33:1-1(i). Such illicit alcoholic beverages, and all of the personal property seized therewith including the \$13.54 in cash, constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y); R. S. 33:1-2; R. S. 33:1-66.

The normal presumption is that equipment in a commercial business establishment used in furtherance of the business is owned by the proprietor of such establishment. Clear and convincing evidence must be presented to establish that actually it is the property of some other person, stored in the establishment merely for convenience. Seizure Case #8410, Bulletin 1006, Item 3.

Nicholas Alvino has presented a copy of a bill in the amount of \$175.00 dated January 5, 1953, purporting to evidence the sale to him, at the "club" address, of a R.C.A. television set (not identified, as is the seized set, by serial number). Alvino did not see the set delivered to the "club." This is doubtful evidence that the set seized is the one ostensibly purchased by Alvino.

Nicholas Alvino testified that he is unmarried and resides with his parents and a brother and sister, and Alfred Pellicciotti who is his brother-in-law. The family has a television set in its apartment. There was room for storage of the television set in Alvino's home, but he claims that his mother did not want it there. Alvino says that he purchased the television set in anticipation of his marriage, and that, at his sister's suggestion, he arranged to leave it with Pellicciotti. Alvino's engagement had not been announced; no wedding date had been set; no apartment rented, and no furniture purchased. He abandoned his marriage plans in the summer.

Asked why he did not attempt to salvage part of his investment by selling the set after his planned marriage had been abandoned (especially since the set was being used and depreciated), his only answer was that he trusted his brother-in-law and could recover the set at any time.

The natural instinct of an owner of valuable property is not to permit its indiscriminate use over a long period of time by strangers. Cf. Supplemental Order, Seizure Case #8349. In any event, Alvino, if he owned the television set, permitted Pellicciotti to have its unrestricted use over a long period of time in furtherance of the latter's business. For the reasons above expressed, Nicholas Alvino's request for the return of the television set is denied. Seizure Case #8424, Bulletin 1006, Item 4.

Accordingly, it is DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, and 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.

WILLIAM HOWE DAVIS
Director.

Dated: March 19, 1954.

SCHEDULE "A"

- 9 - cans of beer
- 4 - gallon jugs with wine
- 1 - quart bottle of whiskey
- 193 - bottles of soda
- 157 - empty soda bottles
- 3 - tables
- 16 - chairs
- 1 - cigarette vending machine and currency therein
- 1 - electric clock
- 1 - R.C.A. Radio
- 1 - Coca Cola Cooler
- 1 - R.C.A. Television set
- 1 - oil heater
- 1 - counter
- 2 - glass showcases
- 1 - peanut vending machine and currency therein
- 1 - cash register
- 1 - candy display shelf
- 1 - ice cream freezer
- 1 - gas plate
- 2 - fans
- 1 - clarinet and case
- 1 - cigarette display case
- Miscellaneous dishes, glasses, candy, and other personal property
- \$13.54 in cash

3. SEIZURE - FORFEITURE PROCEEDINGS - BOOTLEG CORN WHISKEY BROUGHT INTO STATE BY PASSENGER IN MOTOR VEHICLE ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO OWNER (WIFE OF DRIVER) WHO LOANED CAR IN GOOD FAITH AND COULD NOT ANTICIPATE TRANSPORTATION OF ALCOHOLIC BEVERAGES THEREIN.

In the Matter of the Seizure on)
January 5, 1954 of a 2 quart Mason)
jar of alcohol and a Lincoln sedan,)
seized on the North bound lane of)
the New Jersey State Turnpike, in)
the City of Elizabeth, County of Union)
and State of New Jersey.)

Case No. 8490

ON HEARING
CONCLUSIONS AND ORDER

Joseph Butt, Esq., Attorney for Loraphine Lane Williams.
Harry Castelbaum, 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 two-quart jar of alcohol and a Lincoln sedan, described in a schedule attached hereto, seized on January 5, 1954 on the North bound lane of

the New Jersey Turnpike, in Elizabeth, New Jersey, constitute unlawful property and should be forfeited.

The motor vehicle and jar of alcohol were seized by a New Jersey State Trooper when he discovered the alcohol in the car during the course of his patrol of traffic on the turnpike. Thereafter the car and alcohol were turned over to the Division of Alcoholic Beverage Control.

When the matter came on for hearing pursuant to R.S. 33:1-66, Loraphine Lane Williams appeared and sought return of the motor vehicle. Forfeiture of the alcohol was not opposed by any person.

Reports of the trooper and A.B.C. agents and other documents in the file, presented in evidence without objection, disclose the following facts:

Edward E. Williams was operating the motor vehicle when it was seized. Roderick A. Jacobs, Ivory C. Simmons and James Patrick were passengers therein. The jar with alcohol did not bear a label or stamp indicating the payment of tax on alcoholic beverages.

The men in the car told the trooper that Williams, Jacobs and Patrick left New York City on January 1, 1954 on a trip to Asheville, North Carolina. They left Asheville on the return trip on January 4, 1954. At or near Durham, North Carolina Jacobs inquired of a man on the street where he could buy some corn whiskey. This man accompanied Jacobs to a back street, where Jacobs purchased the jar of alcohol (corn whiskey). All of the men in the car drank some of the whiskey. Later they picked up Simmons, a hitch-hiker. None of the men appear to have a previous criminal record for violation of any liquor laws.

The alcohol in the jar 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 48 per cent.

The alcohol is illicit because of the absence of any label or tax stamp on the jar. R. S. 33:1-88, R.S. 33:1-1(i). Such illicit alcohol and the motor vehicle in which it was transported constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

The motor vehicle is registered in New York in the name of Loraphine Lane. Loraphine Lane Williams testified that she is the wife of Edward E. Williams, whom she married on April 17, 1952. She states that she purchased the motor vehicle on June 30, 1950; and that she is a practical nurse, and is employed as a public health assistant by the New York City Health Department. She was employed in Bellevue Hospital, New York City from 1946 until 1950. She states that she purchased the car with \$600.00 in cash, withdrawn from her bank account, and thereafter paid monthly installments of \$65.00. Her husband also owned a car and sold it. He is a disabled veteran who receives a monthly pension.

There does not appear to be any aspect of commercial traffic in bootleg liquor by the men involved. It appears to have been a casual incident during the course of the trip. While the purchase of bootleg liquor is not to be condoned, these circumstances are pertinent factors to be considered on the claim of Mrs. Williams.

I am satisfied that she is the actual owner of the Lincoln sedan. I am likewise satisfied that there is nothing in her husband's background from which she could have reasonably anticipated that he would permit bootleg liquor to be transported in her car. The motor vehicle will therefore be returned to her upon payment of the costs of its seizure and storage. R. S. 33:1-66(f). Seizure Case No. 8475.

The seized property was turned over to the Division of Alcoholic Beverage Control. The contents of one of the jars was analyzed by the Division chemist, who reports that it is alcohol and water fit for beverage purposes with an alcoholic content by volume of 47.5 per cent.

The alcoholic beverages are illicit because the jars did not have affixed thereto any labels, or stamps indicating the payment of tax on alcoholic beverages. R. S. 33:1-88, R.S. 33:1-1(i). Such illicit alcoholic beverages and the motor vehicle in which they were transported constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

When the matter came on for hearing pursuant to R.S. 33:1-66, an appearance was entered by Laura Singleton, who sought return of the motor vehicle, and an appearance was entered on behalf of General Motors Acceptance Corporation which sought recognition of its alleged lien claim on such vehicle.

None of the facts above set forth as to the source and nature of the alcoholic beverages and their transportation in this State are disputed. The claimants maintain that they did not know or have any reason to suspect that such alcoholic beverages would be transported in the motor vehicle.

The pertinent factors to be determined are whether Laura Singleton is the actual owner of the motor vehicle, and whether her husband's participation in the transportation of the moonshine liquor was of such nature that she could have reasonably anticipated such conduct.

It appears that Laura Singleton has been employed for a number of years by an industrial concern at wages varying between \$40.00 and \$50.00 a week. She purchased the motor vehicle in question on July 1, 1953 for \$2,425.95 of which she paid \$667.95 in cash which she withdrew from her bank account. She is paying the balance in monthly installments, with a present balance due of \$1,391.75. She used the car to go to and from her place of employment. Evidence submitted by the General Motors Acceptance Corporation discloses that it obtained a report from an independent investigating agency concerning the background and financial condition of Laura Singleton and her husband. The report states that both were gainfully employed and contains no detrimental information.

Laura Singleton's economic circumstances, and the absence of any apparent motive for the purchase of such motor vehicle by the husband in his wife's name leads me to conclude that she is the actual owner of the motor vehicle.

Her account of the events whereby she permitted her husband to transport Bowman and his children to Virginia are substantially the same as that given by her husband and Bowman.

This case does not appear to involve the transportation through this State of moonshine liquor for ultimate sale. On the contrary, it appears to be the case of a misguided generosity wherein a casual gift emanating from natural love and affection included moonshine liquor.

Irrespective of whether William Singleton had actual knowledge that he was transporting such liquor (which he denies) there is certainly nothing in his background or in the nature of his trip to Virginia to have apprized his wife that there was a likelihood that he would transport such alcoholic beverages.

Although a wife is presumed to know of her husband's activities, she should not be responsible for his totally unexpected conduct foreign to what she could have reasonably anticipated. I therefore conclude that Laura Singleton acted in good faith and had

no knowledge of the unlawful use to which the property was put or of such facts as would have led a person of ordinary prudence to discover such use. R. S. 33:1-66(f). The Buick sedan will therefore be returned to her upon payment of the costs of its seizure and storage.

The motor vehicle, when returned, will be available to any person who has a lien thereon for such proceedings as he may care to pursue. Therefore, it is not necessary to decide in these proceedings whether General Motors Acceptance Corporation has a valid lien on the Buick sedan.

Accordingly, it is DETERMINED and ORDERED that if on or before the 2nd day of April, 1954 Laura Singleton pays the costs of seizure and storage of the Buick sedan described in Schedule "A" attached hereto, it will be returned to her; and it is further

DETERMINED and ORDERED that the (2) two-quart jars of alcohol described 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, 1954.

SCHEDULE "A"

- 2 - 2-quart Mason jars of alcoholic beverages
- 1 - Buick sedan, Serial No. 36316440, Engine No. 65414387, 1953 N. Y. Registration 6U4878.

5. SEIZURE - FORFEITURE PROCEEDINGS - BOOTLEG CORN WHISKEY BROUGHT INTO STATE BY PASSENGER IN MOTOR VEHICLE ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO OWNER (RELATIVE OF PASSENGER) UNAWARE OF PRESENCE OF WHISKEY IN CAR.

In the Matter of the Seizure on)
November 15, 1953 of 3 two-quart)
jars of alcohol and a pint bottle)
of alcohol and a Ford sedan, on)
the New Jersey Turnpike, Five Mile)
Post, North Bound Lane, Upper Penns)
Neck Township, in the County of Salem)
and State of New Jersey.)
-----)

Case No. 8451

ON HEARING
CONCLUSIONS AND ORDER

Henry Bane, Esq., Attorney for Young Ross.
Harry Castelbaum, 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 3 two-quart jars and a pint bottle of alcohol, and a Ford sedan, described in a schedule attached hereto, seized on November 15, 1953 on the New Jersey Turnpike, Five Mile Post, North Bound Lane, Upper Penns Neck Township, New Jersey, constitute unlawful property and should be forfeited.

The seizure was made in the first instance by a New Jersey State Trooper when he halted the vehicle on routine patrol and discovered

alcohol in the car. Young Ross, his son, Eugene Ross, and a young lady, were in the car. The alcohol and car were later turned over to the Division of Alcoholic Beverage Control.

When the matter came on for hearing, pursuant to R.S. 33:1-66, Young Ross, the registered owner of the Ford sedan, appeared and sought its return. Forfeiture of the alcoholic beverages was not opposed by anyone.

The jars in which the alcoholic beverages were contained did not bear any labels, or stamps indicating the payment of tax on alcoholic beverages. Such alcoholic beverages are therefore prima facie illicit. R. S. 33:1-88, R.S. 33:1-1(i). Actually it is moonshine or bootleg liquor. Such illicit alcoholic beverages and the vehicle in which they were transported constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

Young Ross claims that his son Eugene Ross placed the alcoholic beverages in the car without his knowledge or consent and that he was completely unaware of their presence therein.

Claimed absence of knowledge by a father of his son's activities is thoroughly and carefully scrutinized, but is not rejected solely on that account. Seizure Case No. 7211, Bulletin 798, Item 3, also cf. Seizure Case No. 5505, Bulletin 373, Item 5 and Seizure Case No. 7735. If it is the actual fact that the father did not know that the moonshine liquor was in his car, I am authorized to return the car to him. R. S. 33:1-66(f); Seizure Case No. 7204, Bulletin 797, Item 13, and Seizure Case No. 8152.

The background of the claimant, and the degree to which his account of what transpired appears to be logical and truthful are the controlling factors.

According to Young Ross he is fifty years of age, was born in North Carolina, and has lived there ever since. He has always been employed as a farm hand, and his recent wages have averaged between \$30.00 and \$40.00 a week. His family consists of his wife, four children, two of whom are minors, and three grandchildren. Two of the children, girls, are employed respectively in domestic work and in a local hospital, and contribute part of their earnings to their mother.

Young Ross purchased the Ford sedan as a used car at the cost of \$1600.00, paid in monthly installments. The present balance due thereon is about \$70.00. He used the car to go to and from his work and for general family use. He says that he has no other financial resources other than the car and the furnishings of his home.

The only stain on his record is a conviction in 1940 in Durham of violating the Federal Internal Revenue Laws for which he was placed on probation for two years. He explains that he was working on a farm when an acquaintance persuaded him to sell a 5-gallon can of alcohol.

The gist of his recital of the events which led to his presence in the car in New Jersey at the time of the seizure is that Eugene, who was legitimately employed in a garage located in Massachusetts, came to Durham to attend the funeral of his grandmother. While there, from Wednesday to Saturday, he used his father's car in the evening after the father came home. On Saturday Eugene had the use of the car the entire day. While Eugene slept at his father's home for the most part, he visited relatives and friends. During the course of his visit Eugene suggested to his father that the latter accompany him to Massachusetts, to obtain employment in the garage. The father was assured that he could earn more there. On Saturday evening, after he arrived home from work,

the father finally decided to accept the opportunity. His purpose was to make a little extra money to catch up with his bills and then return to his regular job on the farm. The father surmises that Eugene surreptitiously placed the moonshine in the car at some time previous to their departure. Eugene has no record for violating any liquor laws.

It appears to be a straightforward and logical account of what occurred. While not conclusive, the trouble and expense involved in Young Ross' appearance at the hearing, requiring a trip from Durham to Newark, is of some significance as to the sincerity of his claim. Young Ross' conviction in 1940, with no further similar misconduct in the past 13 years, negatives any continued tendency on his part to violate any liquor laws. Seizure Case No. 6927, Bulletin 697, Item 4. In this connection it is to be noted that the local law enforcement authorities consider Young Ross to be of present good reputation.

From a careful consideration of all of the evidence I shall give Young Ross the benefit of the doubt, and accept his representation that he was completely unaware of the moonshine in the car. The Ford sedan will therefore be returned to Young Ross upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 5th day of April, 1954, Young Ross pays the costs incurred in the seizure and storage of the Ford sedan, described in Schedule "A" attached hereto, such motor vehicle will be turned over to Young Ross; and it is further

DETERMINED and ORDERED that the 3 two-quart jars and the pint bottle of alcoholic beverages listed in the aforesaid Schedule "A" constitutes unlawful property and the same be and hereby are 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.

WILLIAM HOWE DAVIS
Director.

Dated: March 24, 1954.

SCHEDULE "A"

- 3 - 2-quart jars of alcohol
- 1 - pint bottle of alcohol
- 1 - Ford sedan, Engine and Serial No. 108232, 1953 North Carolina Registration 658-413

6.

ACTIVITY REPORT FOR MARCH, 1954

ARRESTS:			
Total number of persons arrested	- - - - -		37
Licensees and employees	- - - - - 18		
Bootleggers	- - - - - 19		
SEIZURES:			
Motor vehicles - cars	- - - - - 1		5
trucks	- - - - -		1
Mash - gallons	- - - - -		350.00
Stills - 50 gallons or under	- - - - -		2
Distilled alcoholic beverages - gallons	- - - - -		382.66
Wine - gallons	- - - - -		6.63
Brewed malt alcoholic beverages - gallons	- - - - -		12.75
RETAIL LICENSEES:			
Premises inspected	- - - - -		1,274
Premises where alcoholic beverages were gauged	- - - - -		674
Bottles gauged	- - - - -		12,375
Premises where violations were found	- - - - -		130
Violations found	- - - - -		169
Type of violations found:			
Unqualified employees	- - - - - 63	Other mercantile business	- - - - - 2
Reg. #38 sign not posted	- - - - - 12	Gambling devices	- - - - - 1
Prohibited signs	- - - - - 5	Disposal permit necessary	- - - - - 1
		Other violations	- - - - - 85
STATE LICENSEES:			
Premises inspected	- - - - -		8
License applications investigated	- - - - -		18
COMPLAINTS:			
Complaints assigned for investigation	- - - - -		517
Investigations completed	- - - - -		472
Investigations pending	- - - - -		161
LABORATORY:			
Analyses made	- - - - -		160
Bottles from unlicensed premises	- - - - -		45
IDENTIFICATION BUREAU:			
Criminal fingerprint identifications made	- - - - -		41
Persons fingerprinted for non-criminal purposes	- - - - -		273
Identification contacts made with other enforcement agencies	- - - - -		186
Motor vehicle identifications via N. J. State Police teletype	- - - - -		4
DISCIPLINARY PROCEEDINGS:			
Cases transmitted to municipalities	- - - - -		21
Violations involved:			
Sale to minors	- - - - - 11	Possessing contraceptives on premises	- - - - - 1
Sale during prohibited hours	- - - - - 8	Permitting hostesses on premises	- - - - - 1
Permitting brawl on premises	- - - - - 1	Failure to afford view into premises	- - - - -
Sale to intoxicated person	- - - - - 1	during prohibited hours	- - - - - 1
		Music on licensed premises (Mun-Reg.)	- - - - - 1
Cases instituted at Division	- - - - -		14
Violations involved:			
Fraud and front	- - - - - 3	Sale to minors	- - - - - 1
Unauthorized transportation	- - - - - 2	Permitting foul language on premises	- - - - - 1
Permitting hostesses on premises	- - - - - 2	Failure to file change in application	- - - - - 1
Hindering investigation	- - - - - 2	Sale below minimum resale price	- - - - - 1
Sale during prohibited hours	- - - - - 2	Sale by a minor	- - - - - 1
Permitting immoral activity on prem.	- - - - - 1	Employing minor to sell al. bevs.	- - - - - 1
Cases brought by municipalities on own initiative and reported to Division	- - - - -		8
Violations involved:			
Sale to minors	- - - - - 5		
Sale during prohibited hours	- - - - - 2		
Permitting brawl on premises	- - - - - 2		
Permitting foul language on premises	- - - - - 1		
HEARINGS HELD AT DIVISION:			
Total number of hearings held	- - - - -		54
Appeals	- - - - - 9	Seizures	- - - - - 8
Disciplinary proceedings	- - - - - 22	Tax revocations	- - - - - 2
Eligibility	- - - - - 11	Applications for license	- - - - - 2
PERMITS ISSUED:			
Total number of permits issued	- - - - -		831
Employment	- - - - - 145	Social affairs	- - - - - 320
Solicitors	- - - - - 94	Special wine	- - - - - 1
Disposal of alcoholic beverages	- - - - - 108	Miscellaneous	- - - - - 163

WILLIAM HOWE DAVIS
DIRECTOR

Dated: April 1, 1954.

7. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AND PERMITTING PERSONS OTHER THAN THE LICENSEE AND EMPLOYEES ON LICENSED PREMISES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against THE GLENWOOD TAVERN, INC. T/a THE GLENWOOD TAVERN 842 West Side Avenue Jersey City 6, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-451, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Michael F. Reilly, Esq., Attorney for Defendant-licensee. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that on Friday, December 11, 1953, it (1) conducted its licensed business between 2:00 a.m. and 2:30 a.m., and (2) suffered and permitted persons other than its actual employees and agents in and upon its licensed premises during said hours; both in violation of the provisions of a local ordinance.

The local ordinance prohibits the conduct of licensed business between 2:00 a.m. and 6:00 a.m. on weekdays, and prohibits persons other than the licensee and his actual employees to be in and upon the licensed premises between said hours.

The file herein discloses that two ABC agents were in defendant's premises on Friday, December 11, 1953, at 2:00 a.m., at which time the outside and window lights were extinguished, but service of alcoholic beverages continued at the bar. Between 2:00 a.m. and 2:30 a.m. drinks of alcoholic beverages were served to and consumed by nine male patrons and the two ABC agents. At approximately 2:30 a.m. the agents identified themselves to Walter Kennedy, a bartender, and to Louis E. Renton, Secretary-Treasurer of defendant corporation, who had also been acting as bartender.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days (which is the minimum period of suspension imposed for a violation of this kind). Re Hrycenko, Bulletin 994, Item 9. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 29th day of March, 1954,

ORDERED that Plenary Retail Consumption License C-451, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to The Glenwood Tavern, Inc., t/a The Glenwood Tavern, for premises 842 West Side Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. April 5, 1954, and terminating at 2:00 a.m. April 15, 1954.

WILLIAM HOWE DAVIS Director.

8. DISCIPLINARY PROCEEDINGS - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
 ANTHONY T. CALISTA POST #5579,)
 INC., V.F.W. OF U. S.,)
 Greenwich Township (Gloucester)
 County))
 P. O. Gibbstown, N. J.,)
 Holder of Club License CB-149,)
 issued by the Director of Alcoholic)
 Beverage Control.)

CONCLUSIONS AND ORDER

 Albert J. Zamal, Esq., Attorney for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that, in violation of R. S. 33:1-35, it failed to facilitate and hindered and delayed an investigation then being conducted by agents of the Division of Alcoholic Beverage Control.

A local regulation of Greenwich Township prohibits the sale, service and delivery of alcoholic beverages between midnight Saturday and 8:00 a.m. Monday.

The file discloses that two ABC agents approached a window on the side of defendant's building at about 12:45 a.m. Sunday, February 21, 1954. Through the window they observed a number of persons seated at the bar and a man behind the bar. At 1:00 a.m. they observed that drinks of some kind were being served to the persons at the bar by the man stationed behind the bar. Further investigation discloses that the door was locked but, when the agents rang the bell, an unidentified man looked out one of the panes of glass and immediately returned to the barroom after the agents had identified themselves to him. After a lapse of fully four minutes the agents were admitted to the barroom, at which time seven men and four women were present but there were no alcoholic beverages or even empty glasses on the bar.

Defendant has no prior adjudicated record. Under the circumstances of this case I shall suspend defendant's license for a period of ten days. Re Sadofsky, Bulletin 909, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 29th day of March, 1954,

ORDERED that Club License CB-149, issued by the Director of Alcoholic Beverage Control to Anthony T. Calista Post #5579 Inc. V.F.W. of U. S., for premises in Greenwich Township (Gloucester County), be and the same is hereby suspended for five (5) days, commencing at 1:00 a.m. April 5, 1954, and terminating at 1:00 a.m. April 10, 1954.

WILLIAM HOWE DAVIS
 Director.

9. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

STEVE KICEY)
T/a STEVE'S TAVERN)
330 St. Pauls Avenue)
Jersey City 6, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-243, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
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Meehan Brothers, Esqs., by John J. Meehan, Esq., Attorneys for Defendant-licensee.

David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to a minor and permitted the consumption of such beverages by said minor in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that a sworn statement was obtained from the minor, who was 19 years of age, in which the minor stated that he had entered defendant's licensed premises at approximately 8:30 p.m. on Sunday, February 7, 1954; that he ordered, was served and drank two glasses of beer; and that he ordered and was sold two containers of beer which he took with him when he left the premises. He also stated that he had consumed beer on previous visits to defendant's licensed premises and that he had verbally misrepresented his age as twenty-one, but that he had not made any written statement with respect to his age and had not exhibited any documentary proof thereof.

The minor's verbal misrepresentation of his age is neither a defense nor an excuse. R. S. 33:1-77; Re Rogers, Inc., Bulletin 1002, Item 5; Re Roey, Bulletin 747, Item 3.

Defendant has a prior record. His license was suspended by the local issuing authority, effective January 19, 1948 for being open during prohibited hours. However, since that violation is dissimilar in nature and is beyond the five-year period, I will not consider it in arriving at the penalty herein. Re Weinstein, Bulletin 1002, Item 13. Under the circumstances I shall suspend defendant's license for ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Carpel, Bulletin 1003, Item 10.

Accordingly, it is, on this 30th day of March, 1954,

ORDERED that Plenary Retail Consumption License C-243, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Steve Kicey, t/a Steve's Tavern, for premises 330 St. Pauls Avenue, Jersey City, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. April 5, 1954, and terminating at 2:00 a.m. April 10, 1954.

WILLIAM HOWE DAVIS
Director.

10. RETAIL LICENSEES - PRACTICES UNDULY DESIGNED TO INCREASE CONSUMPTION - CARD GOOD FOR \$3.00 IN DRINKS DISAPPROVED.

April 1, 1954

Dear Sir:

In your letter of March 27th, you ask whether you may distribute to some of your "personal friends" a card which, among other things, purports to be worth \$3.00 in the purchase of drinks at your tavern.

Such a plan is improper. Plainly stated, it constitutes a scheme which, in the words of the Alcoholic Beverage Law, R. S. 33:1-39, is "unduly designed to increase consumption of alcoholic beverages". On such basis, we have consistently disapproved of any of these schemes whereby a tavernkeeper issues tickets or coupons entitling persons to a credit against drinks. It is similar to other schemes which have likewise been disapproved, such as furnishing free or cheaper drinks during certain hours or on certain days. See Bulletin 732, Item 8, copy enclosed. Drinking at taverns is not to be fostered by any of these methods.

In view of the foregoing, your plan is necessarily disapproved, and you must abstain therefrom.

We are appreciative of your sense of responsibility in first communicating with us about the permissibility of such scheme before trying to put it into practice. If you have any other scheme in mind you should, to be on the safe side, first submit it to us for our clearance.

Very truly yours,
WILLIAM HOWE DAVIS
Director.

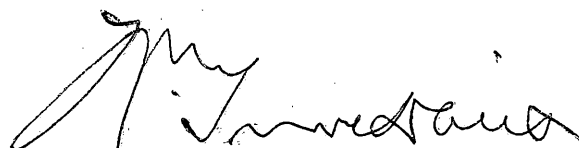
11. STATE LICENSES - NEW APPLICATIONS FILED.

Milton Needle, t/a Egg Harbor Winery Co.
454 Boston Avenue, Egg Harbor City, N. J.
Application filed April 5, 1954 for Plenary Winery License.

Chas. D. Kaier Company
67-79 North Main Street, Mahanoy City, Pennsylvania.
Application filed April 5, 1954 for Limited Wholesale License.

Masters Fast Freight Service Inc.
9 Gypsum Street, South Kearny, N. J.
Application filed April 6, 1954 for Transportation License.

George and Robert Poles, t/a George's Delivery Service
763 Hemlock Road, Union, N. J.
Application filed April 6, 1954 for Transportation License.



William Howe Davis
Director.