

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

BULLETIN 1230

JULY 7, 1958.

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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.

BULLETIN 1230

JULY 7, 1958.

1. APPELLATE DECISIONS - PACILLI v. ORANGE.

FRANCIS O. PACILLI, trading)
as M. Y. O. B. REST.,)

Appellant,)

-vs-)

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE CITY)
OF ORANGE,)

Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

James A. Palmieri, Esq., Attorney for Appellant.
Edmond J. Dwyer, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby on February 13, 1958, it suspended appellant's plenary retail consumption license for ten days after finding him guilty on a charge alleging that he sold, served and delivered alcoholic beverages to a minor in violation of Rule 1 of State Regulation No. 20. Appellant's licensed premises are located at 48-50 North Center Street, Orange.

"Upon the filing of the appeal an order was entered on February 14, 1958, staying the effect of respondent's order until the entry of a further order herein.

"Appellant in his petition of appeal alleges that respondent's action was erroneous in that (1) it was contrary to the weight of the evidence, (2) there was no identification of the person who made the sale, and (3) the evidence adduced at the hearing before respondent Board was wholly inadequate and insufficient in law. Respondent in its answer denies appellant's allegations.

"The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15.

"The testimony adduced at the hearing herein shows that at about 10:30 p.m. Saturday, November 9, 1957, Elliott --- (age 18) and three minor companions drove from Irvington to the vicinity of appellant's licensed premises located on the corner of William and Center Streets, Orange, and parked their car on William Street about fifteen to twenty feet from Center Street. The entrance to appellant's tavern is on Center Street about forty-five feet in from William Street. Elliott, alone, left the parked car and proceeded toward Center Street into which he turned. About fifteen minutes thereafter the three youths in the parked car saw Elliott as he rounded the corner into William Street. He was carrying a cardboard box which they soon discovered contained eight quart-cartons of beer, some of which the group consumed as they travelled to West Orange to attend a dance. A police officer who had observed the cartons in the locked car later apprehended the owner of the car and Elliott and disposed of

the beer. At the hearing Elliott testified that he alone entered appellant's premises and purchased eight quart-cartons of beer which he carried from the premises in a cardboard box. The testimony further shows that later on the evening in question Elliott directed another police officer to appellant's premises and pointed it out as the tavern wherein he had purchased the beer but was unable to identify therein the person who had made the sale. On cross-examination Elliott admitted that he had never been in appellant's premises on any previous occasion.

"Appellant's bartender (who was on duty at the time of the alleged violation) denied making the sale and stated that at no time in his twelve-year career as a bartender had he ever filled a single order for eight cartons of beer. He, the licensee and the licensee's father who was in the tavern at the time alleged testified that they had discontinued the use of cartons as receptacles for beer early in October 1957, and that, when they had used cartons, the price charged for a container of beer was fifty cents and not forty-five cents (the price that Elliott testified he paid for each container).

"The failure of a minor to identify the person who sold him alcoholic beverages is not fatal in disciplinary proceedings provided it be established that the minor purchased alcoholic beverages in the licensed premises (Re Dante, Bulletin 771, Item 9).

"Considering all the evidence herein, I find that the testimony of the minor (uncorroborated as to the purchase by him of alcoholic beverages in and upon appellant's licensed premises) is insufficient to support a finding of appellant's guilt, and I conclude that respondent has failed to establish by a fair preponderance of the evidence the violation charged. I recommend, therefore, that the action of respondent be reversed, and that the charge preferred against appellant be dismissed (Re Doolan et al., Bulletin 1104, Item 5; cf. Re Borstelmann, Bulletin 1127, Item 3; cf. Re Bilansky, Bulletin 1162, Item 7)."

No exceptions to the Hearer's Report were taken within the time limited by Rule 14 of State Regulation No. 15. Having carefully considered all the facts and circumstances herein, I concur in the Hearer's findings and conclusion and adopt his recommendation.

Accordingly, it is, on this 15th day of May, 1958,

ORDERED that the action of respondent be and the same is hereby reversed.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - GAMBLING - LOTTERY - EMPLOYING PERSON WITHOUT PERMIT REQUIRED BY MUNICIPAL REGULATION - FAILURE TO HAVE TRUE COPY OF APPLICATION ON PREMISES - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

MAXWELL TAVERN & GRILL, INC.)
1039 Washington St. running)
through to 61-63 - 11th St.)
Hoboken, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-142, issued by the)
Municipal Board of Alcoholic)
Beverage Control of the City of)
Hoboken.)

-----)
Peter Daghlian, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On March 19 and 20, 1958, you allowed, permitted and suffered gambling, viz., making and accepting of bets in a lottery commonly known as the 'numbers game' in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.

"2. On March 19 and 20, 1958, you allowed, permitted and suffered tickets and participation rights in a lottery, commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20.

"3. On March 20, 1958, you permitted persons to work in your licensed premises without their first having complied with Article VI of an Ordinance adopted by the Mayor and Council of the City of Hoboken on December 7, 1955, thereby yourself violating said Article VI of the aforementioned Ordinance.

"4. On March 20, 1958, you conducted your licensed business without having a photostatic or other true copy of your application for your current license on the licensed premises available for inspection; in violation of Rule 16(b) of State Regulation No. 20."

The file herein discloses that at about 10:45 p.m., Wednesday, March 19, 1958, ABC agents visited defendant's licensed premises and remained therein until 12:45 a.m. the following morning. During their stay they observed "Charlie", the bartender therein, take "numbers" bets from two patrons and later they, themselves, placed a similar bet with him. The agents again visited defendant's licensed premises at noon the following day and each placed a "numbers" bet with "Charlie", who made notations on a paper napkin, accepted marked dollar bills in payment and went into the kitchen. As pre-arranged, two local detectives and a third agent entered the premises and all five proceeded into the kitchen where, at the request of the police, the bartender, who then identified himself as

Charles Stair, emptied his pockets which contained \$7.25 in change, \$60.00 in bills including the agents' marked currency and half a menu card on which was listed 36 "numbers" plays totalling \$27.40. The napkin on which Stair had written the numbers played by the agents was located in a trash can. Further investigation by the agents disclosed that there was no photostatic or other true copy of the license application on the premises and that neither Stair nor a second bartender named Slavko Brajac, could produce work permits as required by a local ordinance. Among those present in the licensed premises during the agents' stay on their second visit were Ambrose Chius (president of defendant corporate-licensee herein) and his wife.

Defendant contends in mitigation of the penalty that Ambrose Chius had no knowledge of any gambling activity on the licensed premises and that the reason he could not produce the license was because it had fallen behind a partition. With respect to the first claim, Rule 33 of State Regulation No. 20 makes a licensee strictly responsible for any violation occurring on his licensed premises even though the licensee had no knowledge of it. Essex Holding Corp. v. Hock, 136 N. J. L. 28. As to the second claim, that which the agents sought and failed to find was the photostatic or other true copy of the license application which must, at all times, be available for agents' inspection.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of twenty-five days on Charges 1 and 2 (Re Aroniss, Bulletin 1200, Item 8) and fifteen days on Charges 3 and 4 (Re Kalasarines & Vlismas, Bulletin 1211, Item 3), making a total suspension of forty days. Five days will be remitted for the plea herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 30th day of April, 1958,

ORDERED that Plenary Retail Consumption License C-142, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Maxwell Tavern & Grill, Inc., for premises 1039 Washington St. running through to 61-63 - 11th St., Hoboken, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. May 7, 1958, and terminating at 2:00 a.m. June 11, 1958.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBERS - GAMBLING - FAILURE TO HAVE TRUE COPY OF LICENSE APPLICATION ON PREMISES - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against LYONS-SCHEPSCO POST NO. 1451, VETERANS OF FOREIGN WARS 31 Reid Street South River, N. J., Holder of Club License CB-227, issued by the Director of the Division of Alcoholic Beverage Control.

CONCLUSIONS AND ORDER

Defendant-licensee, by John Hrabovski, Post Commander. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendant pleaded guilty to the following charges:

"1. On April 11, 1958, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to persons not bona fide members of your club or bona fide guests of any such member; in violation of Rule 8 of State Regulation No. 7.

"2. On April 11, 1958, you allowed, permitted and suffered gambling, viz., the playing of card games for stakes of money, in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.

"3. On April 11, 1958, you conducted your licensed business without having a photostatic or other true copy of your application for your current license on the licensed premises available for inspection; in violation of Rule 16(b) of State Regulation No. 20."

The file herein discloses that on Friday, April 11, 1958, at about 10:45 p.m., two ABC agents entered the defendant's licensed premises wherein they purchased and consumed a portion of two bottles of beer served to them by John V. Kuchtyak (the bartender). Kuchtyak did not inquire of the agents (non-members) if they were members or bona fide guests of members of said club. While consuming said beer the agents saw five men playing seven-card poker (25 and 50 cents a card) in an adjoining room. The agents, after observing the progress of the game for a few minutes, walked into the adjoining room, identified themselves to the players and the bartender who was watching the game. The local police were called for assistance and, upon their arrival, it was determined that there was \$72.00 on the table, including \$11.50 in the "pot." An inspection of the premises failed to disclose that a photostatic or other true copy of the licensee's application for its current license was available for inspection.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days on Charge 1 (Re Eighth Ward Progressive Republican Club, Bulletin 1210, Item 3), to which will be added ten days on Charge 2 (Re Ukrainian American Citizens Club, Bulletin 1168, Item 7) and ten days on Charge 3 (cf. Re Kalasarines & Vlismas, Bulletin 1211, Item 3), making a total suspension of thirty-five days. Five days

will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 15th day of May, 1958,

ORDERED that Club License CB-227, issued by the Director of the Division of Alcoholic Beverage Control to Lyons-Schepsco Post No. 1451, Veterans of Foreign Wars, for premises 31 Reid Street, South River, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. June 2, 1958; and it is further

ORDERED that any renewal of said license for the 1958-59 licensing year shall be and remain under suspension until 2:00 a.m. July 2, 1958.

WILLIAM HOWE DAVIS
Director.

- 4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - CONDUCTING BUSINESS AND ADMITTING PERSONS OTHER THAN LICENSEE AND EMPLOYEES ON PREMISES IN VIOLATION OF LOCAL REGULATION - EMPLOYING PERSON NOT HAVING REQUIRED MUNICIPAL PERMIT - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

PETER RESTIVO)
t/a PETE'S TAVERN)
119 Brunswick Street)
Jersey City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-372, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

-----)
Samuel M. Cole, Esq., Attorney 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, April 13, 1958, at about 1:25 p.m., you sold and delivered and allowed, permitted and suffered the sale and delivery of an alcoholic beverage, viz., a pint bottle of Seagram's Seven Crown Blended Whiskey, at retail, in its original container for consumption off your licensed premises and allowed, permitted and suffered the removal of said alcoholic beverage in its original container from your licensed premises; in violation of Rule 1 of State Regulation No. 38.

"2. On Sunday, April 20, 1958, between 12:03 p.m. and 12:12 p.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.

"3. On Sunday, April 20, 1958, between 12:03 p.m. and 12:12 p.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.

"4. On April 13 and 14, 1958, and on divers other days, you engaged and employed on your licensed premises in connection with your licensed business as a bartender a person known as Carlo Liscastro who had not been issued an identification card by the Department of Public Safety of the City of Jersey City in conformity with Sections 13 and 14 of Ordinance K-1299 adopted by the Board of Commissioners of the City of Jersey City on June 20, 1950; in violation of Section 15 of said Ordinance."

The file herein discloses that on Sunday, April 13, 1958, at about 1:03 p.m., an ABC agent entered the licensed premises when its front door was opened for business. Upon entering the premises the agent observed four men (one carrying an apparent highball) coming into the barroom through a rear door which leads to a boarded-up store (a part of the licensed premises). Shortly thereafter the agent saw Carlo Liscastro (the bartender) give what appeared to be a pint bottle of whiskey to one of these men who placed the same in a paper bag and departed from the premises. At about 1:20 p.m. a second agent entered the premises and took a seat at the bar. At about 1:25 p.m. the former agent asked the bartender for a pint bottle of Seagram's Seven Crown Blended Whiskey "to go." The bartender thereupon placed a pint bottle of the requested brand of whiskey in a brown paper bag, gave the same to the agent and accepted payment thereof. At about 1:30 p.m. the agents (one of them in possession of the alcoholic beverage) left the premises without making their identities known.

The file further discloses that on Sunday, April 20, 1958, at about 11:15 a.m., the agents returned to the vicinity of the licensed premises and kept the same under surveillance. At about 11:30 a.m. the agents observed Peter Restivo (the licensee) unlock the front door of the aforementioned boarded-up store and enter the same. At about 12:03 p.m., after two males were seen entering the store, one of the agents gained admission to the same and saw five males (including the licensee) seated at a table upon which there were two bottles of whiskey.

Drinks were being served to this group by aforesaid Carlo Liscastro who also served the agent with a drink of Scotch whisky and accepted fifty cents in payment thereof.

At about 12:12 p.m. the second agent, by a prior arrangement, knocked on the door of the store and was admitted to the same by his companion over the objection of one of the patrons. Both agents identified themselves and informed the licensee and Liscastro of the aforesaid violations.

The local regulations prohibit the conduct of the business between 2:00 a.m. and 1:00 p.m. on Sunday, and prohibit persons other than the licensee, his actual employees and agents to be in and upon the licensed premises between such hours.

The investigation of the case also discloses that the licensee permitted the aforesaid bartender (Carlo Liscastro),

who had not been issued an identification card by the Department of Public Safety of Jersey City, to act as bartender on the licensed premises.

By way of mitigation, the attorney for the licensee submitted a statement which I have carefully examined, together with the file and the reports of the agents. The attorney alleges that defendant has made arrangements to lease the boarded-up store to a club and intends to apply to exclude the store from his licensed premises. However, I do not see how these facts excuse the violations set forth in Charges 1, 2 and 3.

The defendant has a prior adjudicated record. Effective June 22, 1952, when he held a license at 351 Third Street, Jersey City, the local issuing authority suspended his license for five days for sale during prohibited hours. Under the circumstances of this case I shall suspend defendant's license for thirty days on all charges. If separate penalties were imposed on each charge, a longer suspension would have been warranted but I am taking into consideration the fact that the agents did not identify themselves after they discovered the violations committed on April 13. Because the prior similar violation to Charge 2 herein occurred within a ten-year period, an additional five days will be added, making a total suspension of thirty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 27th day of May, 1958,

ORDERED that Plenary Retail Consumption License C-372, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Peter Restivo, t/a Pete's Tavern, for premises 119 Brunswick Street, Jersey City, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. June 2, 1958; and it is further

ORDERED that any renewal or transfer of such license shall be and remain under suspension until 2:00 a.m. July 2, 1958.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of the Seizure on)
February 26, 1958 of a quantity)
of alcohol and a Chevrolet sedan)
on the Pulaski Skyway, in the City)
of Jersey City, County of Hudson)
and State of New Jersey.)

Case No. 9661

ON HEARING
CONCLUSIONS AND ORDER

-----)
Chivian & Chivian, Esqs., by Louis Chivian, Esq., Attorneys
for General Motors Acceptance Corporation.
I. Edward Amada, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether a quantity of alcoholic beverages and a

Chevrolet sedan, described in a schedule attached hereto, seized on February 26, 1958 on the Pulaski Skyway, Jersey City, 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 General Motors Acceptance Corporation, which sought recognition of its alleged lien on the motor vehicle. Ernest Hampton, the owner of the motor vehicle, did not appear and no one opposed forfeiture of the alcoholic beverages.

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

Local police officers halted the Chevrolet sedan on the above date and location during their routine patrol of traffic on the highway. The officers ascertained that the motor vehicle was being operated by Ernest Hampton, the registered owner of such vehicle. When the officers discovered 38 half-gallon jars of alcohol, without a stamp on any of the jars indicating the payment of tax on alcoholic beverages, in the trunk of the car, they placed Hampton under arrest, and seized the alcohol and motor vehicle. Later such alcohol and motor vehicle were turned over to ABC agents.

The contents of one of the jars were analyzed by the Division chemist, who reports that it is alcohol and water, fit for beverage purposes, with an alcoholic content by volume of 45.2 per cent.

Ernest Hampton gave the officers a signed statement wherein it appears that by prearrangement he met a resident of Virginia on a highway in Delaware, there purchased the alcohol, transferred such alcohol from another motor vehicle to the Chevrolet sedan, and was transporting the alcohol to his home.

The alcohol is illicit because of the absence of a tax stamp on any of the jars (R. S. 33:1-1(1), R.S. 33:1-88) aside from the fact that the manner of its purchase plainly demonstrates that it was bootleg liquor. Such illicit alcohol, and the motor vehicle in which it was transported and found, constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

General Motors Acceptance Corporation presented in evidence a conditional sales contract dated November 8, 1957 signed by Ernest Hampton, assigned to the finance company, and representing the sale to Hampton of the Chevrolet sedan in question, with an unpaid balance due therein after rebate for prepayment of \$2432.21.

Before accepting the contract and extending credit to Ernest Hampton the bank received information that he was employed by a construction company as a laborer and truck driver, with earnings of \$450.00 a month, was 35 years of age, single and resided at a Bridgeport, Connecticut address for a year and a half, and was furnished with the name of his previous employer and the name of a business reference. This information was checked by the personnel of the finance company and found to be accurate, and no derogatory information was developed. It appears that Ernest Hampton has no previous criminal record.

I am satisfied that the finance company made a reasonable independent investigation of Ernest Hampton's background and source of income, acted in good faith and did not know or have any reason to suspect that the Chevrolet sedan would be used to transport illicit alcoholic beverages. Consequently I shall recognize the lien of the finance company to the extent of \$2432.21.

It appears that the amount of the lien and the costs of seizure and storage of the motor vehicle exceed the appraised value of such vehicle. The motor vehicle will therefore be turned over to the finance company upon payment of the costs of its seizure and storage.

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

DETERMINED and ORDERED that the alcoholic beverages listed in the aforesaid Schedule "A" constitute unlawful property and the same be and hereby are forfeited in accordance with the provisions of R. S. 33:1-66 and that they be retained for 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: May 5, 1958.

SCHEDULE "A"

- 38 - half-gallon jars of alcohol
- 1 - Chevrolet sedan, Serial and Engine No. VC57T293507, Connecticut Registration HH583.

6. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF UNREGISTERED STILL PARTS AND OTHER PERSONAL PROPERTY - STILL PARTS AND OTHER PERSONAL PROPERTY ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO INNOCENT OWNER.

In the Matter of the Seizure on February 1, 1958, of distilling apparatus, 7 empty five-gallon cans, miscellaneous personal property, and a Pontiac sedan on the southbound lane of the New Jersey Turnpike, in the Township of East Brunswick, County of Middlesex and State of New Jersey.

Case No. 9647
ON HEARING
CONCLUSIONS AND ORDER

Emanuel Kaplan, Esq., Attorney for Willie Freeman.
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 R. S. 33:1-66 and R.S. 33:2-4 to determine whether a distilling apparatus, a number of empty five-gallon cans, miscellaneous personal property and a Pontiac sedan, described in a schedule attached hereto, seized on February 1, 1958 on the

southbound lane of the New Jersey Turnpike, in East Brunswick, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing Willie Freeman, the registered owner of the motor vehicle, appeared and sought its return. No one opposed forfeiture of the balance of the seized property.

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

A New Jersey State Trooper halted the Pontiac sedan at about 2:50 a.m. on the above date and location during his routine patrol of traffic on the highway. The trooper ascertained that the motor vehicle was being operated by Henry Lovely, Jr., who was accompanied by James C. Smith. When the trooper discovered that the distilling apparatus was being transported in the motor vehicle, he placed both men under arrest, and took the motor vehicle and its cargo into custody. Such motor vehicle and the articles being transported therein were later turned over to ABC agents.

Lovely and Smith claimed that they did not know that they were transporting distilling apparatus. Lovely said that he borrowed the car from his friend Willie Freeman, who did not know that distilling apparatus was to be transported therein; that such articles were placed in the vehicle, at the direction of a person named King, who arranged with Lovely to meet him on the highway near Williamstown, New Jersey.

The distilling apparatus was not registered with the Director of the Division of Alcoholic Beverage Control as required by R. S. 33:2-1. The five-gallon cans were of the type usually used to transport illicit alcoholic beverages. The unregistered distilling apparatus constitutes unlawful property (R. S. 33:2-2) and the five-gallon cans intended for the transportation of illicit alcoholic beverages likewise constitute unlawful property (R. S. 33:1-1(y)), and all of such articles, together with the motor vehicle in which they were transported and found, are subject to forfeiture. R. S. 33:1-66, R. S. 33:2-5.

Willie Freeman testified as follows: He is 28 years of age, unmarried, resides with his sister, has been steadily employed for over five years by an industrial concern, and has been a friend of Lovely's and his family for many years. He loaned his car to Lovely on various occasions. Lovely, to his knowledge, was employed as a longshoreman. On January 31st, at Lovely's request, on his statement that he intended to take his girl for a ride, Freeman loaned the car to Lovely, and he had no reason to suspect that the car would be used to transport still parts.

Lovely testified that he is twenty years of age, single, resides with his mother, is employed as a longshoreman, has never previously been arrested, has long been friendly with Freeman, borrowed his car on occasion, and on the afternoon of January 31st asked Freeman for the loan of the car to keep a date with his girl that night. That night, apparently having instead arranged to transport the still, he drove to his girl's house, and cancelled his date.

I am satisfied from the evidence presented that Willie Freeman acted in good faith and did not know or have any reason to suspect that his motor vehicle would be used to transport an unregistered still or parts thereof. The Pontiac sedan will be returned to him upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 19th day of May, 1958, Willie Freeman pays the costs of the seizure and storage of his Pontiac sedan, it will be returned to him; and it is further

DETERMINED and ORDERED that the balance of 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 R. S. 33:2-5, and shall be sold at public sale for the use of the State in accordance with State Regulation No. 29 or 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: May 7, 1958

SCHEDULE "A"

- 1 - distilling apparatus
- 7 - empty five-gallon cans
Miscellaneous personal property and clothing
- 1 - Pontiac sedan, Serial and Engine
No. L8XH29975, N. Y. Registration
9-K-4878.

7. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATES FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON RESUMPTION OF BUSINESS.

In the Matter of Disciplinary Proceedings against)
 SUN TAN RECREATION PARK, INC.)
 T/a SUN TAN RECREATION PARK, INC.)
 Route #23)
 Riverdale, N. J.,)
 Holder of Plenary Retail Consumption License C-7, issued by the Borough Council of the Borough of Riverdale.)
 -----)

ORDER

BY THE DIRECTOR:

By order dated February 19, 1958, I suspended defendant's license for forty days. Because defendant's premises were then closed, the order provided that the effective dates for said suspension would be fixed by a subsequent order after the licensed premises reopened for the 1958 season. See Bulletin 1216, Item 4.

It now appearing to my satisfaction that defendant's premises have been reopened for the 1958 season,

It is, on this 12th day of May, 1958,

ORDERED that the forty-day suspension heretofore imposed shall commence at 2:00 a.m. May 22, 1958, and terminate at the expiration of the license at midnight June 30, 1958.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

TOP HAT BAR, INC.)
363 W. Market Street)
Newark 7, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-736, issued by the)
Municipal Board of Alcoholic Beverage Control of the City of)
Newark.)
-----)

Robert W. Wolfe, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages, directly or indirectly, to two minors and permitted the consumption of such beverages by said minors in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that at 12:25 a.m., Thursday, March 27, 1958, an ABC agent who was investigating defendant's licensed premises observed an adult male order and receive from the bartender three bottles of beer, two of which he carried to a table whereat two apparent minors were seated and placed a bottle in front of each. When the agent saw the apparent minors consume some of the beer, he contacted a fellow agent who had been stationed outside and both proceeded to the table, identified themselves and seized the remaining portion of the drinks. The apparent minors gave the agents signed, sworn statements wherein they identified themselves as Francis E. --- and Frances E. ---, both stating they were 20 years of age. The bartender verbally admitted his participation in the violation but refused to give a signed statement.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of ten days. Re Kownacke, Bulletin 1210, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 30th day of April, 1958,

ORDERED that Plenary Retail Consumption License C-736, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Top Hat Bar, Inc., for premises 363 W. Market Street, Newark, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. May 12, 1958, and terminating at 2:00 a.m. May 17, 1958.

WILLIAM HOWE DAVIS
Director.

9. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAP - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

DEWEY J. LEO & THOMAS LEPROTTO)
T/a PATERSON RECREATION BOWLING)
CENTER)

844-852 East 25th Street)
Paterson 3, N. J.,)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption)
License C-311, issued by the Board of)
Alcoholic Beverage Control for the)
City of Paterson.)

Robert I. Goodman, Esq., Attorney for Defendant-licensees.
William F. Wood, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they allowed, permitted and suffered mislabeled beer taps on their licensed premises, in violation of Rule 26 of State Regulation No. 20.

The file herein discloses that on October 30, 1957, during the course of a retail inspection of defendants' licensed premises, an ABC agent found a barrel containing Piel's beer connected to a tap bearing the brand name "Krueger" and a barrel of Krueger's beer connected to a tap without a marker.

Defendants have no prior adjudicated record. I shall suspend their license for a period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days (Re Dunkirk, Bulletin 1197, Item 6).

Accordingly, it is, on this 7th day of May, 1958,

ORDERED that Plenary Retail Consumption License C-311, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Dewey J. Leo & Thomas Leprotto, t/a Paterson Recreation Bowling Center, for premises 844-852 East 25th Street, Paterson, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. May 23, 1958, and terminating at 3:00 a.m. May 28, 1958.

WILLIAM HOWE DAVIS
Director.

NOTE: By order dated May 12, 1958, the effective dates for above suspension were advanced to commence at 3:00 a.m. May 19, 1958 and to terminate at 3:00 a.m. May 24, 1958.

10. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED
IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED
FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

STEVE and ANNA SCHWARTZ)
T/a STEVE'S INN)
Baptistown, Kingwood Township)
PO Box 122, Flemington RFD, N.J.,)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption)
License C-1, issued by the Township)
Committee of Kingwood Township.)

Herbert T. Heisel, Jr., Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for the Division of
Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they sold alcoholic beverages at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulation No. 30.

The file herein discloses that on Sunday, March 30, 1958, an ABC agent at defendants' licensed premises discussed the price of a case of Seagram's or Schenley whiskey with Steve Schwartz, one of the licensees, who stated that he would give the agent a "good price". The agent told Schwartz that he would return either Tuesday or Wednesday. On April 2, 1958 the agent returned and reminded Schwartz of his previous conversation on Sunday. Schwartz asked if a case of six bottles of Seagram's and six bottles of Schenley would be satisfactory. Receiving an affirmative reply, Schwartz brought a case containing six 4/5 quart bottles of Schenley Reserve Blended Whiskey and six 4/5 quart bottles of Seagram's Seven Crown Blended Whiskey. Schwartz stated that the price of the case of whiskey was \$49.00 and he accepted payment from the agent of that amount. The then currently effective price for the twelve bottles of whiskey was \$57.48. After the sale was consummated the agent, and another agent who witnessed the transaction, identified themselves to Schwartz who admitted such illegal sale.

Defendants have no prior adjudicated record within the past ten years. I have read the statement of alleged mitigating circumstances which accompanied the plea entered in the case and find nothing therein to warrant the imposition of less than the usual penalty for a violation of this nature. It may be well to point out that, contrary to the concept of the licensees, their restaurant facilities, aside from any alcoholic beverage activities, need not be discontinued during the period of the suspension of the license. I shall suspend the defendants' license for the minimum period of ten days. Re Kugel & Glick, Bulletin 1214, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 5th day of May, 1958,

ORDERED that Plenary Retail Consumption License C-1, issued by the Township Committee of Kingwood Township to Steve and Anna Schwartz, t/a Steve's Inn, for premises located in Baptistown, Kingwood Township, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. May 12, 1958, and terminating at 2:00 a.m. May 17, 1958.

WILLIAM HOWE DAVIS
Director.

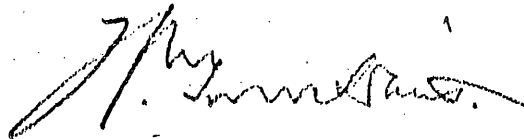
11. STATE LICENSES - NEW APPLICATIONS FILED.

Park Beverages, A Corporation
t/a Park Beverages
165 Central Avenue
Rochelle Park, N. J.

Application filed July 1, 1958 for Limited Wholesale License.

Glenmore Distilleries Company
660 South Fourth Street
Louisville, Kentucky.

Application filed July 3, 1958 for Warehouse Receipts License.



William Howe Davis
Director.