

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

October 16, 1961

BULLETIN 1415

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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.

October 16, 1961

BULLETIN 1415

DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED
FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN AND CLAIRE GARCIA)
t/a GARCIA'S HILLTOP BAR & GRILL)
Center Street)
Hopatcong Borough)
PO Box 77, Stanhope, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Borough Council of the Borough of Hopatcong.)

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 sold and served alcoholic beverages to minors and permitted the consumption of alcoholic beverages by said minors in and upon the licensed premises, in violation of Rule 1 of State Regulation No. 20.

Acting on information transmitted to the Division by the Mount Olive Police Department, ABC agents, on June 30, 1961, obtained signed, sworn statements from Anthony --- (age 18) and Horace --- (age 19) wherein they alleged that, while in defendants' licensed premises, Claire Garcia sold each two glasses of beer and they purchased eight quart-containers of beer for off-premises consumption, and neither was questioned as to his age.

Defendants have no prior adjudicated record. The minimum penalty for an unaggravated sale of alcoholic beverages where an 18-year-old minor is involved is fifteen days. Re Jack Kennedy's, Inc., Bulletin 1322, Item 7. However, considering the quantity of alcoholic beverages sold to the minors, I shall suspend defendants' license for twenty days. Re Burstein, Bulletin 1244, Item 12. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 28th day of August 1961,

ORDERED that Plenary Retail Consumption License C-11, issued by the Borough Council of the Borough of Hopatcong to John and Claire Garcia, t/a Garcia's Hilltop Bar & Grill, for premises on Center Street, Hopatcong Borough, be and the same is hereby suspended for fifteen (15) days, commencing at 3 a.m. Tuesday, September 5, 1961, and terminating at 3 a.m. Wednesday, September 20, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 PAUL P. AMADEO
 t/a RENDEZ-VOUS
 137-139 S. New York Ave.
 Atlantic City, N. J.
 Holder of Plenary Retail Consumption License C-186, issued by the Board of Commissioners of the City of Atlantic City.

CONCLUSIONS AND ORDER

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On Saturday, July 22, 1961, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Russell ---, age 18, Adrian ---, age 18 and Joseph ---, age 18, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

On Saturday, July 22, 1961, between 10:30 and 10:55 p.m., two ABC agents at the defendant's licensed premises observed Jerome Collins (a bartender) serve two bottles of beer and a shot of whiskey to Russell --- (age 18); two mixed drinks to Adrian --- (age 18) and two mixed drinks to Joseph --- (age 18) without requiring them to make any written representation of their ages. At about 11 p.m., after observing the minors consume a portion of their second round of drinks, the agents identified themselves to the minors and Collins who verbally admitted aforesaid violation.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days, the minimum penalty for a violation such as charged herein. Re Swayze, Bulletin 1197, Item 11; Re White Top Inn, Inc., Bulletin 1312, Item 10. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 29th day of August 1961,

ORDERED that Plenary Retail Consumption License C-186, issued by the Board of Commissioners of the City of Atlantic City to Paul P. Amadeo, t/a Rendez-vous, for premises 137-139 S. New York Ave., Atlantic City, be and the same is hereby suspended for fifteen (15) days, commencing at 7 a.m. Tuesday, September 5, 1961, and terminating at 7 a.m. Wednesday, September 20, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ANTHONY MOLLUSO)
t/a TONY'S TAVERN)
342 Montgomery Street)
Jersey City, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-128, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

Defendant-licensee, Pro se.
Dora P. Rothschild, Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that he sold during prohibited hours alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

On Friday, August 4, 1961, at approximately 11 p.m., ABC agents observed several persons separately leave the side doorway of defendant's licensed premises, each carrying a brown paper bag which appeared to contain cans of beer. At about 11:50 p.m. an ABC agent entered the premises and purchased six cans of Rheingold beer for \$1.20 from Willie Hall (the bartender). The agent emerged from the same side door at 11:55 p.m. with the beer and joined his fellow-agent who had remained outside the premises. The agents immediately entered the premises and identified themselves to the bartender who orally admitted the sale.

Defendant has no prior adjudicated record. I shall suspend the defendant's license for the minimum period of fifteen days. Re Steinhauser's Bar, Inc., Bulletin 1366, Item 4. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 6th day of September 1961,

ORDERED that Plenary Retail Consumption License C-128, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Anthony Molluso, t/a Tony's Tavern, for premises 342 Montgomery Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, September 18, 1961, and terminating at 2 a.m. Thursday, September 28, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1960 TO JUNE 30, 1961 AS REPORTED TO THE DIRECTOR
OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33: 1-19

C L A S S I F I C A T I O N O F L I C E N S E S

County	Plenary Retail Consumption		Plenary Retail Distribution		Club No. Issued	Fees Paid	Limited Retail Distribution		Seasonal Retail Consumption		Number Surren- dered Expired	Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid			No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	486	\$ 208,160.00	72	\$ 27,625.00	28	\$ 2,595.00						586	\$ 238,380.00
Bergen	812	308,002.67	301	88,457.00	127	11,605.75	52	\$ 2,451.50	10	\$ 2,797.50	5	1297	413,314.42
Burlington	191	83,448.33	42	13,103.34	47	6,650.00	1	50.00				281	103,251.67
Camden	454	222,130.55	82	35,165.00	81	7,744.66			2	750.00	2	617	265,790.21
Cape May	137	77,200.00	12	4,500.00	18	2,150.00					1	166	83,850.00
Cumberland	79	40,250.00	15	4,200.00	30	4,060.00						124	48,510.00
Essex	1342	760,710.00	350	210,212.00	107	14,683.49	28	1,400.00	3	2,250.00	3	1827	989,255.49
Gloucester	108	38,650.00	15	3,820.00	23	2,027.26						146	44,497.26
Hudson	1524	689,724.00	298	122,400.00	84	10,051.64	63	2,700.00			3	1966	824,875.64
Hunterdon	79	28,100.00	11	3,810.00	10	1,100.00						100	33,010.00
Mercer	421	261,210.00	51	22,020.00	58	8,288.22			1	123.93	1	530	291,642.15
Middlesex	631	312,605.00	80	26,045.00	108	9,287.12	4	200.00				823	348,137.12
Monmouth	559	290,566.70	122	42,970.00	50	5,400.97	10	435.00	50	23,609.65	27	764	362,982.32
Morris	355	137,215.00	103	35,935.68	60	5,341.79	16	800.00	8	2,400.00	4	538	181,692.47
Ocean	194	106,488.89	49	20,243.38	32	3,625.07					1	274	130,357.34
Passaic	863	354,787.33	168	51,535.28	41	5,115.00	6	300.00			2	1076	411,737.61
Salem	50	19,400.00	8	1,600.00	20	1,675.00					1	77	22,675.00
Somerset	188	85,565.00	41	12,695.00	31	3,526.25						260	101,786.25
Sussex	165	45,205.00	21	4,185.00	11	619.79	1	50.00	2	450.00	1	199	50,509.79
Union	550	312,340.00	144	67,320.00	77	8,645.52	29	1,425.00				800	389,730.52
Warren	149	44,311.70	21	5,270.00	27	3,025.00			4	712.74	2	199	53,319.44
Total	9337	\$4,426,070.17	2006	\$803,111.68	1070	\$117,217.53	210	\$9,811.50	80	\$33,093.82	53	12650	\$5,389,304.70

William Howe Davis
Director

September 20, 1961

5. DISCIPLINARY PROCEEDINGS - FALSE STATEMENT IN APPLICATION (AS TO CONVICTION OF CRIME NOT INVOLVING MORAL TURPITUDE) - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against BEEF & BIRD, INC. t/a BLACK ORCHID LOUNGE 2415 Pacific Avenue Atlantic City, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-129 (for the 1960-61 licensing year) and C-146 (for the 1961-62 licensing year), issued by the Board of Commissioners of the City of Atlantic City.

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"In your application filed with the Board of Commissioners of the City of Atlantic City on March 15, 1961 and upon which you obtained your current plenary retail consumption license for premises 2415 Pacific Avenue, Atlantic City, N.J. by transfer from 2443-2445 Boardwalk, Atlantic City, N.J., you falsely stated 'No' in answer to Question No. 33 which asks: 'Have you or has any person mentioned in this application, ever been convicted of any crime?', and you also falsely stated 'No' in answer to Question No. 35 which asks: 'Have you or has any person mentioned in this application, ever been convicted of a violation of a Federal or State Law concerning the manufacture, sale, possession, distribution or transportation of alcoholic beverages?', whereas in truth and fact Anthony Tumolo and Joseph Tumolo listed in such application as officers, directors and stockholders of your corporation had each been convicted of crime, including a conviction by said Joseph Tumolo concerning alcoholic beverages, such false statements being in violation of R.S. 33:1-25."

The basis of the charge preferred herein are sufficiently set forth in the charge to obviate the necessity of further repetition.

The investigation of this case discloses that the crimes of which the aforesaid Anthony Tumolo and Joseph Tumolo were convicted, in my opinion, do not involve the element of moral turpitude. Nevertheless, the crimes should have been disclosed in the application in question and failure to do so constitutes a violation of R.S. 33:1-25.

By way of mitigation, the attorney for the defendant has submitted a statement which I have carefully considered, together with the file in the case.

Defendant has no prior adjudicated record. Under all the circumstances of this case, I shall impose the minimum penalty and suspend the defendant's license for fifteen days. Re 279-10 Inc., Bulletin 1132, Item 3; Re 131 West Street Corp., Bulletin 1413, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 30th day of August, 1961,

ORDERED that Plenary Retail Consumption License C-146, issued by the Board of Commissioners of the City of Atlantic City to Beef & Bird, Inc., t/a Black Orchid Lounge, for premises 2415 Pacific Avenue, Atlantic City, be and the same is hereby suspended for ten (10) days, commencing at 7:00 a.m., Monday, September 11, 1961, and terminating at 7: a.m., Thursday, September 21, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

HYMAN STRAUS)
110 Morris Street)
Jersey City, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-15, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

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 during prohibited hours he sold, served and delivered alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

At 10:20 p.m., Friday, July 21, 1961, an ABC agent entered defendant's combination delicatessen and liquor store wherein Hyman Straus, the licensee, was waiting on customers. At 10:32 p.m., the agent ordered six cans of beer and a pack of potato chips. Straus put the merchandise in a paper bag and handed it to the agent, who, after paying \$1.20, carried it off the premises. Contacting a fellow-agent who had remained outside, he showed him his purchase and both entered the premises and identified themselves to the licensee who verbally admitted the after-hours sale.

Defendant has a prior adjudicated record. Effective April 26, 1948, his license was suspended for five days by the local issuing authority for an "hours" violation and effective February 8, 1956, his license was suspended for twenty days by the same authority for sale to minors. Since the prior similar violation occurred more than ten years ago and the prior dissimilar violation occurred more than five years ago, they will not be considered in fixing the penalty herein. I shall suspend defendant's license for fifteen days, the minimum penalty imposed for the violation charged herein. Re Royal Room, Inc., Bulletin 1388, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 31st day of August 1961,

ORDERED that Plenary Retail Distribution License D-15, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Hyman Straus, for premises 110 Morris Street,

Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 9:00 a.m., Monday, September 11, 1961 and terminating at 9:00 a.m., Thursday, September 21, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

7. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - CLAIM OF ALLEGED EQUITABLE INTEREST IN MOTOR VEHICLE REJECTED FOR CARELESS INDIFFERENCE TO ITS USE BY ANOTHER - MOTOR VEHICLE AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure)	Case No. 10,588
on May 30, 1961 of a quantity)	
of alcohol and a Pontiac sedan)	ON HEARING
at 105 Middlesex Road, in the)	CONCLUSIONS
Borough of Matawan, County of)	AND ORDER
Monmouth and State of New Jersey.)	

Harlowe Jones, by Mrs. Lester D. Jones, Pro se.
I. Edward Amada, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This matter came on for hearing, pursuant to R.S. 33:1-66, to determine whether 13 - one-half gallon 'Mason' jars of alcohol and a Pontiac sedan, described in a schedule, attached hereto and made part hereof, seized on May 30, 1961, at 105 Middlesex Road, Matawan, New Jersey, constitute unlawful property and should be forfeited.

"Mrs. Lester D. Jones, the wife of Harlowe Jones, the registered owner of the car, appeared at the hearing, asserted an equitable interest in the motor vehicle, and sought its return. Harlowe Jones did not appear, and no one appeared to oppose forfeiture of the alcohol.

"Reports of ABC agents and other documents in the file presented in evidence with the consent of Mrs. Lester D. Jones disclosed the following facts: on Tuesday, May 30, 1961 at about 8:20 p.m. a local police officer was summoned to premises at 105 Middlesex Road, Matawan. When he arrived he observed Harlowe Jones and another male in an argument in front of the premises. This male, later identified as Leo ---, age 17, had been employed by Harlowe Jones in delivering certain jars of corn liquor to places in Linden, Elizabeth, Roselle and Newark. The police officer then examined a motor vehicle registered in the name of Jones and parked in front of the aforesaid premises, and found in the trunk of this Pontiac sedan 13 one-half gallon 'Mason' jars of corn liquor. When he ascertained that none of these jars contained a stamp evidencing payment of tax on alcoholic beverages, he forthwith took custody of the alcohol and motor vehicle, and arrested Jones.

"Jones, in a voluntary written statement, admitted that he previously purchased 12 jars of alcohol for self-consumption and 'sales promotion purposes'; that he paid \$72.00 for these 12 jars from a person known to him as 'Sparkie', whose full name or address he did not know; that he intended to sell these jars at \$12.00 per jar. Jones was thereafter arraigned in the Municipal Court of Matawan on charge of possession of illicit alcoholic beverages in violation of R.S. 33:1-50(e) and was held in \$2500 bail for action by the Monmouth County Grand Jury.

"The jars of alcohol and the motor vehicle were later turned over to agents of this Division.

"On June 1, 1961 a sample of the contents of one of the said jars of alcohol 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 48.5 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 Pontiac sedan 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.

"Mrs. Lester D. Jones claims that she is actually the equitable owner of the automobile because she purchased the same from a dealer known as the 'Big Three'. She presented in evidence certain checks made by her in the total sum of \$250.00 on account of the purchase price of \$400.00 for this motor vehicle, which she says was purchased on or about May 24, 1961. No bill of sale, however, was offered and she further asserts that the bill of sale must have been in the automobile at the time of the seizure. Parenthetically, it should be noted that this bill of sale was not in the car, and has not been found, according to the records of this Division.

"Under cross-examination, Mrs. Jones stated that she registered this car in the name of her husband because she actually bought it for him with the hope that this would give him some feeling of security and responsibility. He had just been released from Greystone Mental Hospital, after being confined there for over three years. She acknowledged that she knew that her husband had been convicted of possession of illicit alcohol on November 15, 1957 and was fined \$800.00. She also readily admitted that in 1953 he was involved in the seizure of still parts and that in addition he had a substantial criminal record. She was asked whether she wasn't concerned that, in view of his past history, he would re-engage in illicit alcoholic beverage activity, to which she answered, 'Well, I certainly was concerned. We didn't feel it, because the doctors said he was all right, he was all right to cope with the situation again, though I did notice he was nervous and upset about not able to get a job.' She was asked the following question, 'Let us suppose your husband is perfectly all right. You mean the reason why he got involved with illicit alcohol again was because he was not quite mentally stable?' Answer - 'Well, I certainly would say that would be only reason he would get involved in it.'

"It should be noted that perhaps the reason that Harlowe Jones did not appear at this hearing was that he was in police custody on that date, as a result of a complaint of assault and battery made against him by his wife.

"Mrs. Lester D. Jones asserts a claim of equitable ownership of this motor vehicle although she admits that she voluntarily presented this automobile to her husband as a gift for reasons of therapy and self-interest. She has, of course, no valid lien on the car. R.S. 33:1-66(f) authorizes the Director, upon being satisfied that a person who has a bona fide lien upon or interest in property seized or forfeited pursuant to this provision of this section has 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, to recognize, in his discretion, and subject to Rules and Regulations the validity and priority of such claim or interest. This claimant has readily admitted that she had full knowledge of her husband's past illicit alcoholic beverage activities, and, furthermore, in view of his mental and nervous condition and the general feeling of insecurity which appeared to be part of his present makeup that he would re-engage in this activity. She stated that she put the car in her husband's name because she felt that he should bear the responsibility for it if he wanted to operate the car. She acknowledged that that responsibility

carried with it the burden of forfeiture and penalty if he should be, as he, indeed, was apprehended in this unlawful activity. Since her conduct in giving him this car and registering it in his name, under the facts and circumstances, in this case, indicated that of careless indifference to the use to be made by him of the motor vehicle, it would be indeed conceptualistic to accept the position advanced by her in support of her alleged claim. R.S. 33:1-66(e); Seizure Case No. 10,404, Bulletin 1382, Item 7; Seizure Case No. 10,205, Bulletin 1355, Item 7; Seizure Case No. 9642, Bulletin 1225, Item 6. I therefore recommend that her application for the return of the motor vehicle to her, or the recognition of her alleged interest therein be denied.

"I further recommend that the motor vehicle and the alcoholic beverages be forfeited."

No exceptions were taken to the Hearer's Report within the time limited by Rule 4 of State Regulation No. 28.

After carefully considering the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and I adopt them as my conclusions herein.

Accordingly, it is on this 30th day of August, 1961,

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 shall 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

SCHEDULE "A"

- 13 - 1/2 gallon "Mason" jars of alcohol
- 1 - Pontiac sedan, Serial No. L8XH9905, Engine No. L8XH9905, New Jersey Registration FJU914.

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

In the Matter of Disciplinary Proceedings against
 Rose LoPresti
 t/a "Rose LoPresti"
 488 Valley Road
 Passaic Township,
 PO Gillette, N. J.
 Holder of Plenary Retail Distribution License D-3, issued by the Township Committee of Passaic Township.

CONCLUSIONS AND ORDER

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

BY THE DIRECTOR:

The defendant pleaded non vult to the following charge:

"On July 14, 1961, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., Thomas ---, age 19; in violation of Rule 1 of State Regulation No. 20."

Acting upon information received from the Berkeley Heights Police Department, ABC agents obtained signed, sworn statements from Thomas --- (age 19) and another minor. Thomas states that at about 8 p.m. on Friday, July 14, 1961, he and his minor companion drove to the defendant's licensed premises to purchase some beer; that he alone entered the defendant's licensed premises; that he purchased six six-packs of three brands of beer from Rose LoPresti (the licensee); that prior to said sale the licensee inquired as to his age; that he displayed a driver's license of another which reflected that the person named thereon was over 21 years of age, and that the licensee did not ask him to sign any written representation as to his age (as required by R.S. 33:1-77).

Thomas further stated that he carried the alcoholic beverages to the car and that he and three minor companions later consumed a portion of the beer. The foregoing is substantially corroborated by the minor who accompanied Thomas to the licensed premises.

Thereafter Thomas and the minor last referred to identified the licensed premises as the place where the alcoholic beverages were obtained, and Thomas identified Rose LoPresti as the person who sold him the beer. Rose LoPresti admitted the sale but said she relied upon the driver's license produced by the minor that he was 21 years of age.

By way of mitigation the attorney for defendant has submitted a letter setting forth therein that the licensee has no prior convictions; that the minor had submitted a false identification to her, and that the licensee was fully cooperative with the agents of this Division.

Defendant has no prior adjudicated record. Ordinarily the penalty imposed for a sale to a 19-year-old minor is fifteen days. Re Florence Warner, Inc., Bulletin 1226, Item 11. However, in view of the circumstances appearing in the instant case, I shall suspend

defendant's license for a period of ten days. Re Florence Warner, Inc., supra. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 31st day of August 1961,

ORDERED that Plenary Retail Distribution License D-3, issued by the Township Committee of Passaic Township to Rose LoPresti, t/a "Rose LoPresti", for premises 488 Valley Road, Passaic Township, be and the same is hereby suspended for five (5) days, commencing at 9 a.m. Monday, September 11, 1961, and terminating at 9 a.m. Saturday, September 16, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

1. 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

PERE, INC.
133-135 Roseville Ave. &
395-399 - 7th Ave. West
Newark, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-730, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Daniel G. Kasen, 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 charge:

"On August 15, 1961, you sold and offered for sale, at retail, directly or indirectly, three 12-ounce cans of Schaefer Beer and three 12-ounce cans of Rheingold Extra Dry Lager Beer, alcoholic beverages, at less than the prices thereof filed with the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

On August 15, 1961, two ABC agents entered defendant's premises and purchased from Benjamin Flaster (a clerk) three 12-ounce cans of Schaefer beer and three 12-ounce cans of Rheingold Extra Dry Lager beer for \$1.10. The minimum consumer price then in effect for each can was nineteen cents. The agents left the premises with the beer, but returned immediately and identified themselves to the clerk, who admitted the violation.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of ten days. Re Siegelman, Bulletin 1271, Item 6; Re Gabriel's Tavern, Inc., Bulletin 1366, Item 7. Five days will be remitted for the plea, leaving a net suspension of five days.

Accordingly, it is, on this 28th day of August 1961,

ORDERED that Plenary Retail Consumption License C-730, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Pere, Inc., for premises 133-135 Roseville Ave. & 395-399 - 7th Ave. West, Newark, be and the same is hereby suspended for five (5) days, commencing at 2 a.m. Tuesday, August 29, 1961, and terminating at 2 a.m. Sunday, September 3, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

10. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTING ALCOHOLIC BEVERAGES WITH INTENT TO VIOLATE LAW OF ANOTHER STATE - CLAIM OF OWNER OF MOTOR VEHICLE AND ALCOHOLIC BEVERAGES FOR RETURN OF SAME REJECTED AND ORDERED FORFEITED, FOR ABSENCE OF GOOD FAITH.

In the Matter of the Seizure)	Case No. 10,603
on June 12, 1961 of a quantity)	
of alcoholic beverages and a)	ON HEARING
Ford sedan, on the public highway,)	CONCLUSIONS
known and designated as Route 202,)	AND ORDER.
in Frankford Township, County of)	
Sussex and State of New Jersey.)	

Eugene Zitsch, Pro se.
I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This matter came on for hearing, pursuant to R.S. 33:1-66, to determine whether 48 bottles of alcoholic beverages, 12 gallons of wine, and a Ford sedan, described in a schedule, attached hereto and made part hereof, seized on June 12, 1961, on a public highway, known and designated as Route 202, Frankford Township, New Jersey, constitute unlawful property and should be forfeited.

"Eugene Zitsch, the registered owner of the said automobile, appeared at the said hearing and sought the return of both the motor vehicle and the alcoholic beverages.

"The facts as they appear from the reports of ABC agents and other documents in the file, presented in evidence with the consent of the claimant herein, are as follows: on June 12, 1961 at approximately 3:30 p.m. a New Jersey State trooper, on regular patrol duty of traffic on the aforesaid highway, stopped the motor vehicle in question. A consent search of the motor vehicle, which was registered in the name of Eugene Zitsch, Blooming Grove, Hawley, Pennsylvania and was then being operated by the said Zitsch, revealed the aforementioned alcoholic beverages, taxpaid. Zitsch did not have in his possession a permit or a bona fide way bill or similar document stating the bona fide names and addresses of the consignee and consignor, the nature and quantity of the alcoholic beverages being transported, the place of origin and the place of destination.

"Zitsch was thereupon arrested, charged with transporting alcoholic beverages without a permit, contrary to New Jersey R.S. 33:1-2 and New Jersey R.S. 33:1-50. He was held in bail for arraignment in the Sussex County Court. The seized motor vehicle and alcoholic beverages were turned over to ABC agents.

"At the time of his arrest, Zitsch executed a voluntary written statement, wherein he stated that he had purchased the alcoholic beverages at the Quality House, No. 2 Park Avenue, New York, on the date hereinbefore

set forth, for personal use; that he intended the same for his own personal consumption and was delivering the alcoholic beverages to his home in Pennsylvania. In furtherance of that statement and in support of his claim, Zitsch testified at this hearing that he purchased liquor, consisting of three cases of Corby's, one case of Vodka and three cases of Muscatel Wine in New York City; that he paid a total of \$212.00 for the same; that he did not get a receipt, and that he intended the same for his own personal consumption because 'We have a party once in a while, then I get, for personal use, I give a bottle away to my wife's father and brother. So I go into the store. I got a good buy, so, I bought a little more than I otherwise would buy.' On cross examination, this claimant admitted that he did get a good buy because, according to the admitted figures, a case of Corby's would cost him \$52.80 in Pennsylvania, as against \$43.00 that he paid for the same in New York. He further revealed that he is a holder of a retail consumption license in Hawley, Pennsylvania and that the price paid for the alcoholic beverages was considerably lower than he would be required to pay for these items in Pennsylvania.

"He admitted that he knew it was illegal to so transport these alcoholic beverages from New York to Pennsylvania, and that he had made a similar purchase a year ago.

"This type of transportation is regulated by Rule 2 of State Regulation No. 18, which authorizes the transportation of alcoholic beverages, either pursuant to a transporter's license or permit issued by this Division, or else requires the transporter to have in his possession a way bill or other document containing the bona fide name of the consignor and consignee, and a specific description of the alcoholic beverages; and further requires the transporter to establish that the alcoholic beverages may be delivered to their destination.

"Section 130.02 of Regulations of the Liquor Control Board for the State of Pennsylvania, Liquor Control Law Reporter, (Commerce Clearing House, Inc., 1961) Regulation 4192 sets forth the method by which a resident desiring to, may obtain liquor outside (Pennsylvania). Under the provisions of this regulation, '(he) shall file with the Liquor Control Board an application setting forth the enumerated items therein.' This regulation provides further that 'Every application involving more than one quart of spirituous liquor, or more than one gallon of wine shall be verified by oath or affirmation of the applicant... in the case of a purchase, the affidavit which also set forth the date of the purchase and that the liquor is not for re-sale. Regulation 4194 requires that the Liquor Board may, in its discretion, issue to the applicant a consent certificate permitting the importation of the liquor designated therein, and entitling the applicant to obtain, in the manner thereafter set forth, such liquor from the transporter or the authority in custody thereof.'

"The claimant herein admitted that he had no such consent certificate from the State of Pennsylvania, nor did he have any license or permit to transport the alcoholic beverages from any other state.

"Absent a license, permit or valid way bill, the alcoholic beverages were transported unlawfully and consequently the alcoholic beverages, and motor vehicle in which they were transported and found, are subject to forfeiture. R.S. 33:1-1(i) and (y); R.S. 33:1-2; R.S. 33:1-66. Such forfeiture may be waived by the Director pursuant to R.S. 33:1-66(e) if he is satisfied that the transporter acted in good faith and unknowingly violated the law. Seizure Case No. 10,332, Bulletin 1351, Item 10; Seizure Case No. 10,180, Bulletin 1321, Item 5.

"As applied to transportation of taxpaid alcoholic beverages through the state this transporter must establish to the satisfaction of the Director that the alcoholic beverages were intended for legitimate

use; otherwise the transporter is denied relief from forfeiture. I have carefully considered the testimony of the claimant with respect to his reasons for transporting this substantial amount of alcoholic beverages. In view of the fact that he is a person of very modest means who finds it necessary to take on another job in 'off season' in order to meet his basic economic needs, I am not persuaded that he made this purchase of alcohol merely to have a party, or to give presents to friends, or for his personal consumption.

"He operates a small tavern, and admittedly uses these brands for resale. It is more consistent with the realities of this case, that the claimant purchased this liquor for re-sale in his tavern because he made a good 'buy' and that he intended to sell this liquor at a profit. He admitted that he purchased this liquor at a considerably lower price than it would have cost him in Pennsylvania.

"He also admitted that he knew it was illegal for him to transport these alcoholic beverages from New York to Pennsylvania without the proper invoices and consent certificate. The logical inference to be drawn therefrom is that the claimant has not acted in good faith.

"Under these circumstances I am constrained to recommend that Eugene Zitsch's request for the return of the Ford sedan and the alcoholic beverages be denied. I further recommend that an Order be entered forfeiting the same. Seizure Case No. 9500, Bulletin 1200, Item 6; Seizure Case No. 8632, Bulletin 1043, Item 5; Seizure Case No. 10,360, Bulletin 1379, Item 4."

No exceptions were taken to the Hearer's Report within the time limited by Rule 4 of State Regulation No. 28.

After carefully considering the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and I adopt them as my conclusions herein.

Accordingly, it is on this 1st day of September, 1961,

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 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

SCHEDULE "A"

- 48 - bottles of alcoholic beverages
- 12 - gallons of wine
- 1 - Ford sedan, Pennsylvania Registration A92575.

11.

ACTIVITY REPORT FOR SEPTEMBER 1961

ARRESTS:		
Total number of persons arrested		13
Licensees and employees	6	
Bootleggers	12	
SEIZURES:		
Motor vehicles - cars		1
Stills - over 50 gallons		1
Mash - gallons		1,750.00
Distilled alcoholic beverages - gallons		85.12
Wine - gallons		20.67
Brewed malt alcoholic beverages - gallons		62.06
RETAIL LICENSEES:		
Premises inspected		537
Premises where alcoholic beverages were gauged		571
Bottles gauged		9,350
Premises where violations were found		63
Violations found		78
Unqualified employees	27	
Reg. #38 sign not posted	26	Prohibited signs - 2
Application copy not available	15	Disposal permit necessary - 1
Other mercantile business	3	Other violations - 4
STATE LICENSEES:		
Premises inspected		49
License applications investigated		11
COMPLAINTS:		
Complaints assigned for investigation		404
Investigations completed		368
Investigations pending		147
LABORATORY:		
Analyses made		260
Refills from licensed premises - bottles		40
Bottles from unlicensed premises		60
IDENTIFICATION:		
Criminal fingerprint identifications made		6
Persons fingerprinted for non-criminal purposes		279
Identification contacts made with other enforcement agencies		220
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities		9
Violations involved		11
Sale during prohibited hours	5	
Sale to minors	4	
Failure to close premises during prohibited hours		2
Cases instituted at Division		29*
Violations involved		50
Permitting hostesses on premises	5	Unauthorized transportation - 2
Sale during prohibited hours	4	Fraud and front - 2
Beverage Tax Law non-compliance	4	Permitting gambling (cards) on premises - 1
Sale to minors	3	Application copy not on premises - 1
Possessing liquor not truly labeled	3	Sale below filed price - 1
Permitting immoral activity on premises	4	Service to women at the bar (local reg.) - 1
Permitting lottery activity (numbers)	2	Permitting foul language on premises - 1
Possessing contraceptives on premises	2	Permitting bookmaking on premises - 1
Failure to close premises during prohibited hours	2	Act of violence on premises - 1
Hindering investigation	2	Sale to intoxicated persons - 1
Conducting business as a nuisance	2	Sale outside scope of license - 1
Delivery without bona fide invoice	2	Unqualified employees - 1
		Substituting drink other than ordered - 1
*Includes one cancellation proceeding--license improvidently issued in violation of State Limitation Law		
Cases brought by municipalities on own initiative and reported to Division		14
Violations involved		16
Sale to minors	7	Conducting business as a nuisance - 2
Sale during prohibited hours	2	Hindering investigation - 1
Permitting lottery activity (numbers, baseball pool) on premises	2	Unqualified employees - 1
		Permitting brawl on premises - 1
HEARINGS HELD AT DIVISION:		
Total number of hearings held		43
Appeals	6	
Disciplinary proceedings	21	Seizures - 1
Eligibility	6	Tax revocations - 9
STATE LICENSES AND PERMITS ISSUED:		
Total number issued		1,173
Licenses	5	
Solicitors' permits	41	Miscellaneous permits - 140
Employment "	219	Transit insignia - 172
Disposal "	84	Transit certificates - 16
Social affair "	496	
OFFICE OF AMUSEMENT GAMES CONTROL:		
Premises inspected	2	
Enforcement files established	56	
Disciplinary proceedings instituted	2	
Violations involved	4	
Hindering investigation	2	
Redemption of prize for money	1	
Charge in excess of 25¢ per entry	1	
Hearings held	2	

WILLIAM HOWE DAVIS
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

12. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED -
LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
MARY KELLER AND WILLIAM KELLER)
t/a MARY'S TAVERN)
148 Delancy St.)
Newark 5, N. J.)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption)
License C-297, issued by the Municipal)
Board of Alcoholic Beverage Control of)
the City of Newark.)

Defendant-licensees, Pro se.
David S. Piltzer, Esq., appearing for the Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they possessed on their licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On June 26, 1961, an ABC agent tested defendants' opened bottles of alcoholic beverages and seized three bottles for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of two one-quart bottles labeled "Seagram's Seven Crown American Blended Whiskey, 86 Proof" varied substantially in solids and acids from the contents of genuine bottles of the same brand.

Defendants have no prior adjudicated record. I shall suspend defendants' license for fifteen days, the minimum penalty in cases involving two bottles. Re Kasica, Bulletin 1400, Item 11. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 6th day of September 1961,

ORDERED that Plenary Retail Consumption License C-297, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Mary Keller and William Keller, t/a Mary's Tavern, for premises 148 Delancy Street, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, September 18, 1961 and terminating at 2:00 a.m., Thursday, September 28, 1961.


WILLIAM HOWE DAVIS
Director