

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

July 9, 1959

BULLETIN 1285

TABLE OF CONTENTS

ITEM

1. SIGNS - DISPLAY OF "WHOLESALE LIQUOR DEALER" SIGNS BY RETAILERS RESTRICTED - HEREIN OF RECENT AMENDMENT OF FEDERAL LAW RE RETAIL AND WHOLESALE DEALER TAX STAMPS.
2. DISCIPLINARY PROCEEDINGS (Jersey City) - CONDUCTING BUSINESS AND PERMITTING PERSON OTHER THAN EMPLOYEES OR AGENTS ON LICENSED PREMISES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - GAMBLING - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.
3. DISCIPLINARY PROCEEDINGS (Newark) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PERMITTING OBSCENE LANGUAGE ON PREMISES - LICENSE SUSPENDED FOR 25 DAYS.
4. DISCIPLINARY PROCEEDINGS (Belmar) - SALES TO MINORS - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Paterson) - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Elizabeth) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
7. SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC BEVERAGES PURCHASED BY RETAILER FROM A PERSON NOT A NEW JERSEY MANUFACTURER OR WHOLESALE - ALCOHOLIC BEVERAGES ORDERED FORFEITED - ONE CASE OBTAINED FROM LEGITIMATE SOURCE ORDERED RETURNED.
8. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - ALCOHOL, MOTOR VEHICLE AND TRAILER ORDERED FORFEITED - LIEN OF INNOCENT LIENOR ON MOTOR VEHICLE RECOGNIZED.
9. DISQUALIFICATION REMOVAL PROCEEDINGS - FIVE YEARS GOOD CONDUCT - DISQUALIFICATION LIFTED.
 MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF THE CASE.
10. AUTOMATIC SUSPENSION (Lyndhurst) - REIMPOSED FOR BALANCE OF 4 DAYS BECAUSE PENALTY IMPOSED BY LOCAL ISSUING AUTHORITY IN DISCIPLINARY PROCEEDINGS FOUND TO BE INADEQUATE.
11. DISCIPLINARY PROCEEDINGS (Elizabeth) - CHARGE ALLEGING SALE BELOW MINIMUM CONSUMER RESALE PRICE DISMISSED.
12. DISCIPLINARY PROCEEDINGS (Newark) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
13. DISCIPLINARY PROCEEDINGS (Bordentown) - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

STATE OF NEW JERSEY
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DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 2, N. J.

July 9, 1959.

BULLETIN 1285

1. SIGNS - DISPLAY OF "WHOLESALE LIQUOR DEALER" SIGNS BY RETAILERS RESTRICTED - HEREIN OF RECENT AMENDMENT OF FEDERAL LAW RE RETAIL AND WHOLESALE DEALER TAX STAMPS.

June 29, 1959

NOTICE TO ALL RETAIL LICENSEES:

To permit compliance with then existing Federal law by New Jersey retailers who held Federal Wholesale Liquor Dealer Tax Stamps to authorize their retail sale of alcoholic beverages in quantities more than five gallons, it was ruled in 1940 in Re Carlo, Bulletin 417, Item 4, that such retailers, required by Federal law to display on the exterior of their licensed premises a sign reading "Wholesale Liquor Dealer", might so display only one such sign in a limited size even though they were in fact retailers and not wholesalers under New Jersey law.

The recently enacted Excise Tax Technical Changes Act of 1958, effective July 1, 1959, amends the previous Federal law to permit holders of Retail Dealer Tax Stamps to sell unlimited quantities of alcoholic beverages at retail, i.e., to consumers, without the necessity of their holding a Wholesale Dealer Tax Stamp, which is now required to be held only by licensees who sell any alcoholic beverages to "retail dealers" (retailers) and who sell distilled spirits (as distinguished from wine and beer) to "limited retail dealers" (special social affair permittees).

As should be well-known to all, the purchase of alcoholic beverages by one retailer from another and the sale of alcoholic beverages by one retailer to another are prohibited by Rule 15 of State Regulation No. 20. Hence, unless a retail licensee violates the regulation (which is cause for suspension or revocation of license) or unless sale of distilled spirits is made to the holder of a special social affair permit, such licensee will incur no liability to obtain a Wholesale Dealer Tax Stamp and no obligation to display any Wholesale Liquor Dealer sign, according to advice received from the Assistant Regional Commissioner of the Federal Alcohol and Tobacco Tax Division at Philadelphia.

We are aware that many retailers presently display Wholesale Liquor Dealer signs because they have been holders of Wholesale Liquor Dealer Tax Stamps to authorize their making sales in quantities exceeding five gallons. However, these stamps will expire on June 30, 1959, and thereafter, as above indicated, such stamps will not be required to permit large-quantity sales to consumers or sale of wine or beer to holders of special social affair permits.

Accordingly, effective July 1, 1959, all signs, exterior and interior, reading "Wholesale Liquor Dealer" or signs similarly worded indicating that any sale of alcoholic beverages at wholesale is being or will be made, must be removed from retail licensed premises where no Wholesale Dealer Tax Stamp is required to be held and no wholesale sales are made. Failure so to do, and continued display of such signs when not required by Federal law, may be deemed cause for suspension or revocation of license for violation of Rule 2 of State Regulation No. 26, which provides:

"No licensee of any class shall use any corporate name, trade name, or other name, sign or symbol, which is calculated to or may mislead the general public to believe the licensee is conducting any operations or business pertaining to alcoholic beverages or otherwise other than the operations or business actually being conducted by the licensee."

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - CONDUCTING BUSINESS AND PERMITTING PERSON OTHER THAN EMPLOYEES OR AGENTS ON LICENSED PREMISES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - GAMBLING - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN CONSTANTINO AND DONALD LYNCH
t/a SHIP'S INN
132 Essex Street
Jersey City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-397, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

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

BY THE DIRECTOR:

Defendants pleaded non vult to charges alleging that (1) during prohibited hours they conducted their licensed business in violation of a local ordinance; (2) during such hours they permitted persons other than their actual employees and agents in and upon their licensed premises in violation of a local ordinance; (3) they allowed, permitted and suffered gambling -- the playing of a card game for stakes of money in and upon their licensed premises, in violation of Rule 7 of State Regulation No. 20, and (4) during said prohibited hours they sold and delivered alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Two ABC agents entered defendants' licensed premises on Saturday, April 25, 1959 at about 1:00 a.m. At about 1:20 a.m., they observed a man purchase a bottle of wine from the bartender and leave the premises with the bottle. At about 1:30 a.m., they observed a man emerge from the rear room and hand the bartender \$31.00, which was described as "house money", and overheard a conversation between these two men indicating that a poker game was in progress in such room. Later the same evening this man came from the back room and gave the bartender an additional \$14.00 of "house money". Also at about 1:30 a.m. the agents observed the bartender sell six cans of beer to a patron who left the premises with the beer. At 2:05 a.m. and 2:20 a.m. three persons were served glasses of beer. The agents were also served glasses of beer after 2:00 a.m., the last such service to them being at 2:30 a.m., at which time the agents revealed their identity. They then entered the rear room

and observed six men with playing cards and a sum of money in front of them on the table. John Constantino, one of the licensees, was one of the participants in the game.

Defendant has no prior adjudicated record. Where, as here, there are separate violations of the local ordinance and the State Regulation, a separate penalty for each violation is imposed. Re Sabia, Bulletin 1125, Item 5. I shall therefore suspend defendants' license for thirty days on Charges 1, 2 and 4 and for an additional fifteen days on Charge 3, because one of the licensees participated in the game (Re Caesar's Restaurant, Inc., Bulletin 1115, Item 8), making a total suspension of forty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty days.

Accordingly, it is, on this 27th day of May 1959,

ORDERED that Plenary Retail Consumption License C-397, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to John Constantino and Donald Lynch, t/a Ship's Inn, for premises 132 Essex Street, Jersey City, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m., Monday, June 8, 1959; and it is further

ORDERED that any renewal for the 1959-60 licensing year or transfer of said license shall be and remain under suspension until 2:00 a.m., Saturday, July 18, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PERMITTING OBSCENE LANGUAGE ON PREMISES - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against)

JOSEPH SCIORTINO)
t/a BIG M BAR & GRILL)
66 South Orange Avenue)
Newark 3, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-216, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Anthony P. Bianco, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"The following charges were preferred against defendant:

- '1. On Saturday, April 11, 1959, at about 10:23 P.M., you allowed, permitted and suffered the removal from your licensed premises of an alcoholic beverage in an opened container, viz., an alcoholic beverage in an opened pint bottle labeled Fleischmann's Preferred Blended Whiskey; in violation of Rule 1 of State Regulation No. 38.

'2. On Saturday, April 11, 1959, between 9:20 P.M. and 10:23 P.M., you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulation No. 20.'

"Defendant pleaded non vult to Charge 1 and not guilty to Charge 2.

"Insofar as Charge 1 is concerned, to which defendant entered a plea of non vult, the facts in brief are that at 10:23 p.m. James Briggs, the bartender, sold a pint bottle of whiskey for off-premises consumption to an ABC agent who left the premises. The agent returned immediately thereafter in the company of another agent and both made known their identities to Briggs and another bartender. Briggs verbally admitted the said violation.

"An ABC agent testified that at 9:20 p.m. on April 11, 1959 he entered defendant's licensed premises while another agent remained outside thereof; that there were about 35 to 40 people at the bar; that many of the patrons engaged in the use of filthy and obscene language (the repetition of which would serve no useful purpose); that one of the two bartenders on duty at the time also used filthy language; that this language continued until 10:25 p.m. when he (the agent) identified himself to the bartender; that the latter then said: 'What am I going to do? You see what kind of a crowd I have here.' The agent further testified that a special officer was on duty during the evening and neither he nor either of the bartenders did anything to stop the filthy language being used in the premises.

"The agent who had remained outside entered the premises at 10:25 p.m. and, as he did so, one of the patrons directed an indecent remark toward him.

"Samuel Williams testified that he is employed as a special officer by defendant and was on duty on the night in question; that when patrons use indecent language he orders them to desist and, that, if they failed to desist, he would eject them from the premises.

"James Briggs testified that he was tending bar on the evening of April 11, 1959 and that 'once in a while' he heard patrons engage in indecent language, at which time he told them to calm down; that on one occasion a man directed a filthy remark at him and that he, in turn, used the same expression toward the man.

"I am satisfied from the evidence presented that filthy and indecent language was being constantly engaged in by the patrons and that Briggs used such language on occasion. Thus, I recommend that defendant be adjudged guilty of Charge 2.

"Defendant has no prior adjudicated record. I recommend that his license be suspended for the minimum period of twenty-five days for the violations in question. Re Dempsey Corp., Bulletin 1180, Item 4."

Written exceptions to the Hearer's Report and written argument thereto were filed with me by the defendant's attorney, pursuant to Rule 6 of State Regulation No. 16.

After carefully considering the entire record in this case, including the transcript of testimony, the Hearer's Report and

the exceptions and written argument filed herein, I concur in the Hearer's findings and adopt his recommendation.

Accordingly, it is, on this 26th day of May, 1959,

ORDERED that Plenary Retail Consumption License C-216, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Joseph Sciortino, t/a Big M Bar & Grill, for premises 66 South Orange Avenue, Newark, be and the same is hereby suspended for twenty-five (25) days commencing at 2:00 a.m., Thursday, June 4, 1959, and terminating at 2:00 a.m., Monday, June 29, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ROY SERWATKA)
t/a PASTIME INN)
1401-A H. Street)
Belmar, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-2, issued by the Board of)
Commissioners of the Borough of Belmar)

Joseph L. Magrino, Esq., Attorney 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 allowed, permitted and suffered the sale and delivery of alcoholic beverages to three minors and the consumption of such beverages by said minors in his licensed premises, in violation of Rule 1 of State Regulation No. 20.

Acting upon information received from the Belmar Police Department, ABC agents obtained signed and sworn statements from Anthony --- (age 18), David --- (age 18) and Norman --- (age 20). In their statements the minors say that they were in defendant's premises on May 15, 1959, between 9 p.m. and 10 p.m.; that Anthony had three glasses of beer and three drinks of whiskey; that David had four or five glasses of beer, and Norman had about seven glasses of beer and several drinks of whiskey; that these drinks were served to them by John Wills (a bartender) who did not require them to make any written representation as to their respective ages.

Defendant has no prior adjudicated record. In alleged mitigation defendant's attorney alleges that the minors displayed false car registrations or drivers' licenses indicating that each was of full age, but this is denied by the minors. The minimum penalty imposed for a sale to three minors, all of whom are 18 years of age or over, is twenty days. Re Bergmann, Bulletin 1249, Item 7. Because of the number of drinks served to the minors, I shall suspend defendant's license for twenty-five days and remit five days for the plea, leaving a net suspension of twenty days.

Accordingly, it is, on this 27th day of May, 1959,

ORDERED that Plenary Retail Consumption License C-2, issued by the Board of Commissioners of the Borough of Belmar to Roy Serwatka, t/a Pastime Inn, for premises 1401-A H. Street, Belmar, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Tuesday, June 2, 1959, and terminating at 2 a.m. Monday, June 22, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

AMBROSE DELL'ORTO)
t/a AMBY'S)
442 - 10th Avenue)
Paterson 4, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-108, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

Ambrose Dell'Orto, Defendant-licensee, Pro se.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult 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.

At 1:50 p.m., Sunday, April 5, 1959, one of two ABC agents who were in defendant's licensed premises purchased from the licensee herein six cans of beer for off-premises consumption. The agents left with the merchandise and, returning immediately, identified themselves to the licensee who orally admitted the violation.

Defendant has a prior adjudicated record. Effective March 2, 1954, I suspended his license for ten days for selling alcoholic beverages during prohibited hours, in violation of local regulations. Re Dell'Orto, Bulletin 1005, Item 9. Since the prior similar violation occurred more than five years ago but within a ten-year period, five days will be added to the fifteen-day penalty usually imposed for a violation such as charged herein. Re Bunce, Bulletin 1273, Item 4; Re Hoffman, Bulletin 1275, Item 3. I shall suspend defendant's license for twenty days and remit five days for the plea entered herein, leaving a net suspension of fifteen days.

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

ORDERED that Plenary Retail Consumption License C-108, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Ambrose Dell'Orto, t/a Amby's, for premises 442 10th Avenue, Paterson, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m., Monday, June 8, 1959, and terminating at 3:00 a.m., Tuesday, June 23, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

FEDERICO LAMASTRA t/a FRED'S TAVERN 436 Spring Street Elizabeth, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-58, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth.)

Weiner, Weiner & Glennon, Esqs., by John T. Glennon, Esq., Attorneys for Defendant-licensee. William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he possessed on his 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 February 26, 1959 an ABC agent tested the licensee's open bottles of alcoholic beverages (35 bottles) and seized two of such bottles because they appeared to have been refilled. Subsequent analysis by the Division's chemist disclosed that the contents of aforesaid two bottles, when compared with samples of the genuine product of the labeled brands, are high in solids and low in acids.

By way of mitigation, the attorneys for the defendant have submitted a statement setting forth therein, amongst other things, that for the past 19 years the licensee has operated a tavern and the within disciplinary proceedings are the first to have been instituted against him; that he never tampered with the contents of the seized bottles; that his wife assists him in the operation of the premises and that he has no other employees. I, however, do not find that these circumstances are sufficient to impel me to impose a penalty less than the established penalties in cases of this kind.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days, the minimum period where two bottles are involved. Re Gavlak, Bulletin 1245, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

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

ORDERED that Plenary Retail Consumption License C-58, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to Federico LaMastra, t/a Fred's Tavern, for premises 436 Spring Street, Elizabeth, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, June 8, 1959 and terminating at 2:00 a.m., Thursday, June 18, 1959.

WILLIAM HOWE DAVIS DIRECTOR

7. SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC BEVERAGES PURCHASED BY RETAILER FROM A PERSON NOT A NEW JERSEY MANUFACTURER OR WHOLE-SALER - ALCOHOLIC BEVERAGES ORDERED FORFEITED - ONE CASE OBTAINED FROM LEGITIMATE SOURCE ORDERED RETURNED.

In the Matter of the Seizure)
 on October 11, 1957 of a)
 quantity of whiskey at 310)
 Orange Road, in the Town of)
 Montclair, County of Essex)
 and State of New Jersey.)

ON HEARING
 CONCLUSIONS AND ORDER

 Green and Yanoff, Esqs., by H. Kermit Green, Esq., Attorneys for
 Herman Rosner and Eddie Greenwald.
 I. Edward Amada, 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 48 four-fifth quart bottles, 12 quart bottles and 72 pint bottles of Canadian Club Whiskey seized on October 11, 1957 at the retail licensed premises of Herman Rosner and Eddie Greenwald, located at 310 Orange Road, Montclair, New Jersey, constitute unlawful property and should be forfeited.

The facts involved are substantially set forth in the Conclusions and Order entered in the disciplinary proceedings against the licensees in Bulletin 1244, Item 5. Additionally, it appears that included in the abovementioned seizure of alcoholic beverages there were 24 pint bottles of Canadian Club Whiskey which had been delivered from a legitimate wholesale liquor dealer in the presence of ABC agents when making their investigation at the licensed premises. This whiskey was evidently seized for comparative purposes.

Rule 15 of State Regulation No. 20 provides that no retail licensee shall purchase or obtain any alcoholic beverage except from the holder of a New Jersey manufacturer's or wholesaler's license or pursuant to a special permit first obtained from the Director of the Division of Alcoholic Beverage Control. Except for the one case above mentioned, none of the balance of the whiskey was purchased from a licensed manufacturer or wholesaler. No appropriate permit can be issued to authorize the possession and sale of such whiskey by the licensees since the purchase of such whiskey was, in part, the basis for the suspension of the license in disciplinary proceedings. Seizure Case No. 7011, Bulletin 738, Item 5. Such alcoholic beverages constitute unlawful property subject to forfeiture. R.S. 33:1-1(i) and (y), R.S. 33:1-66(c), and forfeiture of such whiskey must follow as of course.

When the matter came on for hearing, pursuant to R.S. 33:1-66, an appearance was entered on behalf of the licensees. When the above facts were developed, counsel for such licensees stated on the record that they were not presenting any claim for return of any of the whiskey, except the 24 pint bottles of such whiskey which came from a legitimate source.

Accordingly, it is DETERMINED and ORDERED that the 24 pint bottles of whiskey, identified as the case bearing excise No. 1777, be returned to Herman Rosner and Eddie Greenwald, and it is further

DETERMINED and ORDERED that the balance of the whiskey, as listed in Schedule "A" attached hereto, constitutes unlawful

property and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66, and that it be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Dated: May 22, 1959

WILLIAM HOWE DAVIS
DIRECTOR

SCHEDULE "A"

- 48 - four-fifth quart bottles of Canadian Club Whiskey
- 12 - quart bottles of Canadian Club Whiskey
- 72 - pint bottles of Canadian Club Whiskey

8. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - ALCOHOL, MOTOR VEHICLE AND TRAILER ORDERED FORFEITED - LIEN OF INNOCENT LIENOR ON MOTOR VEHICLE RECOGNIZED.

In the Matter of the Seizure)	Case No. 9923
on March 10, 1959 of a Ford)	
sedan, a trailer, and a quantity)	ON HEARING
of alcoholic beverages on the)	CONCLUSIONS AND ORDER
New Jersey Turnpike, at the 11)	
Mile Post, in the Township of)	
Woolwich, County of Gloucester)	
and State of New Jersey.)	

Gilhooly, Yauch & Fagan, Esqs., by Martin Kesselhaut, Esq.,
Attorneys for Auto Finance Company.

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 120 two-quart "Mason" jars of alcohol, a Ford sedan, and a small trailer, described in a schedule attached hereto, seized on March 10, 1959 on the New Jersey Turnpike, in the Township of Woolwich, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing, pursuant to R.S. 33:1-66, counsel for Auto Finance Company submitted various documents in support of its application for recognition of its alleged lien upon the Ford sedan. No one opposed forfeiture of the trailer or alcoholic beverages.

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

A New Jersey State trooper halted the Ford sedan on the above date and location during his routine patrol of traffic on the highway. He ascertained that the motor vehicle was being operated by George Cummings and that the registered owner of the motor vehicle was Quillie Cummings. When the trooper discovered in the trailer 120 two-quart jugs of alcohol, without any stamp indicating the payment of tax on alcoholic beverages, he took into custody the Ford sedan, the trailer, and the alcoholic beverages. Later such alcoholic beverages and vehicles were turned over to ABC agents.

A sample of the contents of one of the jars was analyzed by the Division chemist who reports that it is alcohol and water,

fit for beverage purposes, with an alcoholic content by volume of 43.2 percent.

George Cummings, in a signed statement, asserts that he resides in Walterboro, South Carolina, and that he arranged with some other person to transport moonshine alcoholic beverages to New York, and accordingly borrowed the Ford from his brother, Quillie Cummings and the trailer from some other person, and was transporting the whiskey in the trailer when he was apprehended.

The seized alcohol is obviously illicit. R.S. 33:1-1(i). Such illicit alcoholic beverages and the Ford sedan and trailer in which such illicit alcoholic beverages were 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.

American Discount Company (formerly Auto Finance Company) has submitted a conditional sales contract dated May 31, 1958 signed by Quillie Cummings, covering the purchase of the Ford sedan in question. The present balance due on such contract (which the finance company holds by assignment), after rebate for prepayment, is the sum of \$1452.22.

Before extending credit to Quillie Cummings and accepting such contract the finance company received information that Quillie Cummings was employed by an "H Bomb Plant", for a period of six years, with a salary of \$280 per month, resides in Walterboro, was 34 years of age and married. The finance company was also furnished with trade and personal references. The credit manager of the finance company has presented his affidavit wherein he sets forth that he was an adjustor and investigator for the Auto Finance Company when Quillie's application was submitted; that he contacted various merchants in Walterboro, including a number of such concerns with which he dealt, concerning the credit and reputation of Quillie Cummings, and was advised that he had a good reputation; and was advised by Sheriff Seigler of Walterboro that Quillie Cummings had no record or reputation for dealing in illegal liquor; and verified that Quillie was employed by an H-Bomb Plant located in Aiken, South Carolina.

I am satisfied that the finance company acted in good faith and did not know or have any reason to suspect that Quillie Cummings would unlawfully transport alcoholic beverages in such vehicle. I shall therefore recognize the lien of American Discount Company (formerly Auto Finance Company) upon the motor vehicle in question to the extent of \$1452.22.

It appears likely that the amount realized at public sale of the motor vehicle will exceed the cost of seizure and amount of the lien.

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

DETERMINED and ORDERED that the Ford sedan 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 shall be offered for sale at public sale pursuant to State Regulation No. 29 and sold by the Director of the Division of Alcoholic Beverage Control if a bid satisfactory to him is obtained; otherwise the motor vehicle will be returned to American Discount Company (formerly Auto Finance Company); upon payment of the costs of its seizure, storage and sale; and it is further

DETERMINED and ORDERED that if the Ford sedan is sold, out of the proceeds of said sale there shall be first deducted the costs of seizure, storage and sale as have been or may be incurred; second, out of the balance if any, there shall be paid to the American Discount Company (formerly Auto Finance Company) its lien claim, recognized to the extent of \$1452.22; and third, the balance if any, of the proceeds of such sale, after the payments aforesaid, shall be retained for the use of the State of New Jersey; and it is further

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

SCHEDULE "A"

- 120 - two-quart "Mason" jars of alcohol
- 1 - Ford sedan, Serial No. H8NVL22602, South Carolina Registration E88-039
- 1 - 4' x 5' trailer, Texas Registration 7D975

9. DISQUALIFICATION REMOVAL PROCEEDINGS - FIVE YEARS GOOD CONDUCT - DISQUALIFICATION LIFTED.

MORAL TURPITUDE - COMMERCIALIZED GAMBLING HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF THE CASE.

In the Matter of an Application)
to Remove Disqualification be-)
cause of a Conviction, Pursuant)
to R.S. 33:1-31.2.)

CONCLUSIONS
AND ORDER

Case No. 1483

BY THE DIRECTOR:

Applicant's criminal record discloses that on September 27, 1952 and again on March 4, 1954 he was convicted on a charge of bookmaking and was sentenced in each case to serve three months in a county jail and pay a fine of \$1,000.

Commercialized gambling may or may not involve moral turpitude. Re Case No. 1018, Bulletin 956, Item 7. Where one is a principal or "lieutenant" in commercialized gambling, particularly where gambling is conducted on a large scale, it has been held that such gambling involves the element of moral turpitude. Re Case No. 667, Bulletin 1093, Item 7. Investigation discloses that on January 4, 1952 applicant was arrested following a raid upon his residence in which he engaged in bookmaking. Since applicant was convicted as a principal, said conviction involves moral turpitude and he was thereby rendered ineligible to be engaged in the alcoholic beverage industry. R.S. 33:1-25, 26. In view of this, it is unnecessary to determine whether the other conviction outlined above involves that element.

At the hearing held herein, applicant (46 years old) testified that he has recently remarried; that his wife is the

president of the corporate licensee by whom he has been employed as a bartender since April 1959; that for the past twenty-five years he has lived in the same area where he presently resides; that he has been regularly employed in various jobs for the past ten years, the last four of which as an automobile salesman; that pending the outcome of the within application, he has recently been given permission by this Division to work as a bartender; that he served 72 days of his 90 day sentence imposed on March 4, 1954 aforesaid; that on May 17, 1954 he was released from jail and is asking for the removal of his disqualification to be free to engage in the alcoholic beverage industry in this State. Applicant's fingerprint record does not disclose any other convictions except those hereinabove outlined.

The police department of the municipality wherein applicant resides reports there are no complaints or investigations presently pending against the applicant.

The applicant produced three character witnesses (a retired State employee, an automotive machinist and a lead burner) who testified they have known applicant from 5 to 25 years and that, in their opinion, he is now an honest, law-abiding citizen with a good reputation.

Considering all of the aforesaid facts and circumstances, I am satisfied that the applicant has conducted himself in a law-abiding manner for five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest.

The application is granted.

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

ORDERED that applicant's statutory disqualification because of the convictions described herein be and the same is hereby removed in accordance with the provisions of R.S. 33:1-31.2.

WILLIAM HOWE DAVIS
DIRECTOR

10. AUTOMATIC SUSPENSION - REIMPOSED FOR BALANCE OF 4 DAYS BECAUSE PENALTY IMPOSED BY LOCAL ISSUING AUTHORITY IN DISCIPLINARY PROCEEDINGS FOUND TO BE INADEQUATE.

Auto. Susp. #165)
In the Matter of a Petition to)
Lift the Automatic Suspension of)
Plenary Retail Distribution License)
D-3, issued by the Board of Commissioners)
of the Township of Lyndhurst to)
EDWARD ZAMOYSKI AND LORETTA ZAMOYSKI)
t/a THE CORK SHOP)
653 Ridge Road)
Lyndhurst, N. J.)

ORDER

William L. Bivona, Esq., Attorney for Petitioners

BY THE DIRECTOR:

On April 23, 1959, I entered an order staying the automatic suspension of petitioners' license pending the outcome of disciplinary proceedings which had not yet been instituted against them because of the sale of alcoholic beverages to a minor. By resolution

dated May 18, 1959, the local issuing authority suspended petitioners' license for one day (Monday, May 25, 1959) in disciplinary proceedings instituted by said authority.

The purpose of the automatic suspension is to ensure that, when a licensee is convicted in criminal court for violating the Alcoholic Beverage Law, there is swift and sure penalty against the licensee. Re Panasevitz, Bulletin 485, Item 3.

This case involves the sale of alcoholic beverages to a twenty-year-old minor. The minimum penalty for such sale is ten days, less five for the plea. The penalty imposed by the local issuing authority is clearly inadequate. The automatic suspension will be reinstated for a period of four days.

Accordingly, it is, on this 29th day of May, 1959,

ORDERED that the automatic suspension of License D-3, issued by the Board of Commissioners of the Township of Lyndhurst to Edward Zamoycki and Loretta Zamoycki, t/a The Cork Shop, for premises 653 Ridge Road, Lyndhurst, shall be reinstated and restored to full force and effect from 9 a.m. Tuesday, June 2, 1959, until 9 a.m. Saturday, June 6, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALE BELOW MINIMUM CONSUMER RESALE PRICE DISMISSED.

In the Matter of Disciplinary Proceedings agsinst)

JAMES W. HIGGINS AND HELEN M. HIGGINS)
t/a HIGGINS LIQUOR STORE)
594 Pennsylvania Avenue)
Elizabeth, N. J.)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Distribution License D-30, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth.)

Pollis, Williams & Pappas, Esqs., by Joseph I. Higgins, Esq., Attorneys for defendant-licensees.

Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants entered a technical plea of not guilty to the following charge:

"On April 18, 1959, at your licensed premises, you sold and offered for sale, at retail directly or indirectly, six 12-ounce tall neck bottles of Ambassador Export Brewed Beer, a malt alcoholic beverage, at less than the price thereof filed with the Director of the Division of Alcoholic Beverage Control; in violation of Rule 5 of State Regulation No. 30."

This case involves the admitted sale on April 18, 1959, by James W. Higgins to an ABC agent of six 12-ounce tall neck bottles of Ambassador Export Brewed Beer. The filed price then

in effect for the item was \$1.00 plus a deposit of 12 cents. The item was sold to the agent for \$1.07.

After the charge herein was preferred, the President and Vice President of G. Krueger Brewing Company called on me and later submitted a letter. They advised me that effective January 1, 1959, their Company reduced the case-price of tall neck bottles of Ambassador Export Brewed Beer from \$3.99 plus deposit to \$3.75 plus deposit, but made no change in the price per unit or the price for the pack of six of said bottles. They expressed the opinion that many retailers had become confused because various Krueger salesmen had told them that the price of "tall necks" had been reduced to meet competition whereas, in fact, only the case-price had been so reduced.

After reviewing all the facts in this case, I am satisfied that James W. Higgins made an honest mistake. This finding is based upon the agent's report which discloses that the licensee quoted the price of \$1.07 to the agent; that a card attached to the cash register listed Ambassador Beer among the brands of beer selling at the price of \$1.07 for six bottles and that, immediately after the agents identified themselves, the licensee told them that he was positive he had charged the proper amount. Under very similar circumstances I dismissed the charge in Re Ford's Liquor Stores, Inc., Bulletin 1284, Item 8. Under the unusual circumstances of this case, I find defendants not guilty and shall dismiss the charge herein.

Accordingly, it is, on this 1st day of June 1959,

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

WILLIAM HOWE DAVIS
DIRECTOR

12. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED-
LICENSEE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MARY MEOLA
t/a NEW HAVANA CASINO
10 Treat Place
Newark 2, N. J.

)
)
) CONCLUSIONS
) AND ORDER

Holder of Plenary Retail Consumption License C-679, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

Mary Meola, Defendant-licensee, Pro se.
William F. Wood, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that she possessed on her licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

On May 12, 1959, an ABC agent, when testing the licensee's

open stock of alcoholic beverages, seized a number of bottles, the contents of which appeared to be off in proof and color. Subsequent analysis by the Division chemist discloses that the contents of a bottle labeled "Seagram's Seven Crown American Blended Whiskey 86 Proof", when compared with a sample of the genuine product of the brand, varied substantially in solids and acids.

Defendant has no prior adjudicated record. I shall suspend defendant's license for ten days. Re Rossetti, Bulletin 1258, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 1st day of June, 1959,

ORDERED that Plenary Retail Consumption License C-679, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Mary Meola, t/a New Havana Casino, for premises 10 Treat Place, Newark, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m., Monday, June 8, 1959, and terminating at 2:00 a.m., Saturday, June 13, 1959.

WILLIAM HOWE DAVIS
DIRECTOR

13. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings agsinst)

CHARLES F. HARNEY, JR.)
t/a TOWN BAR & GRILL)
115 Farnsworth Avenue)
Bordentown, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Board of Commissioners of the City of Bordentown.)

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

BY THE DIRECTOR:

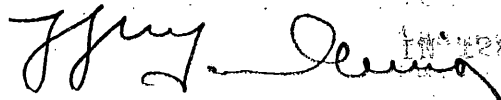
Defendant pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors in and upon his licensed premises, in violation of Rule 1 of State Regulation No. 20.

On two occasions during the evening of May 2, 1959, two ABC agents observed defendant serve drinks of alcoholic beverages to Carl --- (age 19) and to Richard --- (age 20). At about 11:40 p.m., as the defendant served the second round of drinks to said minors, the agents seized the drinks and then identified themselves to the defendant. The latter admitted that he did not question the minors as to their ages prior to serving alcoholic beverages to them.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days, the minimum penalty for an unaggravated sale of alcoholic beverages to a 19 and a 20-year-old minor. Re Barth, Bulletin 1236, Item 9, Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 1st day of June, 1959,

ORDERED that Plenary Retail Consumption License C-6, issued by the Board of Commissioners of the City of Bordentown to Charles F. Harney, Jr., t/a Town Bar & Grill, for premises 115 Farnsworth Avenue, Bordentown, be and the same is hereby suspended for ten (10) days, commencing at 6:00 a.m., Monday, June 8, 1959, and terminating at 6:00 a.m., Thursday, June 18, 1959.



William Howe Davis
Director