

BULLETIN 1042

On my first Christmas in the office of State Director I wish to express, officially and personally, my warm, cordial appreciation and Greetings of the Season to the municipal license issuing authorities, to all enforcement officers, to all conscientious and public-spirited licensees, and to all other persons interested in the firm, fair and impartial administration of alcoholic beverage control in our State.



William Howe Davis  
Director.

Dated: December 17, 1954.

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

BULLETIN 1042

DECEMBER 17, 1954.

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - HUDSON-BERGEN COUNTY RETAIL LIQUOR STORES ASSOCIATION v. FORT LEE AND DEVANEY.
2. APPELLATE DECISIONS - ELLIOTT v. NEWARK AND BOLERO CLUB.
3. DISCIPLINARY PROCEEDINGS (Totowa) - KNOWINGLY EMPLOYING AN UNQUALIFIED PERSON - LICENSE SUSPENDED FOR 10 DAYS.
4. DISCIPLINARY PROCEEDINGS (Wallington) - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Matawan) - PIN BALL MACHINE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Madison) - MISLABELED BEER TAP - LICENSE SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.
7. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1954 TO OCTOBER 31, 1954 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19.
8. ACTIVITY REPORT FOR NOVEMBER, 1954.
9. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - WIFE OF REGISTERED OWNER OF MOTOR VEHICLE FAILED TO ESTABLISH PROPRIETARY INTEREST THEREIN OR OVERCOME PRESUMPTION OF KNOWLEDGE OF HUSBAND'S PROPENSITY TO VIOLATE LIQUOR LAWS - ALCOHOL AND MOTOR VEHICLE ORDERED FORFEITED.
10. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN STORE - STOCK OF ALCOHOLIC BEVERAGES AND FIXTURES AND FURNISHINGS ORDERED FORFEITED - REQUEST BY OWNER FOR RETURN OF MUSIC MACHINE DENIED FOR LACK OF ADEQUATE INVESTIGATION OF PROPRIETOR OF STORE WITH REPUTATION FOR VIOLATING ALCOHOLIC BEVERAGE LAW.
11. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOLIC BEVERAGES - ALCOHOLIC BEVERAGES ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO OWNER UNAWARE OF PRESENCE OF ILLICIT ALCOHOLIC BEVERAGES IN CAR.
12. DISCIPLINARY PROCEEDINGS (Newark) - SUSPENSION REIMPOSED AFTER TERMINATION OF PROCEEDINGS TO REVIEW.
13. STATE LICENSES - NEW APPLICATIONS FILED.

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

BULLETIN 1042

DECEMBER 17, 1954.

1. APPELLATE DECISIONS - HUDSON-BERGEN COUNTY RETAIL LIQUOR STORES ASSOCIATION v. FORT LEE AND DEVANEY.

HUDSON-BERGEN COUNTY RETAIL LIQUOR STORES ASSOCIATION, )

Appellant, )

-vs- )

MAYOR AND COUNCIL OF THE BOROUGH OF FORT LEE, and JAMES J. DEVANEY, )

Respondents. )

ON APPEAL  
CONCLUSIONS AND ORDER

-----)  
Samuel Moskowitz, Esq., Attorney for Appellant.  
William V. Breslin, Esq., Attorney for Respondent-Municipality.

BY THE DIRECTOR:

This appeal is from the granting by respondent Mayor and Council of respondent Devaney's application for a new limited retail distribution license (R. S. 33:1-12(3)b).

The license-authorizing resolution was adopted September 15, 1954, and, pursuant to State Regulations No. 3, the Borough Clerk's letter of September 16, 1954, certified to the Division the granting of the license application. Thereupon the Division's letter of September 17, 1954 to the Borough enclosed an extra copy of P. L. 1952, c. 284 (in Bulletin 938, Item 1) and stated that, in view of the 1952 Act, the Mayor and Council had no jurisdiction or authority to issue the new limited retail distribution license. Noting that two other limited retail distribution licenses were issued and outstanding in Fort Lee while a third such license was not renewed for 1954-55, the Division's letter of September 17 stated:

"We know about the Borough's ordinance, adopted December 19, 1951, which sets forth a limited retail distribution license quota of four (4); but, of course, in purporting to permit issuance of a new limited retail distribution license the ordinance is without legal force or effect in the face of the statute.

"The Director will not be constrained to bring proceedings to cancel the new limited retail distribution license (unlawfully issued to Mr. Devaney) if the Mayor and Council take action at once to adopt a resolution rescinding the license-granting resolution of September 15, 1954 and if the license is immediately surrendered by Mr. Devaney."

The Borough Clerk's responsive letter of September 20 advised that the license had not been actually issued and indicated that, in the light of the Division's letter, it would not be issued. The next development was the filing of the appeal herein on September 21, 1954. At the hearing, after reference had been made to the Division's pertinent letters, the Borough Attorney stated that pending the determination on this appeal the Mayor and Council would take no action to cause issuance of the license or to rescind the resolution of September 15.

Section 2 of P. L. 1952, c. 284 (effective May 23, 1952) provides:

"2. No new limited retail distribution license shall be issued in any municipality after this act becomes effective except as provided in section four of this act."

Section 4 of the Act has no application to the facts of this case.

I find that the action granting respondent Devaney's application for a new limited retail distribution license was manifestly in contravention of P. L. 1952, c. 284, and, therefore, I am constrained to reverse such action.

Accordingly, it is, on this 17th day of November, 1954,

ORDERED that the granting by respondent Mayor and Council of respondent James J. Devaney's application for a new limited retail distribution license (DL-2) is hereby reversed, and the license is hereby declared null and void.

WILLIAM HOWE DAVIS  
Director.

2. APPELLATE DECISIONS - ELLIOTT v. NEWARK AND BOLERO CLUB.

ARTHUR ELLIOTT, )  
Appellant, )  
-vs- )  
MUNICIPAL BOARD OF ALCOHOLIC )  
BEVERAGE CONTROL OF THE CITY )  
OF NEWARK, and BOLERO CLUB, )  
Respondents. )

ON APPEAL  
CONCLUSIONS AND ORDER

-----  
James E. Abrams, Esq., Attorney for Appellant.  
Vincent P. Torppey, Esq., Corporation Counsel, by Joseph A. Ward, Esq.,  
Assistant Corporation Counsel, Attorney for Respondent Municipal  
Board.  
Jack L. Cohen, Esq., Attorney for Respondent-licensee.  
Sol Hershops, Esq., Attorney for Objectors.

BY THE DIRECTOR:

This is an appeal from the action of respondent Board on June 16, 1954, whereby it approved an application for transfer of Plenary Retail Consumption License C-679 (issued for the 1953-54 licensing year) from Charles Simon to respondent Bolero Club, and from 149-153 Meeker Avenue to 82-84 Monmouth Street.

The transcript of stenographic notes of the meeting at which said action was taken recites merely that "In this case the Board, after considering all the testimony, the exhibits and the evidence, approved the application for transfer."

Appellant, in his petition of appeal, asserts that respondent Board's action was erroneous because (a) the action was taken over the objections of a great many taxpayers and tenants, (b) no competent evidence was presented to indicate need for the license in the neighborhood, (c) respondent Board disregarded the fact that the immediate neighborhood is already "over-run" with liquor establishments, (d) there is no evidence of "hardship" on applicant, and (e) respondent Board disregarded the interest and welfare of the children and other residents in the immediate vicinity.

The answers deny these allegations and assert that these matters are within the discretion of respondent Board.

At the hearing on this appeal the record before respondent Board was received in evidence and additional witnesses testified. The record below and on this appeal consisted, in the main, of the testimony of a total of a dozen or more objectors. In addition, the objections of several hundred other persons were noted either by personal appearance, letter or petition.

At the hearing below no witnesses were called by either respondent and, on this appeal, no witnesses testified for respondents on the vital question of public necessity and convenience to be served by the transfer despite the fact that the proposed new location is a considerable distance (not less than a mile) from the former location. None of the members of respondent Board testified at the hearing on this appeal which, incidentally, was held after their offices had been vacated as the result of a charter election. A new Board has since been appointed. From the record before me I am unable to ascertain what, if any, consideration was given by the old Board to the paramount issue of public necessity for another license in the section of the City to which the transfer was sought. The disregard of this question by an issuing authority in a matter of this kind would be tantamount to a failure to discharge its duty under the Alcoholic Beverage Law (R. S. 33:1-1 et seq.) The matter must, therefore, be remanded to respondent Board for determination of this all-important question.

In the present posture of the record it is unnecessary to consider the other grounds raised by this appeal.

Accordingly, it is, on this 18th day of November, 1954,

ORDERED that the within application be and the same is hereby remanded to respondent Board for its action consistent with this opinion.

WILLIAM HOWE DAVIS  
Director.

3. DISCIPLINARY PROCEEDINGS - KNOWINGLY EMPLOYING AN UNQUALIFIED PERSON - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against )

THERESA THALER )  
T/a BARNYARD TAVERN )  
Totowa Road )  
Totowa, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Totowa. )  
----- )

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

BY THE DIRECTOR:

Defendant pleaded not guilty to a charge alleging that on June 4, 1954 and prior thereto, she knowingly employed at her licensed premises George Thaler, a person who had been convicted of a crime involving moral turpitude, such employment being in violation of Rule 1 of State Regulations No. 13.

The evidence consists of written statements and testimony by defendant and her husband, the aforementioned George Thaler. The facts are not in dispute. George Thaler who, admittedly, was employed upon the licensed premises for some time, was indicted for receiving stolen goods. On June 23, 1944 he pleaded non vult and was sentenced to a term of from two to three years in State Prison and fined \$1,000.00. The jail sentence was suspended. The complaint arose out of the purchase of several cases of whiskey, some cigars and candy, all of which had been stolen, from a man who approached him at defendant's licensed premises.

Despite his plea in the criminal case, George Thaler testified at the hearing herein that he did not know that the goods were stolen and counsel for defendant contends that, because of said non vult plea, the conviction may now be collaterally attacked in this proceeding, citing Schireson v. State Board of Medical Examiners, 130 N.J.L. 570 (E. & A. 1943). However, the Schireson case was expressly overruled in Kravis v. Hock, 136 N.J.L. 161 (E. & A. 1947), reversing Kravis v. Hock, 135 N.J.L. 259 (Sup. Ct. 1947). Thus, for the purposes of R.S. 33:1-25, 26, the plea of non vult is tantamount to a conviction.

The crime of receiving stolen goods ordinarily involves moral turpitude. Re Case 639, Bulletin 951, Item 7. Nothing appears in the instant case to free George Thaler's conviction of that element. Despite his claim of innocence, he may not now in this collateral proceeding attack the conviction or the plea. Re Case 639, supra.

It is also contended that defendant could not be expected to know that the conviction involved moral turpitude. Such knowledge is unnecessary. Knowledge of the basic fact, i.e., the conviction, is enough. Employment of the person with knowledge of the conviction is sufficient and defendant had such knowledge.

Defendant has a prior adjudicated record. Her license was suspended by the local issuing authority for fifteen days, effective July 1, 1954 for sale of alcoholic beverages to minors. However, since the violation herein preceded the suspension in that matter, no locus poenitentiae intervened and that violation will not be considered in arriving at the penalty herein. In order to constitute a second offense it must appear that there is an adjudication of guilt followed by punishment, and then, still unregenerate, a subsequent violation and adjudication Re Capestro and Friedlander, Bulletin 1000, Item 9.

Under all the circumstances I shall suspend defendant's license for ten days. Re Maronski and Zochowski, Bulletin 876, Item 3.

Accordingly, it is, on this 23rd day of November, 1954,

ORDERED that Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Totowa to Theresa Thaler, t/a Barnyard Tavern, for premises on Totowa Road, Totowa, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. November 29, 1954, and terminating at 3:00 a.m. December 9, 1954.

WILLIAM HOWE DAVIS  
Director.

4. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against JACOB PUZIO 131 Locust Avenue Wallington, N. J., Holder of Plenary Retail Consumption License C-27, issued by the Mayor and Council of the Borough of Wallington.

CONCLUSIONS AND ORDER

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

BY THE DIRECTOR:

The defendant has pleaded non vult to a charge alleging that, during prohibited hours, he sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that at 10:30 p.m., October 21, 1954, ABC agents who were present in defendant's licensed premises observed the licensee sell a quart bottle of beer to a patron who put it under his coat and departed. At 11:00 p.m., one of the agents ordered a quart bottle of beer and the licensee put one in a brown paper bag, handed it to him and accepted \$.50 in payment. The agents left the premises with the package without disclosing their identity but returned late Saturday evening, October 23, 1954. At 12:03 a.m. the next morning, the agents again observed the licensee sell a quart bottle of beer to a patron for off-premises consumption and at 1:00 a.m. the same morning they purchased from the licensee another quart bottle of beer to take out and departed. Returning shortly thereafter, the agents identified themselves to Jacob Puzio who stated that he sold after hours only to friends.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days, remitting five days for the plea entered herein, leaving a net suspension of ten days Re Zayak, Bulletin 1031, Item 6.

Accordingly, it is, on this 19th day of November, 1954,

ORDERED, that Plenary Retail Consumption License C-27, issued by the Mayor and Council of the Borough of Wallington to Jacob Puzio, for premises 131 Locust Avenue, Wallington, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. November 29, 1954, and terminating at 3:00 a.m. December 9, 1954.

WILLIAM HOWE DAVIS Director.

5. DISCIPLINARY PROCEEDINGS - PIN BALL MACHINE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

THOMAS DEVINO and FRANK DEVINO )  
 T/a MATAWAN & KEYPORT BOWLING & )  
 RECREATION CENTER )  
 2 Lower Main Street )  
 Matawan, N. J., )

CONCLUSIONS  
 AND ORDER

-----  
 Holders of Plenary Retail Consumption License C-8, issued by the )  
 Township Committee of Matawan )  
 Township. )

Thomas Devino and Frank Devino, Pro Se.  
 Edward F. Ambrose, 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 in and upon their licensed premises three bagatelle or pin ball machines, in violation of Rule 7 of State Regulations No. 20.

The file herein discloses that on November 3, 1954, an ABC agent, while making a routine inspection of defendants' licensed premises, observed therein three pin ball machines which he operated in the presence of one of the licensees.

Defendants have no prior adjudicated record. I shall suspend their license for the minimum period of ten days and remit five days for the plea entered herein, leaving a net suspension of five days. Re Hulse and Willis, Bulletin 927, Item 8.

Accordingly, it is, on this 23rd day of November, 1954,

ORDERED that Plenary Retail Consumption License C-8, issued by the Township Committee of Matawan Township to Thomas Devino and Frank Devino, t/a Matawan & Keyport Bowling & Recreation Center, for premises 2 Lower Main Street, Matawan, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. November 29, 1954, and terminating at 2:00 a.m. December 4, 1954.

WILLIAM HOWE DAVIS  
 Director.

6. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAP - LICENSE SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

PHILIP CITRO & NICHOLAS CITRO )  
T/a MADISON TAVERN )  
75 Main Street )  
Madison, N. J., )

CONCLUSIONS AND ORDER

-----)  
Holders of Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Madison. )

Frank J. Valgenti, Jr., 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 a mislabeled beer tap on their licensed premises, in violation of Rule 26 of State Regulations No. 20.

The file herein discloses that on November 3, 1954, during the course of a retail inspection of defendants' licensed premises, an ABC agent found a half-barrel of Ballantine beer connected to a tap which bore the brand name "Krueger."

Defendants have no prior adjudicated record. I shall suspend their license for a period of three days. One day will be remitted for the plea entered herein, leaving a net suspension of two days. Re Dwyer, Bulletin 1036, Item 5.

Accordingly, it is, on this 24th day of November, 1954,

ORDERED, that Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Madison to Philip Citro & Nicholas Citro, t/a Madison Tavern, 75 Main Street, Madison, be and the same is hereby suspended for two (2) days, commencing at 7:00 a m December 6, 1954, and terminating at 7:00 a.m. December 8, 1954.

WILLIAM HOWE DAVIS  
Director.

7. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1954 TO OCTOBER 31, 1954  
AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19.

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club		Limited Retail Distribution		Seasonal Retail Consumption		Number Surrendered Revoked Expired	Number Licenses in Effect	Total Fees Paid
	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid	No. Issued	Fees Paid			
Atlantic	489	\$ 203,750.00	71	\$ 25,575.00	18	\$ 1,750.00						578	\$ 236,075.00
Bergen	812	303,007.50	299	84,912.00	92	8,829.11	55	\$ 2,586.25	5	\$ 1,398.75		1263	400,733.6
Burlington	185	76,440.00	34	9,250.00	41	5,342.74	1	50.00				261	91,582.7
Camden	454	217,338.08	82	31,925.00	69	6,657.31			1	375.00		606	256,295.8
Cape May	133	73,550.00	11	4,500.00	18	2,150.00						162	79,700.0
Cumberland	80	39,375.99	14	3,850.00	31	4,182.58						125	47,407.5
Essex	1372	773,710.00	351	205,700.00	101	13,950.00	30	1,500.00	1	750.00		1855	995,610.0
Gloucester	108	34,350.00	13	2,750.00	18	1,691.23						139	38,791.2
Hudson	1550	672,605.82	298	117,810.00	75	8,966.17	67	2,900.00				1990	802,261.9
Hunterdon	78	25,850.00	6	1,900.00	6	700.00						90	28,450.0
Mercer	426	258,341.10	51	21,000.00	53	7,500.00						530	287,141.1
Middlesex	632	307,505.00	74	22,995.00	84	7,491.01	4	200.00				794	338,291.0
Monmouth	548	277,345.00	120	42,210.00	36	4,230.93	10	435.90	27	11,731.35		741	335,952.2
Morris	354	122,115.00	98	31,000.00	51	4,548.08	14	700.00	6	1,468.29		523	159,831.3
Ocean	190	104,192.22	47	19,313.00	21	2,248.63						258	125,753.8
Passaic	875	358,380.00	167	50,690.00	38	4,653.27	11	525.00				1091	414,248.2
Salem	51	19,700.00	8	1,600.00	16	1,425.00						75	22,725.0
Somerset	186	79,250.00	39	10,695.00	24	2,525.00						249	92,470.0
Sussex	169	46,105.00	20	3,955.00	9	535.00	1	50.00	1	22.00		200	50,870.0
Union	548	291,386.30	144	59,500.00	71	7,962.47	33	1,750.00				796	360,598.7
Warren	148	43,155.00	18	4,232.29	30	3,130.00					2	198	50,854.8
	9388	\$4,332,851.92	1965	\$ 754,862.29	902	\$100,969.03	226	\$10,696.25	43	\$16,285.94		12524	\$5,215,664.5

WILLIAM HOWE DAVIS  
Director.

November 18, 1954.

8.

ACTIVITY REPORT FOR NOVEMBER 1954

ARRESTS:

Total number of persons arrested	- - - - -	28
Licensees and employees	- - - - - 3	
Bootleggers	- - - - - 24	
ABC agent impersonator	- - - - - 1	

SEIZURES:

Motor vehicles - cars	- - - - -	6
Stills - over 50 gallons	- - - - -	2
- 50 gallons or under	- - - - -	2
Mash - gallons	- - - - -	2,850.00
Distilled alcoholic beverages - gallons	- - - - -	185.11
Wine - gallons	- - - - -	15.63
Brewed malt alcoholic beverages - gallons	- - - - -	12.93

RETAIL LICENSEES:

Premises inspected	- - - - -	977
Premises where alcoholic beverages were gauged	- - - - -	466
Bottles gauged	- - - - -	8,840
Premises where violations were found	- - - - -	74
Violations found	- - - - -	89
Type of violations found:		
Unqualified employees	- - - - - 25	
Reg. #38 sign not posted	- - - - - 13	
Disposal permit necessary	- - - - - 7	
Other mercantile business	- - - - - 5	
Gambling devices	- - - - - 4	
Prohibited signs	- - - - - 2	
Improper beer taps	- - - - - 1	
Other violations	- - - - - 32	

STATE LICENSEES:

Premises inspected	- - - - -	3
License applications investigated	- - - - -	13

COMPLAINTS:

Complaints assigned for investigation	- - - - -	404
Investigations completed	- - - - -	374
Investigations pending	- - - - -	132

LABORATORY:

Analyses made	- - - - -	78
Refills from licensed premises - bottles	- - - - -	2
Bottles from unlicensed premises	- - - - -	17

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made	- - - - -	32
Persons fingerprinted for non-criminal purposes	- - - - -	157
Identification contacts made with other enforcement agencies	- - - - -	119
Motor vehicle identifications via N. J. State Police teletype	- - - - -	4

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	- - - - -	10
Violations involved:		
Sale during prohibited hours	- - - - - 4	
Sale to minors	- - - - - 3	
Sale outside scope of license	- - - - - 1	
Permitting hostesses on premises	- - - - - 1	
Possessing chilled beer (DL licensee)	- - - - - 1	
Permitting gambling (prize fight pool and wagering)	- - - - - 1	
Cases instituted at Division	- - - - -	11
Violations involved:		
Sale during prohibited hours	- - - - - 3	
Permitting immoral activity on premises	- - - - - 2	
Permitting gambling (numbers)	- - - - - 1	
Permitting bookmaking on premises	- - - - - 1	
Permitting pin ball machine on prem.	- - - - - 1	
Fraud and front	- - - - - 1	
Possessing contraceptives on prem.	- - - - - 1	
Mislabeled beer tap	- - - - - 1	
Sale to minors	- - - - - 1	
Sale outside scope of license	- - - - - 1	
Conducting business as a nuisance	- - - - - 1	
Hindering investigation	- - - - - 1	
Cases brought by municipalities on own initiative and reported to Division	- - - - -	16
Violations involved:		
Sale to minors	- - - - - 11	
Permitting brawl on premises	- - - - - 3	
Sale during prohibited hours	- - - - - 3	
Hindering investigation	- - - - - 1	
Failure to afford view into premises during prohibited hours	- - - - - 1	
Permitting immoral activity on premises	- - - - - 1	
Failure to display license certificate (local reg.)	- - - - - 1	

HEARINGS HELD AT DIVISION:

Total number of hearings held	- - - - -	32
Appeals	- - - - - 6	
Disciplinary proceedings	- - - - - 12	
Eligibility	- - - - - 5	
Seizures	- - - - - 6	
Tax revocations	- - - - - 3	

STATE LICENSES AND PERMITS ISSUED:

Total number issued	- - - - -	1,457
Licensees	- - - - - 4	
Employment permits	- - - - - 152	
Solicitors	- - - - - 42	
Disposal	- - - - - 84	
Social affair	- - - - - 376	
Wine permits	- - - - - 482	
Miscellaneous permits	- - - - - 115	
Transportation insignia	- - - - - 182	
Transportation certificates	- - - - - 20	

WILLIAM HOWE DAVIS  
Director.

Dated: December 2, 1954.

9. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - WIFE OF REGISTERED OWNER OF MOTOR VEHICLE FAILED TO ESTABLISH PROPRIETARY INTEREST THEREIN OR OVERCOME PRESUMPTION OF KNOWLEDGE OF HUSBAND'S PROPENSITY TO VIOLATE LIQUOR LAWS - ALCOHOL AND MOTOR VEHICLE ORDERED FORFEITED.

In the Matter of the Seizure on July 31, 1954 of 28 one-gallon glass jugs of alcohol and a Buick sedan on the northbound lane of the New Jersey Turnpike, in the Township of Washington, County of Middlesex and State of New Jersey.

Case No. 8665

ON HEARING CONCLUSIONS AND ORDER

Herman Belopolsky, Esq., Attorney for Virginia Holley. 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 28 one-gallon jars of alcohol and a Buick sedan, described in a schedule attached hereto, seized on July 31, 1954 on the northbound lane of the New Jersey Turnpike, Washington, New Jersey, constitute unlawful property and should be forfeited.

Two New Jersey State Troopers halted the Buick sedan on the day in question at the above location during the course of their routine patrol of traffic on the highway. The car was being driven by Lonnie Holley, its registered owner. When the troopers discovered 28 one-gallon jugs of alcohol in the car, they seized such alcohol and car. The Division of Alcoholic Beverage Control was notified, and the alcohol and car were turned over to its agents.

A sample of the alcohol in one of the jugs 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 49.3 per cent. There were no labels, or stamps indicating the payment of tax on alcoholic beverages, on the jugs of alcohol.

The alcohol is illicit because of the absence of such labels or tax stamps on the jugs in which it was contained. R.S. 33:1-1(i), R.S. 33:1-88.

Such illicit alcohol and the Buick 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.

Lonnie Holley was convicted of possessing and transporting illicit alcohol on November 17, 1950 and his motor vehicle used on that occasion was forfeited by the Director of the Division of Alcoholic Beverage Control. Seizure Case No. 7748.

When the matter came on for hearing, pursuant to R.S. 33:1-66, an appearance was entered by counsel on behalf of Virginia Holley, who sought to obtain return of the motor vehicle. No one opposed forfeiture of the alcohol. The reports of A.B.C. agents or other documents in the file which established the facts above set forth were received in evidence with such counsel's consent.

Mrs. Holley's sole claim is that her money was used in part to pay for the car and consequently that it is her car. Without describing her testimony on this score in detail, the net effect thereof is that her claim appears to be a mere pretense, contrived after the seizure to present an ostensible defense to forfeiture.

In any event, she admits, as is natural, that she was aware of her husband's violation of the Alcoholic Beverage Law in 1950. Thus

she knew or should have known, by reason of their marital relationship, that he was likely to use the Buick sedan for such purpose. This is a graphic illustration of the normal presumption that a wife is aware of her husband's misdeeds, as stated in Seizure Case No. 8525, Bulletin 1027, Item 3. Mrs. Holley's request for return of the motor vehicle is denied both on the ground that there is no satisfactory proof that she is the actual owner of such motor vehicle, and because she knew or should have known of her husband's unlawful alcoholic beverage activity.

Accordingly, it is DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66, and that it be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS  
Director.

Dated: November 10, 1954.

SCHEDULE "A"

- 28 - one gallon glass jugs of alcohol
- 1 - Buick sedan, Serial No. 35097021,  
Engine No. 52809595, N.Y. Registration (1954)  
QK64-28.

10. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN STORE - STOCK OF ALCOHOLIC BEVERAGES AND FIXTURES AND FURNISHINGS ORDERED FORFEITED - REQUEST BY OWNER FOR RETURN OF MUSIC MACHINE DENIED FOR LACK OF ADEQUATE INVESTIGATION OF PROPRIETOR OF STORE WITH REPUTATION FOR VIOLATING ALCOHOLIC BEVERAGE LAW.

In the Matter of the Seizure on )  
August 4, 1954, of a quantity of )  
alcoholic beverages and various )  
fixtures, furniture, and equipment )  
on premises occupied by Abbis Moore, )  
located on the east side of Main )  
Street (also known as Buck Road), )  
near Sixth Avenue, in Glassboro )  
Lawns, Elk Township, County of )  
Gloucester and State of New Jersey. )  
-----)

Case No. 8668

ON HEARING  
CONCLUSIONS AND ORDER

Monroe Spiegel, trading as Harmony Music 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 a quantity of alcoholic beverages, and various fixtures, furniture and equipment, described in a schedule attached hereto, seized on August 4, 1954 on premises occupied by Abbis Moore, located on Main Street (also known as Buck Road) near Sixth Avenue, Glassboro Lawns, Elk Township, New Jersey, constitute unlawful property and should be forfeited.

Abbis Moore conducted a small store at the above location. The Division of Alcoholic Beverage Control received a complaint that alcoholic beverages were being sold there without a license. Accordingly, an ABC agent and a companion entered the store on July 21, 1954 to

investigate the complaint, and went to a rear room. There the agent purchased a bottle of wine from Abbis Moore, and observed another person purchase a bottle of wine. The agent left without disclosing his identity.

The agent returned to the premises on August 4, 1954. When he entered the rear room he observed Abbis Moore sell two bottles of beer to a customer. The agent purchased a bottle of beer from Moore.

Other agents then entered the store, and all of the agents disclosed their identity. Abbis Moore did not hold any license to sell alcoholic beverages and the premises were not licensed for that purpose.

The agents seized a bottle of whiskey, 57 bottles of beer, 60 cans of beer, seven bottles of wine, which were on the premises, as well as the fixtures, furnishings and equipment therein. They also seized \$1.00 in cash used by one of the ABC agents to pay for the beer.

There was a seizure of alcoholic beverages at the premises on November 15, 1948, and as a result thereof Abbis Moore was convicted on February 3, 1949 of violating the Alcoholic Beverage Law. Seizure Case No. 7340.

When the matter came on for hearing pursuant to R.S. 33:1-66, Monroe Spiegel appeared and sought return of a music box. No one opposed forfeiture of the balance of the seized property.

Reports of ABC agents and other documents in the file which establish the above facts were admitted into evidence with consent of Mr. Spiegel.

Mr. Spiegel testified that a Wurlitzer music machine, with a label "Harmony Music Company" was located in Abbis Moore's premises. He received a telephone call requesting the placement of such machine, and the machine was at the premises for only about two weeks prior to the seizure. He made no investigation concerning Moore's background, reputation or business activities because he dealt with him about four or five years previously. He did not visit the premises before or after placing the last machine there.

A music machine owned by Mr. Spiegel was seized in a speakeasy a few months prior to the instant case, but he did not appear to oppose its forfeiture because the machine had but little value. Asked whether the incident should have led him to take some precaution as to where to place his machines, he answered in the negative -- that he never investigates a prospective customer's background.

Where the establishment has a past record, or reputation, as the scene of speakeasy activities, a claimant seeking the benefit of the Director's discretionary authority to return property seized therein, must present convincing evidence that he made an earnest effort to ascertain the background and activities of the person with whom he left his property, and did not discover such record or reputation, or the likelihood that illicit alcoholic beverages were stored, or unlicensed sales of alcoholic beverages would be carried on, at the premises. Seizure Case No. 8111, Seizure Case No. 7044, Bulletin 760, Item 8.

Business relations with the same person four or five years previously are too remote in time to dispense with the need for such investigation. Further, Mr. Spiegel despite a recent seizure of one of his music machines in a speakeasy, made no effort to check his then current placements to weed out any undesirable location, or to take any precautions to avoid new placements in undesirable locations. This does not appear to be conduct of a reasonably prudent person. He therefore has not established that he acted in good faith and had no knowledge of the unlawful use to which the property was put or of such facts as would have led a person of ordinary

prudence to discover such use. R.S. 33:1-66(f). His application for return of the music machine must therefore be denied.

Accordingly, it is DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66, and that it be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS  
Director.

Dated: November 10, 1954.

SCHEDULE "A"

- 1 - 1/2 pt. bottle of whiskey
- 57 - bottles of beer
- 60 - cans of beer
- 7 - bottles of wine
- 1 - Wurlitzer music box and currency therein
- 1 - Singing Towers music box and currency therein
- 1 - Coca Cola Electric Box
- 1 - General Electric Fan
- 15 - chairs
- 1 - Hallicrafters Television set
- 4 - tables
- 1 - counter
- \$1.00 in cash

11. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOLIC BEVERAGES - ALCOHOLIC BEVERAGES ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO OWNER UNAWARE OF PRESENCE OF ILLICIT ALCOHOLIC BEVERAGES IN CAR.

In the Matter of the Seizure on August 4, 1954, of a half-gallon jar of alcohol and a Mercury sedan at or near the intersection of East Avenue and Barrett Run Road, in the Township of Hopewell, County of Cumberland and State of New Jersey.

Case No. 8669

ON HEARING  
CONCLUSIONS AND ORDER

Harry Adler, Esq., Attorney for Clyde Keller.  
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 jug of alcohol, and a Mercury sedan, described in a schedule attached hereto, seized on August 4, 1954 at or near the intersection of East Avenue and Barrett Run Road, Hopewell, New Jersey, constitute unlawful property and should be forfeited.

A New Jersey State Trooper, while on a routine patrol of the highway, came upon Clyde Keller asleep in the car, parked on the road. A half-gallon jar of alcohol, without any label or stamp indicating the payment of tax on alcoholic beverages, was in the car. Thereupon the trooper seized the car and alcohol, notified the Division of Alcoholic Beverage Control, and the alcohol and car were turned over to its agents.

The alcohol in the car was analyzed by the Division chemist, who reports that it is a distillate from fruit containing alcohol, water

and natural coloring with a trace of artificial coloring, fit for beverage purposes, with an alcoholic content by volume of 46.4 per cent.

When the matter came on for hearing pursuant to R.S. 33:1-66, Clyde Keller, the registered owner of the Mercury sedan, appeared and sought its return on claim that the jar of alcohol was in the car without his knowledge or consent, and that he was utterly at loss to account for its presence there.

Reports of ABC agents and other documents in the file establishing the above facts, were presented in evidence with consent of counsel for Clyde Keller. The alcohol, or alcoholic beverage, is illicit because of the absence of any label or tax stamp on the jar. R.S. 33:1-1(i), R.S. 33:1-88. It is obviously 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.

Since normally a person is assumed to know what there is in his car, it is natural to look askance at any claim to the contrary, especially where bootleg liquor is involved. There have been instances in the past where the claimant's law-abiding background, and his straightforward account of what occurred, is so logical and convincing that it is accepted as establishing his innocence in the matter. Seizure Case No. 8284; Seizure Case No. 7979, Seizure Case No. 7899; Seizure Case No. 7204, Bulletin 797, Item 13.

Clyde Keller testified as follows: He is 41 years of age, married about 17 years, and lives with his wife and two minor children. He was a resident of Tennessee as a youth, worked there as a farmer, and later was employed in industrial plants in Ohio. He came to New Jersey from Ohio in the spring of 1954, and joined a group of men who came from Tennessee or nearby states, who were employed for utility concerns to trim limbs of trees to keep them clear of high tension and other wires. It is explained that this is a highly expert line, for which these men have particular adaptability. Keller rented a home in the vicinity, and his wife obtained work nearby as a seamstress. Their only asset appears to be the motor vehicle, which they purchased on installment payments.

Keller's fingerprint record discloses an arrest in Tennessee in 1937. The record does not disclose the outcome thereof, but Keller and his wife volunteered the information that Keller and his brother, then farmers, purchased or intended to purchase some moonshine near a still, and were arrested and placed on probation. This dim and distant episode, in fairness, should not prejudice an otherwise acceptable explanation of innocence in the present instance.

On such score, Keller testified that he was temporarily not working because of a case of poison ivy, and left his home in the car in the afternoon of the day in question to purchase vegetables, his wife being at work. On the way, he stopped at a number of taverns. He then drove into the countryside and stopped at a fruit stand. There he met a man who claimed he knew Keller from the South. They struck up an acquaintance, both entered the car, and visited a number of taverns. During this period, Keller speaks of a package of some sort which he thought his companion carried. In any event, both men left a tavern, at which time Keller apparently was so drunk that he was afraid to drive, and stopped, despite the urging of his companion to proceed. Keller then fell asleep, and was awakened by the trooper. His companion was no longer there.

The ABC agents endeavored to obtain a written statement from Keller immediately after the seizure, but he refused to sign it, for one reason or another. The agents when so questioning Keller attribute to him the statement concerning the source of the jar of alcohol -- "I do not know who I got the stuff from or where I got it.

This is not inconsistent with his testimony at the hearing, considering Keller's condition at the time the agents questioned him.

Keller's background does not indicate a likelihood that he was a bootlegger. The incident appears to have arisen out of an overindulgence in alcoholic beverages, with the consequent haze over the events which took place. It may be that Keller purchased the moonshine; it may be that his version is correct. I doubt very much whether Keller has any clear recollection of what took place. In view of the entire circumstances, I shall give him the benefit of the doubt, and find that he had no conscious possession of the jar of alcohol, and hence that he acted in good faith, and unknowingly violated the law. R.S. 33:1-66(e).

Accordingly, it is DETERMINED and ORDERED that if on or before the 24th day of November, 1954, Clyde Keller pays the costs of seizure and storage of the Mercury sedan, said sedan will be returned to him; and it is further

DETERMINED and ORDERED that the one-half gallon jar of alcohol, 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.

WILLIAM HOWE DAVIS  
Director.

Dated: November 12, 1954.

SCHEDULE "A"

- 1 - half-gallon jar of alcohol
- 1 - Mercury sedan, Serial No. and Engine No. 52LP15088, Ohio Registration NUL28.

12. DISCIPLINARY PROCEEDINGS - SUSPENSION REIMPOSED AFTER TERMINATION OF PROCEEDINGS TO REVIEW.

In the Matter of Disciplinary Proceedings against )  
 )  
 McFADDEN'S LOUNGE, INC. )  
 88-94 Halstead St. )  
 Newark 6, N. J., )  
 )  
 Holder of Plenary Retail Consumption License C-853, issued by the )  
 Municipal Board of Alcoholic Beverage Control of the City of )  
 Newark. )  
 -----) )

O R D E R

BY THE DIRECTOR:

On February 2, 1954, the license herein was suspended for 25 days. See Bulletin 1003, Item 5. Pending the licensee's appeal to the Superior Court, Appellate Division, the suspension was stayed. The court has recently affirmed the suspension and it may, therefore, now be reimposed.

Accordingly, it is, on this 17th day of November, 1954,

ORDERED that the suspension of 25 days heretofore entered against License C-853, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to McFadden's Lounge, Inc., for premises 88-94 Halstead Street, Newark, be and the same is hereby reimposed, commencing at 2:00 a.m. November 22, 1954, and terminating at 2:00 a.m. December 17, 1954.

WILLIAM HOWE DAVIS  
Director.

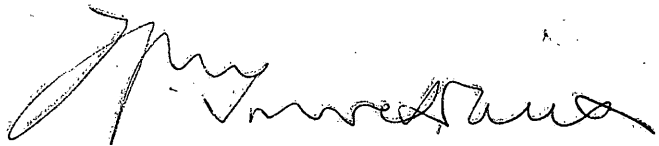
13. STATE LICENSES - NEW APPLICATIONS FILED.

Cinzano, Inc.  
1 East 57th St.  
New York 22, N. Y.

Application filed December 14, 1954 for a Wine Wholesale License.

Anthony F. Bruno  
384 Franklin Avenue  
Belleville, N. J.

Application filed December 15, 1954 for transfer of State Beverage Distributor's License from Albert J. Bakunas, t/a A. J. Bakunas Beverages, 316 3rd Street, Cliffside Park, N. J.



William Howe Davis  
Director.