

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1752

September 14, 1967

TABLE OF CONTENTSITEM

1. APPELLATE DECISIONS - NORTH JERSEY RETAIL LIQUOR STORES ASSOCIATION v. PATERSON AND SHOPPERS BAR & LIQUOR, INC.
2. APPELLATE DECISIONS - FORGIONE V. PASSAIC.
3. DISCIPLINARY PROCEEDINGS (Cliffside Park) - GAMBLING (NUMBERS BETS) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS - NO REMISSION FOR PLEA ENTERED AT HEARING.
4. DISCIPLINARY PROCEEDINGS (Waterford Twp.) - GAMBLING (HORSE AND NUMBERS BETS AND WAGERING) - PREVIOUS DISSIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Dunellen) - GAMBLING (POOLS AND WAGERING) - FOUL LANGUAGE - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Hoboken) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
7. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF UNTAXED ALCOHOLIC BEVERAGES - CLAIM OF INNOCENT OWNER OF U-DRIVE MOTOR VEHICLE RECOGNIZED - SURETY BOND ORDERED RETURNED TO CLAIMANT - ALCOHOLIC BEVERAGES ORDERED FORFEITED.
8. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.
9. DISCIPLINARY PROCEEDINGS (Bayonne) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Woodbridge Township) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1752

September 14, 1967

1. APPELLATE DECISIONS - NORTH JERSEY RETAIL LIQUOR STORES  
ASSOCIATION v. PATERSON AND SHOPPERS BAR & LIQUOR, INC.

NORTH JERSEY RETAIL LIQUOR )  
STORES ASSOCIATION, )

Appellant, )

v. )

BOARD OF ALCOHOLIC BEVERAGE )  
CONTROL FOR THE CITY OF )  
PATERSON, and SHOPPERS BAR & )  
LIQUOR, INC., t/a SHOPPERS )  
BAR & LIQUOR, )

Respondents. )

On Appeal  
CONCLUSIONS  
AND ORDER

----- )  
Sellinger & Chester, Esqs., by Robert H. Chester, Esq., )  
Attorneys for Appellant )

Robert P. Swartz, Esq., by A. Michael Rubin, Esq., )  
Attorney for Respondent Board )

Shavick, Thevos, Stern, Schotz & Steiger, Esqs., by Barry I. )  
Croland, Esq., Attorneys for Respondent Shoppers )  
Bar & Liquor, Inc. )

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of respondent Board of Alcoholic Beverage Control (hereinafter Board) in granting the application for renewal of Plenary Retail Consumption License C-268 for the current licensing period to the respondent Shoppers Bar & Liquor, Inc., t/a Shoppers Bar & Liquor (hereinafter Shoppers Bar) for premises located at 160 West Broadway, Paterson.

Appellant in its petition of appeal contends that the action of the Board was erroneous because the method of operation by respondent Shoppers Bar was in violation of R.S. 33:1-12.23 and State Regulation No. 32.

Both the Board and Shoppers Bar, in answers filed herein, deny the allegation contained in appellant's petition of appeal.

The appeal herein was submitted by the parties thereto on the following Stipulation of Facts:

"Shoppers Bar & Liquor, Inc. is a corporation of the State of New Jersey which is the holder of Plenary Retail Consumption License No. C-268. The business of Shoppers is conducted at 160 West Broadway, Paterson, New Jersey.

"On October 15, 1965, Shoppers submitted a sketch to the Division which depicted the interior arrangements of its business and on October 20, 1965, the Division, after reviewing the plans, approved

these plans without prejudice to the outcome of the first appeal which had been filed by the North Jersey Retail Liquor Stores Association. North Jersey RLSA v. Paterson & Shoppers Liquor, Inc., Bulletin 1676, Item 2.

"The interior of the premises presently occupied by Shoppers comply with the aforementioned sketch which was submitted to the Division on October 15, 1965. The exact dimensions and nature of the said premises are reflected in Exhibit A-4 of the initial appeal which is annexed hereto and made a part hereof as Schedule C. The said premises have a stationary u-shaped bar which is approximately ten (10) feet in length which is equipped with a hand rail, foot rail, ten (10) bar stools, a sink, drainboard, hot and cold running water, and adequate utensils for preparing mixed drinks. (See photographs annexed hereto and made a part hereof as Schedule D.) Shoppers sells liquor in open containers for consumption on the premises and it also offers for sale packaged goods in accordance with the Plenary Retail Consumption License which it holds.

"All of the parties to this appeal agree that any issues regarding the public convenience and necessity of the instant transfer has been determined in a prior appeal (North Jersey RLSA v. Paterson & Shoppers Liquor, Inc., supra) and, therefore, these issues are in no way germane to the instant action. The sole issue to be determined on this appeal is the use of the premises by the licensee in the light of R.S. 33:1-12.23 and State Regulation No. 32."

The only matter to be resolved pursuant to the stipulation of facts aforementioned is whether respondent Shoppers Bar is operating its establishment in violation of the provisions of the Alcoholic Beverage Law pertaining thereto. A barroom has been judicially defined to mean that portion included within the four walls of the room in which the bar is located. Coral Lounge and Cocktail Bar, Inc. v. Hock, 5 N.J. Super. 163.

The floor plan of the interior of the premises (marked in evidence as Exhibit R-4), which has been outlined in the stipulation of facts hereinabove set forth, indicates that the respondent Shoppers Bar is acting in compliance with the requirements of the statute (R.S. 33:1-12.23) in that it does not sell or display for sale alcoholic beverages in original containers for off-premises consumption in other than the public barroom. There is a ten-foot U-shaped bar, around which are ten stools, located toward the left of the barroom as one enters the licensed premises. The room is unobstructed by any objects which might prevent any person entering the licensed premises from observing the bar. It is equipped with a sink, drainboard, hot and cold running water, and adequate utensils for preparing mixed drinks.

I therefore find as a fact that the said room wherein the alcoholic beverages are sold is a bona fide barroom with adequate bar facilities, constituting an invitation to the public to be served and to consume alcoholic beverages therein, within the contemplation of R.S. 33:1-12.23. See Passaic County Liquor Dealers Assn. v. Paterson et al., Bulletin 1021, Item 1 (affirmed by the Appellate Division of the Superior Court in 37 N.J. Super. 187); Messinger et al. v. Pompton Lakes et al., Bulletin 1129, Item 3;

Monmouth County Retail Liquor Stores Assn. et als. v. Neptune City et al., Bulletin 1243, Item 2; Monmouth County Retail Liquor Stores Assn. v. Middletown and Middletown Enterprises, Inc., Bulletin 1572, Item 1.

I might also state that if in future the licensed business is operated in violation of R.S. 33:1-12.23 and State Regulation No. 32, appropriate action may be taken to suspend or revoke the license. See Re Krystyniak, Bulletin 1021, Item 2. I find nothing to indicate that the Board acted arbitrarily or in any manner abused the discretion vested in it by approving the renewal of the license in question.

Furthermore, the entire record indicates that appellant has failed to sustain the burden of proof in showing that the action of the Board was erroneous. Rule 6 of State Regulation No. 15. Shiloh Baptist Church v. Atlantic City et al., Bulletin 1387, Item 2, and cases cited therein.

For the expressed reasons aforesaid, it is recommended that an order be entered in this matter affirming the action of the Board and dismissing the appeal.

#### Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the Stipulation of Facts submitted by the parties hereto, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 12th day of July 1967,

ORDERED that the action of respondent Board be and the same is hereby affirmed, and that the appeal herein be and the same is hereby dismissed.

JOSEPH P. LORDI  
DIRECTOR

2. APPELLATE DECISIONS - FORGIONE v. PASSAIC.

THOMAS R. FORGIONE, t/a )  
 M. & S. LIQUORS, )  
 )  
 v. Appellant, )  
 )  
 BOARD OF COMMISSIONERS OF )  
 THE CITY OF PASSAIC, )  
 )  
 Respondent. )

On Appeal  
CONCLUSIONS  
AND ORDER

--- Citrino, Carella & Balsam, Esqs., by Charles C. Carella, Esq.,  
 Attorneys for Appellant.  
 Joseph M. Keegan, Esq., by Herman Osofsky, Esq., Attorney for  
 Respondent.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

The appellant, holder of a plenary retail distribution license for premises 531 Main Avenue, Passaic, entered pleas of guilty to the following two charges in disciplinary proceedings instituted by the respondent Board of Commissioners of the City of Passaic (hereinafter Board):

"On July 6, 1966, you sold, or allowed, permitted or suffered the sale of alcoholic beverages to Terry --- and David ---, persons under the age of twenty-one years in or upon your licensed premises, in violation of Rule 1 of the State Regulation No. 20 of the Rules and Regulations of the Division of Alcoholic Beverage Control.

"On July 22, 1966, you sold, or allowed, permitted or suffered the sale of alcoholic beverages to George ---, a person under the age of twenty-one years in or upon your licensed premises, in violation of Rule 1 of the State Regulation No. 20 of the Rules and Regulations of the Division of Alcoholic Beverage Control."

Whereupon the Board voted unanimously to revoke appellant's license effective August 23, 1966.

The petition of appeal, as molded by amendments at the hearing herein, (1) alleges that "the imposition of the revocation was harsh, arbitrary and capricious" and (2) pleads for a modification of the revocation in order to afford appellant an opportunity to transfer his license to a suitable operator.

The answer of the Board denies the first allegation and states that the revocation was "reasonable and proper and in the best interest of public welfare."

Upon the filing of this appeal an order dated September 21, 1966 was entered by the Director staying the effect of the Board's order of revocation pending the determination of this appeal.

As to (1): The records of the Board disclose the following: (a) the appellant was found guilty of sale to a minor by the Board on July 27, 1965, and his license was suspended for five days; (b) appellant pleaded guilty to a charge of sale to minors on January 28, 1966 (no disposition by an order of suspension was made on that charge); (c) appellant pleaded guilty to a charge of sale to minors on May 24, 1966 (no penalty was imposed on this charge); (d) appellant pleaded guilty to a charge of sale to minors on July 22, 1966. As a result of these charges the challenged action of the Board is in issue.

After the entry of the pleas of guilty, the Board had a mandate to determine whether the appellant's license should be suspended or revoked. In this connection it should be noted that a liquor license is a mere privilege. Paul v. Gloucester County, 50 N.J.L. 585 (E. & A. 1888); Mazza v. Cavicchia, 15 N.J. 498 (1954). And, as Judge Jayne, speaking for the court in In re 17 Club, Inc., 26 N.J. Super. 43 (App. Div. 1953) said:

"The governmental power extensively to supervise the conduct of the liquor business and to confine the conduct of that business to reputable licensees who will manage it in a reputable manner has uniformly been accorded broad and liberal judicial support."

In the exercise of that power, the Legislature invested the local issuing authority (Board) with the power to suspend or revoke licenses, after hearing, for certain enumerated violations including violation of the law or of State or local regulations. R.S. 33:1-31.

The repeated sales to minors within a short period of time is a matter of deep concern calling for stringent action, and comes within the orbit of the aforementioned statute. The prevention of sales of intoxicating liquors to minors not only justifies but necessitates the most rigid control. Hudson-Bergen County Retail Liquor Stores Ass'n v. Hoboken, 135 N.J.L. 502 (E. & A. 1947); In re Schneider, 12 N.J. Super. 449 (App. Div. 1951).

Thomas R. Forgione (the appellant), testifying in this de novo appeal, stated that he first became a licensee in January 1965, and employed a clerk as manager of the store. He was employed during the day on a full-time basis with a local company. However, he admits that, on three of the five dates on which sales-to-minors violations took place, he was the one who actually made the transaction. He admits that, as the principal, he is, of course, responsible for the acts of his employee who sold alcoholic beverages to minors on the other dates. See Essex Holding Corp. v. Hock, 136 N.J.L. 28 (Sup. Ct. 1947). He pointed out that, after the July 22, 1966 violation, he voluntarily discontinued business although he could have remained open until the final disposition of this matter; counsel points out that this action merits consideration of a penalty less than revocation.

The Board produced David --- (17-year-old minor) who testified with respect to his purchase of alcoholic beverages at the appellant's premises on July 6, 1966. He stated that he was seventeen years of age at the time, and purchased twelve quarts of beer, a pint of Gordon's gin, and two half-pints of screw driver mix. The appellant, who sold him these alcoholic beverages, did not request any form of identification nor did he produce any documents or represent in writing that he was of statutory maturity. I have observed this minor's appearance at the time of the hearing,

and he very obviously does not look more than seventeen years of age.

The penalty to be imposed in disciplinary proceedings instituted by a local issuing authority rests within its sound discretion, in the first instance, and the power of the Director to reduce it on appeal should be exercised only where such penalty is manifestly unreasonable and clearly excessive. Porton v. Roselle, Bulletin 974, Item 3; Benedetti v. Trenton, Bulletin 1040, Item 1, aff'd 35 N.J. Super. 30; Harrison Wine and Liquor Co., Inc. v. Harrison, Bulletin 1296, Item 2.

It is clear as crystal that the Board took a very dim view of violations of this nature. Here the appellant has on five separate occasions since July 1965 made unlawful sales of alcoholic beverages to minors. The appearance of the minor who testified before me would indicate that this appellant had no regard for the age of his patrons since this boy could not possibly be mistaken for a person of twenty-one years or more. The Board obviously felt that the appellant was intentionally and repeatedly violating the Alcoholic Beverage Law and the rules and regulations of this Division and had proper understanding of his responsibilities as a licensee. In view thereof, it appears unarguable that the Board acted within the wide discretion given to it under the statute and under the regulations of this Division and it properly determined that the continuation of these licensed premises by this appellant was inimical to the public interest.

The facts compel the conclusion that the Board acted reasonably and circumspectly in its determination to revoke the said license.

As to (2): Appellant pleads for the modification of the order of revocation in order to afford him an opportunity to transfer his license to a suitable operator. He testified that he borrowed money to go into this business by mortgaging his home, and that the effect of the revocation would be to put him in debt for a long period of time. He has produced a contract of the sale of his business to indicate that he can sell his license within a reasonable period of time. There is, of course, no proof to establish that the prospective purchaser would be a qualified applicant for such transfer.

While his financial situation is regrettable and certainly deserves sympathetic consideration, it nevertheless is a fundamental principle that private interests are always subordinate to the paramount considerations of the public safety and welfare. As pointed out hereinabove, since municipal issuing authorities are primarily responsible for policing of licensed premises (R.S. 33:1-24; R.S. 33:1-71), they must be given considerable latitude in determining the extent to which the license privilege should be suspended or revoked. Thus, just as the extent of the penalty lies within its sound discretion and an application for reconsideration should be made directly to the issuing authority, so too this plea for modification for extension for the purpose of transfer should be made, if at all, to the Board. The Board, of course, may grant relief in the event that it determines that such action is advisable. Triano v. Bloomfield, Bulletin 677, Item 10.

In view of my findings on this appeal, it is recommended that this request be denied. A comparable application was considered in Nordco, Inc. v. State, 43 N.J. Super. 277, at p.289, where the court expressed the following:

"...it is to be observed that in view of the Division's determination that the tavern constituted a 'trouble spot', it should hardly be claimed that there was any abuse in discretion in not affording Nordco an opportunity to transfer the license to a certain vendee under contract with Nordco, who wanted to continue the business at the same location."

This ruling applies with equal vigor in revocation proceedings.

In conclusion, under the totality of the circumstances herein, I cannot find that the respondent's action was either unreasonable or arbitrary. Hence appellant has failed to sustain the burden of establishing that the Board's action was erroneous (Rule 6 of State Regulation No. 15). It is therefore recommended that an order be entered affirming the Board's action and reimposing the order of revocation.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

I have carefully examined the entire record herein, including the transcript of the testimony, the exhibits, the argument in summation by the attorneys for the respective parties, and the Hearer's report. I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 13th day of July, 1967,

ORDERED that the action of respondent Board of Commissioners of the City of Passaic in revoking appellant's 1966-67 license be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

JOSEPH P. LORDI  
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS - NO REMISSION FOR PLEA ENTERED AT HEARING.

In the Matter of Disciplinary Proceedings against )

MURIEL H. MULHEARN )  
t/a ALIBI LOUNGE )  
658 Anderson Avenue )  
Cliffside Park, New Jersey )

CONCLUSIONS

and

Holder of Plenary Retail Consumption License C-33 issued by the Mayor and Council of the Borough of Cliffside Park )

ORDER

-----)  
James F. McGovern, Jr., Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

At the time scheduled for hearing, the licensee pleaded non vult to charges (1) and (2) alleging that on March 21 and 23,

1967, she permitted acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license then held for premises 251 Palisade Avenue, Cliffside Park, by the Director for fifteen days effective October 10, 1962, for sale to minors. Re Mulhearn, Bulletin 1482, Item 10.

Licensee's attorney has submitted a letter dated June 29, 1967, setting forth that the licensee was "victimized" by her employee who conducted a bookmaking and numbers operation, and requesting that this be considered a mitigating circumstance. However, a liquor licensee's responsibility regarding the manner in which the licensed business is conducted is not dependent upon personal knowledge, intent or participation. He is not relieved of responsibility even if the violations occurred contrary to his express instructions. In re Olympic, Inc., 49 N.J. Super. 299. Since the public impact is the same regardless of the licensee's knowledge, I find no warrant for the imposition of other than the usual penalty in matters of this kind.

The prior record of suspension of license for dissimilar violation within the past five years considered, the license will be suspended for sixty-five days (Re Trivigno & Spagnola, Bulletin 1725, Item 4), without remission for the confessional plea untimely entered (Re Gatefern, Inc., Bulletin 1679, Item 5).

Accordingly, it is, on this 12th day of July, 1967,

ORDERED that Plenary Retail Consumption License C-33, issued by the Mayor and Council of the Borough of Cliffside Park to Muriel H. Mulhearn, t/a Alibi Lounge, for premises 658 Anderson Avenue, Cliffside Park, be and the same is hereby suspended for sixty-five (65) days, commencing at 3:00 a.m. Wednesday, July 19, 1967, and terminating at 3:00 a.m. Friday, September 22, 1967.

JOSEPH P. LORDI  
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE AND NUMBERS BETS AND WAGERING) - PREVIOUS DISSIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

RICHARD A. DEIGHAN, INC.  
t/a DEIGHAN'S DEN  
White Horse Pike  
Waterford Township,  
PO Atco, New Jersey

CONCLUSIONS

AND

ORDER

Holder of Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of Waterford.

-----  
Maressa and Console, Esqs., by Joseph A. Maressa, Esq., Attorneys for Licensee  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on March 4, 6, 8, 11 and 18, 1967, it variously permitted the acceptance of horse race and numbers bets and wagering in a "Liar's Poker" game on its licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days effective November 7, 1966, for sale during prohibited hours.

The license will be suspended for sixty days (cf. Re Farkas, Bulletin 1727, Item 5), to which will be added five days by reason of the record of suspension of license for previous dissimilar violation within the past five years (Re Lake, Inc., Bulletin 1732, Item 7), or a total of sixty-five days, with remission of five days for the plea entered, leaving a net suspension of sixty days.

Accordingly, it is, on this 17th day of July 1967,

ORDERED that Plenary Retail Consumption license C-4, issued by the Township Committee of the Township of Waterford to Richard A. Deighan, Inc., t/a Deighan's Den, for premises on White Horse Pike, Waterford Township, be and the same is hereby suspended for sixty (60) days, commencing at 2 a.m. Monday, July 24, 1967, and terminating at 2 a.m. Friday, September 22, 1967.

JOSEPH P. LORDI  
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - GAMBLING (POOLS AND WAGERING) - FOUL LANGUAGE - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

JULE'S BAR, INC.  
100 North Avenue  
Dunellen, New Jersey

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption License C-10, issued by the Borough Council of the Borough of Dunellen.

-----  
Licensee, by Jules J. Pahule, President, Pro se  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) and (2) divers dates between April 15 and May 13, 1967 it permitted gambling (conduct of horse race pools and on May 9, 1967 wagering on pool games) on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20, and (3) on April 8, 1967 it permitted foul and filthy language by patrons on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Absent prior record, the license will be suspended on charges (1) and (2) for fifteen days (Re Gary's Bar, Inc., Bulletin 1691, Item 6) and on charge (3) for ten days (Re Bozzone, Bulletin 1732, Item 2), or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 12th day of July 1967,

ORDERED that Plenary Retail Consumption License C-10, issued by the Borough Council of the Borough of Dunellen to Jule's Bar, Inc., for premises 100 North Avenue, Dunellen, be and the same is hereby suspended for twenty (20) days, commencing at 1 a.m. Wednesday, July 19, 1967, and terminating at 1 a.m. Tuesday, August 8, 1967.

JOSEPH P. LORDI  
DIRECTOR



## BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes of New Jersey and State Regulation No. 28, and further, pursuant to a stipulation dated April 27, 1967, signed by Jay R. Benenson, attorney-in-fact for Avis-Rent-A-Car System, Inc., claimant herein, to determine whether 35 containers of alcoholic beverages and a Plymouth Station Wagon, more particularly described in a schedule attached hereto, made part hereof and marked Schedule "A", seized on March 4, 1967 on the New Jersey Turnpike, Milepost 36 (north-bound), in Mount Laurel Township, constitute unlawful property and should be forfeited; and further, to determine whether the indemnified sum of \$2400.00, secured by a surety bond, representing the appraised retail value of the aforesaid station wagon posted, under protest, by the Avis-Rent-A-Car System, Inc. as principal, and Peerless Insurance Company as surety, should be forfeited, or the said bond returned to them for cancellation.

When the matter came on for hearing pursuant to R.S. 33:1-66 the Avis-Rent-A-Car System, Inc., the owner of the aforesaid motor vehicle, represented by counsel, appeared and sought its return.

Forfeiture of the alcoholic beverages was unopposed.

Reports of ABC agents and other documents, presented in evidence with consent of the claimant disclose the following facts: On Saturday, March 4, 1967 at about 11:30 P.M. a New Jersey State trooper stopped the motor vehicle in question on the New Jersey Turnpike aforesaid, and, while checking the driver's license of the operator of the car, he observed untaxed alcoholic beverages in the rear of the said station wagon. The motor vehicle bore New Jersey license plates No. 6Z8966 registered in the name of Avis-Rent-A-Car System of New York and was being operated by James C. Thomas of Brooklyn, who was accompanied by Dick H. Brewington of Brooklyn.

The State Trooper took possession of the 35 containers of alcohol and the motor vehicle, all of which were later turned over to agents of this Division.

Brewington and Thomas were thereupon arrested, charged with the possession and transportation of untaxed alcohol in violation of R.S. 33:1-2; and R.S. 33:1-50, and released in bail for arraignment on the said charges in the Mount Laurel Municipal Court. On April 13, 1967 the contents of one of the said containers of alcohol were analyzed by the Division chemist who reports that it is an alcoholic beverage, fit for beverage purposes, with alcohol by volume of 45.31%.

The seized alcohol is illicit because of the absence of tax stamps on any of the containers. R.S. 33:1-1(i); R.S. 33:1-88. 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.

Robert Elins, the New York suburban district manager of the Avis-Rent-A-Car System, testifying on its behalf in support of its claim gave the following account: This claimant operates a car rental business nationally and owns approximately 50,000 vehicles in connection with its business operation. The vehicle in question was first rented by an employee under the supervision of this witness in December 1966 to Thomas, who represented that

he is the owner of I and M Cleaners, and intended to use the motor vehicle for pickups and deliveries of dry cleaning in connection with his dry cleaning business. The vehicle was in the possession of Thomas from December 1966 until the date of seizure. Before renting this vehicle, the claimant checked the records of the New York Telephone Company to ascertain whether the I and M Cleaners was a company in operation and after finding that it was listed therein, made a personal check of Thomas with the Check Mate, Inc., an accredited agency. The said inquiry established that Thomas has a satisfactory credit rating.

Thereupon a six month lease agreement was entered into by Thomas with the claimant.

The witness testified that he was satisfied from his investigation that Thomas was operating a legitimate business and he assumed that this vehicle was to be used in connection therewith. He stated that this transaction was completed in the normal course of its business, and that he did not have any reason to believe that the motor vehicle would be used in unlawful liquor activity. He finally added that at the time of the execution of the agreement, Thomas made a \$208.00 deposit and paid \$35.00 additional upon receipt of the car. Thomas was not in default in any of the payments during the term of the lease, prior to seizure.

The account given by the claimant herein appears to be credible and forthright. I am satisfied by the evidence herein that the claimant appears to have made a reasonable investigation, considering the type of business in which it is engaged, and did not know, or have any reason to believe that Thomas was engaged in illicit liquor activity, or that the said motor vehicle would be used in connection therewith. R.S. 33:1-66. Seizure Case No. 11,519, Bulletin 1661, Item 6. Hence, the surety bond will be returned to the claimant.

Under the facts and circumstances in this matter, a Hearer's Report has been waived.

Accordingly, it is DETERMINED and ORDERED that the surety bond be returned to the said claimant; and it is further

DETERMINED and ORDERED that the alcoholic beverages, as set forth in Schedule "A" constitute unlawful property and the same are hereby forfeited in accordance with the provisions of R.S. 33:1-66, and that they 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.

JOSEPH P. LORDI  
DIRECTOR

Dated: July 17, 1967

SCHEDULE "A"

- 35 - containers of alcoholic beverages
- 1 - 1967 Plymouth Station Wagon, Serial No. PM46F76155405, Engine No. 2465719, New York Registration 6Z8966.

8. STATUTORY AUTOMATIC SUSPENSION - ORDER LIFTING SUSPENSION.

Auto. Susp. #306 )  
 In the Matter of a Petition to Lift )  
 the Automatic Suspension of Plenary )  
 Retail Consumption License C-5 issued )  
 by the Board of Commissioners of the ) ON PETITION  
 Township of Ridgefield Park to )  
 ) ORDER  
 EDWARD J. POWER, INC. )  
 t/a EIGHTEEN CLUB )  
 18 Paulison Avenue )  
 Ridgefield Park, New Jersey )

-----  
 Goodman & O'Dea, Esqs. by Roger W. Breslin, Jr., Esq., Attorneys  
 for Petitioner.

BY THE DIRECTOR:

Petition herein discloses that on June 14, 1967, Clothilda Gee, a stockholder of the petitioner, was fined \$25.00 in the Ridgefield Park Municipal Court after she had pleaded guilty to a charge alleging that she sold alcoholic beverages to a minor in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of petitioner's license for the balance of its term. R.S. 33:1-31.1. The statutory automatic suspension has not been effectuated because of the pendency of this proceeding.

It further appears, from the petition and the records of this Division, that the local issuing authority suspended petitioner's license for 15 days, after it pleaded non vult in disciplinary proceedings alleging sale to the same minor. Said suspension was effective from 12:00 A.M., Friday, May 19, 1967, to midnight Friday June 2, 1967. The disciplinary proceedings were instituted by the municipal issuing authority on its own initiative, and the sentence imposed thereon having been imposed, I shall grant the petition to lift the automatic suspension.

Accordingly, it is, on this 12th day of July, 1967,

ORDERED that the statutory automatic suspension of said license C-5 be and the same is hereby lifted, and said license is restored to full force and operation, effective immediately.

JOSEPH P. LORDI  
 DIRECTOR

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

In the Matter of Disciplinary )  
proceedings against )

J. & R. RENDEZVOUS, INC. )  
413-415 Avenue C )  
Bayonne, New Jersey )

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption )  
License C-23, issued by the Municipal )  
Council of the City of Bayonne. )

-----)  
Irving C. Picker, Esq., Attorney for Licensee  
Leon Chorkavy, Jr., Esq., Appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on  
March 11, 1967 it possessed alcoholic beverages in two bottles  
bearing labels which did not truly describe their contents,  
in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for  
fifteen days, with remission of five days for the plea entered,  
leaving a net suspension of ten days. Re Hrabowecy, Bulletin  
1735, Item 6.

Accordingly, it is, on this 17th day of July 1967,

ORDERED that Plenary Retail Consumption License C-23,  
issued by the Municipal Council of the City of Bayonne to  
J. & R. Rendezvous, Inc., for premises 413-415 Avenue C,  
Bayonne, be and the same is hereby suspended for ten (10) days,  
commencing at 2 a.m. Monday, July 24, 1967, and terminating at  
2 a.m. Thursday, August 3, 1967.

JOSEPH P. LORDI  
DIRECTOR

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

In the Matter of Disciplinary Proceedings against )  
 )  
 RICHARD JANNI ) CONCLUSIONS  
 t/a The Village Inn Bar & Restaurant ) AND ORDER  
 2 & 4 Green Street )  
 Woodbridge Township, New Jersey )  
 Holder of Plenary Retail Consumption License C-55, issued by the Council of the Township of Woodbridge. )

-----  
 Adams and Rockoff, Esq., by Alan A. Rockoff, Esq., Attorneys for Licensee.  
 Leon Chorkavy, Jr., Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on April 18, 1967 he possessed 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.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re First & Last Chance, Inc., Bulletin 1738, Item 4.

Accordingly, it is, on this 7th day of August 1967,

ORDERED that Plenary Retail Consumption License C-55, issued by the Council of the Township of Woodbridge to Richard Janni, t/a The Village Inn Bar & Restaurant, for premises 2 & 4 Green Street, Woodbridge, be and the same is hereby suspended for five (5) days, commencing at 2 a.m. Monday, August 14, 1967, and terminating at 3 a.m. Saturday, August 19, 1967.



Joseph P. Londi  
 Director