

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

BULLETIN 1375

February 2, 1961

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

BULLETIN 1375

February 2, 1961

1. APPELLATE DECISIONS - MEICKE v. HOBOKEN.

George B. Meicke,)	
)	
Appellant,	)	On Appeal
)	
v.	)	CONCLUSIONS and ORDER
)	
Municipal Board of Alcoholic)	
Beverage Control of the City)	
of Hoboken,)	
)	
Respondent.)	

James F. McGovern, Jr., Esq., Attorney for Appellant
Robert F. McAlevy, Jr., Esq., by William Gottlieb, Esq., Attorney
for Respondent

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from respondent's action on August 31, 1960, whereby it revoked, effective immediately, appellant's license C-130, issued for premises at 116 Hudson Street, Hoboken.

"When the appeal was filed the Director entered an order on September 1, 1960, denying a stay of respondent's order of revocation pending determination of the appeal. R.S. 33:1-31.

"Respondent's resolution revoking the license was introduced into evidence herein and discloses that, at the conclusion of a hearing held upon various charges, respondent found appellant not guilty of certain charges and guilty of the remaining charges which may be summarized as follows:

1(a): that on April 20, 1960, Thomas G. Meicke (brother of the licensee), while in the licensed premises, was charged with committing atrocious assault and battery by striking, beating, cutting and wounding three named patrons;

1(b): that on June 16, 1960, five named members of the crew of the S.S. Nieuw Amsterdam stated at Hoboken Police Headquarters that they had been assaulted in the licensed premises by Thomas G. Meicke and a patron, Abraham Prinz;

1(e): that on July 21, 1960, in the Municipal Court of Hoboken, George G. Meicke was charged with knowingly possessing certain tools and implements adapted and designed for use for unlawful purposes;

1(f): that on July 20, 1960, members of the Hoboken Police found discharged bullets and casings in the cellar and live bullets and ammunition in the kitchen of the licensed premises;

(The notice of the charges alleges that

all of the above charges establish that the licensee permitted the licensed premises to become a nuisance, in violation of Rule 5 of State Regulation No. 20.)

2: that between November 1, 1959, and July 26, 1960, the licensee violated Rule 4 of State Regulation No. 20 by permitting notorious criminals, gangsters, racketeers and other persons of ill repute in or upon the licensed premises;

3: that on divers days after November 25, 1959, the licensee employed two named persons who did not have the proper credentials, in violation of a local ordinance.

"At the hearing held herein Sidney Henger, Joseph Riggs and David Shook testified as to Charge 1(a). All testified that they reside in or near Stroudsburg, Pennsylvania, and that on the early morning of April 20, 1960, they went from that city to New York where they visited various taverns during the day; that they then went to Hoboken where they visited a few other taverns and finally entered defendant's premises about 7 p.m.; that George Meicke, Sr. (father of the licensee) was tending bar and served a glass of beer to each of them. Sidney Henger testified that an argument started between Riggs and another patron; that Thomas Meicke then entered and struck him on the head with a tire iron; that, as a result, he went to a hospital where stitches were put in his head. Joseph Riggs testified that, during his argument with the other patron, Thomas Meicke hit him on the back of the head with the same iron and that, as a result, he went to the same hospital where stitches were put in his head and he was detained until the following day. David Shook testified that he saw Thomas Meicke strike Henger and Riggs with something and then saw the tire iron on the bar.

"At the hearing held herein, four of the five members of the Nieuw Amsterdam crew testified as to Charge 1(b). The fifth person mentioned is no longer a member of the crew. These four witnesses testified that they entered defendant's premises on June 16, 1960, at about 12:15 a.m. William Vader testified that, shortly after they entered, some person slapped him in the face and caused his nose to bleed. Adrianus Menheere testified that, shortly after they entered, some person hit him near the eye, as a result of which he later went to a hospital where two stitches were required to close the cut. William Spierens testified that, when they entered, some person slapped him. Leendert Van Duyn testified that Thomas Meicke and Abraham Prinz seized him and put him down on his knees and that he crawled to the street. All four witnesses denied that any of the seamen touched Mrs. Prinz while they were in the premises. All testified that they then went to Police Headquarters after they left the premises. Patrolman Peter Whalen testified that, when the five seamen arrived at Headquarters, some of them were bleeding from the mouth, nose and eyes; that he accompanied them to the licensed premises where the seamen identified Thomas Meicke and Abraham Prinz as the persons who struck them and that all of the aforesaid and Mrs. Prinz then went to Police Headquarters where no charges were preferred. This witness testified that at Police Headquarters Prinz accused one of the seamen of bothering his wife in the licensed premises.

"As to Charges 1(e) and 1(f): Lieutenant August Ricciardi, of the Hoboken Police, testified at the hearing herein that on July 20, 1960, he and other officers found in a room on the licensed premises certain tools, a pair of leather gloves and a blackjack; that, because of the presence of the gloves and black-

Jack with the tools, he on the following day charged the licensee with possessing burglar's tools. No disposition has been made of the charge. He also testified that on the same day he found a box of assorted live ammunition over an air-conditioning duct off the kitchen. Lieutenant Joseph Pereira, of the Hoboken Police, testified that on July 20, 1960, he found pellets and casings on the floor of the cellar of the licensed premises.

"As to Charge 2: Lieutenant Walter Drew, of the Hoboken Police, testified that at various times during the months of May and June 1960 he saw six named persons going in and coming out of the licensed premises. Captain Ambrose Ryan, of the Hoboken Police, produced the criminal records of each of the persons. Jack Nevatta, now deceased, was convicted in 1951 of robbery, in 1953 of breaking and entering, and in 1957 of theft. The other five had criminal records extending back to 1935 as to one of them; 1939 as to another; 1952 as to another; 1955 as to another and 1958 as to another.

"As to Charge 3: Lieutenant Ricciardi and a patron testified that Rose De Lanzo was tending bar when the police entered on July 20, 1960, and Lieutenant Pereira testified that Robert Hanley was in charge of the licensed premises when police officers entered on July 28, 1960. Neither De Lanzo nor Hanley held permits to work on licensed premises as required by a local regulation.

"On behalf of appellant, George M. Meicke, Sr., testified that he was tending bar on April 20 when the three men who live in Pennsylvania entered; that, after he served one round of drinks, a fight between one of them and another patron started; that he came from behind the bar and one of the patrons knocked off his glasses; that his son Thomas entered, hit the three men with his fists and put them out. He denied that Thomas had a tire iron. He testified that he was tending bar on June 16; that one of the seamen grabbed Mrs. Prinz; that Abraham Prinz fought with them and put them out, and that the fight lasted only a few seconds.

"Thomas Meicke testified that the three patrons who entered on April 20 threatened his father and another patron; that he struck the three patrons with his fists after they attacked him. He denied that he used a tire iron. His testimony as to the events on June 16 is substantially the same as his father's testimony.

"Both of the above witnesses testified that the tools had been on the premises for some time, and that they were used for repairs. Both denied any knowledge of the live ammunition or the pellets and casings. Both denied knowing any of the alleged criminals, except Jack Nevatta. Both denied that they knew he had a criminal record.

"Abraham Prinz testified that on June 16 one of the seamen grabbed his wife; that one of the seamen hit him and knocked him to the floor; that the five seamen then left and returned with police officers.

"Rose De Lanzo testified that she cleans the premises and was in charge on July 20 while George Meicke, Sr., visited his doctor's office.

"Appellant testified that he devotes most of his time to his trucking business and that his father is manager of the licensed business. He was not present on April 20 or June 16. He denied that he knew any of the alleged criminals or that he

had any knowledge of the tools or live ammunition found on the premises.

"There appears to be no reason why the patrons who visited the licensed premises on April 20, 1960, and June 16, 1960, should testify falsely. I believe their testimony rather than the testimony of appellant's witnesses as to the events which took place on both dates. As to the tools found on the premises, it is true that nearly all of them could be used for legitimate purposes, but the presence of the blackjack and gloves supports an inference that these tools were intended to be used for unlawful purposes. Disregarding the discharged bullets and casings, it is difficult to believe that none of appellant's agents or employees had any knowledge of the live ammunition found on the premises.

"Appellant's attorney argues in his brief that the evidence as to Charge 1 is not sufficient to support the conclusion that appellant permitted the licensed premises to become a nuisance. I cannot agree with his contention. In any event, the evidence as to Charge 1 coupled with the evidence, under Charge 2, that five persons with lengthy criminal records patronized appellant's premises establishes the nuisance charge. State v. Williams, 30 N.J.L. 102; Benedetti v. Board of Commissioners of the City of Trenton, 35 N.J. Super. 30 (App.Div. 1955); Santore v. West New York, Bulletin 958, Item 4.

"Appellant's attorney further argues that neither of the persons named in Charge 3 was an employee of appellant. There is no merit to this contention. Kravis v. Hock, 137 N.J.L. 252; In Re Gutman, 21 N.J. Super. 579 (App.Div. 1952).

"After reviewing the evidence, exhibits and briefs filed herein, I conclude that the guilt of appellant herein as to all charges is supported by a preponderance of the believable evidence and that appellant has failed to sustain the burden of establishing that the action of respondent was erroneous. Rule 6 of State Regulation No. 15. It is recommended, therefore, that an order be entered affirming the action of respondent and dismissing the appeal."

Pursuant to the provisions of Rule 14 of State Regulation No. 15, the attorney for appellant filed with me exceptions to the Hearer's Report with written argument referring thereto, and the attorney appearing for respondent advised me in writing that he waived answering written argument and relied upon his brief filed with the Hearer.

After carefully considering all the evidence herein, the briefs submitted to the Hearer, the Hearer's Report and exceptions and written argument thereto, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein. I shall enter an order as recommended.

Accordingly, it is, on this 3rd day of January 1961,

ORDERED that the action of respondent whereby it revoked appellant's license be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

2. APPELLATE DECISIONS - NORTH CENTRAL COUNTIES RETAIL LIQUOR STORES ASSOCIATION v. EDISON AND MACY.

North Central Counties Retail)	
Liquor Stores Association,	)	ON APPEAL
	)	CONCLUSIONS
Appellant,)	
v.	)	AND
	)	ORDER
Municipal Council of the)	
Township of Edison, and R.H. Macy)	
& Co., Inc., t/a Bamberger's New)	
Jersey,)	
)	
Respondents.)	

Samuel Moskowitz, Esq., Attorney for Appellant
 Christian J. Jorgensen, Esq., by R. Joseph Ferenczi, Esq.,
 Attorney for Respondent Municipal Council
 Lum, Fairlie & Foster, Esqs., by William F. Tompkins, Esq.,
 Attorneys for Respondent R.H. Macy & Co., Inc.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Municipal Council whereby on June 27, 1960, it granted an application to renew a plenary retail consumption license held by respondent R.H. Macy & Co., Inc. (hereafter Macy) for premises located at Woodbridge and Parsonage Roads, Township of Edison.

"The petition of appeal alleges in substance that the renewal of the license permits the sale of alcoholic beverages in and upon premises in which other mercantile business is conducted, contrary to the provisions of R.S. 33:1-12(1).

"The evidence establishes that on June 10, 1960, the license for the 1959-60 licensing year (C-19 without broad package privilege) was transferred from Quaker Bus Terminal to respondent Macy and from premises on Route 1 to Macy's premises, for the sole purpose of renewal. After the application for renewal was filed, the attorney for appellant filed a written objection thereto for the reason set forth in the petition of appeal and a public hearing was held thereon by Municipal Council on June 27, 1960. After an attorney representing appellant and a representative of Macy were heard, the Council adopted a resolution wherein it determined that the granting of the renewal application would not be in violation of the State statutes or the rules and regulations of the Division of Alcoholic Beverage Control, and granted the application effective July 1, 1960.

"Respondent Macy operates a department store known as 'Bamberger's Menlo Park' in a two-story building at Woodbridge and Parsonage Roads. Its application for renewal originally described the premises sought to be licensed as 'second floor' which, admittedly, is used for the sale of many kinds of merchandise. The provisions of R.S. 33:1-12(1) would prohibit the renewal of the license for the entire second floor. However, long before the public hearing the application was amended by filing a diagram of the second floor and designating the premises sought to be licensed as a portion of the second floor which is outlined in red on said diagram. Hence this appeal is limited to a consideration of the question as to whether the renewal of the license for the

premises as set forth on the diagram was prohibited by R.S. 33:1-12(1).

"The portion of the second floor which has been licensed for the sale of alcoholic beverages (as outlined in red on the diagram) consists of an irregular area containing approximately 4,000 square feet, with solid walls from floor to ceiling surrounding the premises on three sides. There is a similar solid wall for about half the distance on the fourth side, and a solid wall to a dado line with glass above has been erected along the other half of the fourth side except for an open space which totals about 30 feet and is partly obstructed by the cashier's booth. The licensed premises contain a 16-foot bar with twelve stools, a restaurant, lunch bars and package-goods section, all of which are in one room. The licensed premises are surrounded by departments used for the sale of other merchandise and patrons may pass from the book department to the licensed premises through the aforesaid open space.

"R.S. 33:1-12(1) refers to plenary retail consumption licenses, and the pertinent portion of the section provides:

'*** this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business (except the keeping of a hotel or restaurant, or the sale of cigars and cigarettes at retail as an accommodation to patrons, or the retail sale of non-alcoholic beverages as accessory beverages to alcoholic beverages) is carried on. ***'

"Since alcoholic beverages may be sold only on the licensed premises, it is, perhaps, a complete answer to appellant's contention to point out that the license does not permit the sale of alcoholic beverages in any other portion of the licensed building where other mercantile business is carried on.

"However, appellant's brief refers to the ruling of Commissioner Burnett in Re Rockefeller, Bulletin 200, Item 1, wherein he said:

'The general test whether a prohibited business is being conducted in or upon the licensed premises depends on whether the conduct of the respective businesses and their locations renders them substantially separate and distinct.

'Where a solid partition divides premises into two stores, allowing no communication between them, they are independent of each other. Owl Drug Company v. Elizabeth, Bulletin 68, Item 7. In Shapiro v. Trenton, Bulletin 34, Item 8, where an open archway led through the partition at the rear of the premises, the stores were held not separate and distinct. On the other hand, in Retail Liquor Distributors v. Atlantic City, Bulletin 88, Item 5, where a tavern was adjacent to a delicatessen store and a door at the rear of the delicatessen, the premises were held substantially separate and distinct.'

"Where a liquor licensee also conducts other mercantile business, an administrative problem is presented as to whether the conduct of the respective businesses and their locations renders them substantially separate and distinct. Under the facts appearing in the cited cases, it was ruled that a solid partition was required. However, since the earliest days of the Division, licensed premises on the upper floors of department stores have been permitted and, where it has been determined that the licensed premises are substantially separate and distinct, patrons have been

permitted to pass from other departments to the restaurant. The law does not require an entrance from the street to licensed premises, and a solid partition between the restaurant and other departments would prevent patrons from entering the licensed premises. More recently, the same situation has been presented as to restaurants at airports. No problems have arisen. If the contention of appellant were to prevail, many licensed premises which have operated for years would be required to close.

"In the present case respondent Municipal Council determined that the licensed premises were separate and distinct. The evidence herein supports that conclusion.

"After considering the evidence, exhibits and brief submitted, it is recommended that an order be entered affirming the action of respondent Municipal Council and dismissing the appeal."

Pursuant to the provisions of Rule 14 of State Regulation No. 15, the attorney for appellant filed with me exceptions to the Hearer's Report and written argument thereto, and the attorneys for respondent R. H. Macy & Co., Inc. filed written answering argument.

Having carefully considered the entire record herein, including the testimony taken and exhibits introduced into evidence at the hearing of the appeal, the briefs submitted, the Hearer's Report and exceptions and argument thereto, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein. Hence, I shall enter an order as recommended.

Accordingly, it is, on this 3rd day of January, 1961,

ORDERED that the action of respondent Municipal Council of the Township of Edison be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

3. APPELLATE DECISIONS - CHICKEN BARN, INC. v. BORDENTOWN.

Chicken Barn, Inc., t/a Chicken Barn-Two Guys Chicken Barn,	)	ON APPEAL
)	
Appellant,	)	CONCLUSIONS
)	
v.	)	and
)	
Township Committee of the Township of Bordentown,	)	ORDER
)	
Respondent.)	

Richman & Berry, Esqs., by Grover C. Richman, Jr., Esq., Attorneys for Appellant.
William H. Wells, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent on June 14, 1960, whereby it suspended appellant's license for twenty days after finding it guilty in disciplinary proceedings of a charge alleging that it sold and permitted the sale of alcoholic beverages to a minor, in violation of Rule 1 of State Regulation No. 20. Appellant's premises are located on Route 206, Bordentown.

Upon the filing of this appeal an order was entered on June 17, 1960, staying respondent's order of suspension until the entry of a further order herein. R. S. 33:1-31.

The Hearer who presided at the hearing held herein recently retired before he had an opportunity to prepare a Hearer's Report and the attorneys for both parties have consented to waive the filing of a Hearer's Report, as required by Rule 14 of State Regulation No. 15.

The petition of appeal alleges, in substance, that the action of respondent was erroneous because said action was arbitrary and unreasonable and because the finding of guilt was against the weight of the believable evidence.

At the hearing herein, William --- testified that he is 17 years of age; that on the evening of February 19, 1960, Robert --- and he left a dance, entered Robert's auto and drove to the Bordentown Shopping Center, in which appellant's premises are located; that the auto stopped in front of appellant's premises and that he alone left the auto and entered said premises.

William --- further testified that, after he entered the premises, he picked up a six-pack of beer and a quart bottle of beer and carried them to a counter; that he paid a sum of money to a clerk who was behind the counter and who placed the six-pack and the bottle in a paper bag; that he carried the bag from the premises and re-entered Robert's auto; that they drove some distance from the premises and were stopped by members of the Hamilton Township Police Department who turned them over to the New Jersey State Police at Bordentown after they found the beer in the auto. William --- also testified that he was not sure but believed that the clerk who made the sale was Herman Schachter.

Robert --- testified that he saw William --- enter appellant's premises; that he drove around the parking lot for a short time and stopped in front of appellant's premises; that he then saw William --- leaving the premises with a paper bag which he subsequently ascertained contained a six-pack and a bottle of beer.

An ABC agent testified that on February 21, 1960, he obtained written statements from William --- and Robert ---; that William said in his statement that he had purchased beer in the Chicken Barn and described the clerk as "a male between 30 and 40 years of age, approximately 5 feet 8 inches or 5 feet 9 inches tall, approximately 190 lbs. or 200 lbs., with dark hair and dark complexion"; that Robert --- said in his statement that he was waiting in the parking lot for William ---.

Officer Tomko of the Hamilton Township Police Department testified that, after he and another officer stopped the auto on February 19, both young men stated that they had bought the beer in Two Guys.

On behalf of appellant, Herman Schachter testified that he is the manager of appellant's premises; that he worked in the premises on the evening of February 19, 1960, and that he did not sell any beer to William --- or see either William --- or Robert --- on the premises at any time during the evening. He testified that he is about 5 feet 11 inches tall and weighs about 240 lbs. On cross-examination he admitted that a part-time employee, who worked on Friday and Saturday nights, was also present on the evening of February 19, 1960, and that the part-time employee almost exactly answered the description of the clerk which was given by William --- to the ABC agent.

After carefully reviewing the evidence herein, I conclude that there is nothing in the case to show that the action of respondent was arbitrary or unreasonable. I further conclude that the guilt of appellant has been established by a fair preponderance of the believable evidence. Admittedly, William --- failed to identify Herman Schachter at the hearing below as the clerk who made the sale and was not certain as to his identification of Schachter at the hearing herein. However, the cross-examination of William --- and Robert --- failed to shake their testimony that William --- entered appellant's premises and not another licensed premises located about 500 feet therefrom. The evidence also tends to show that the sale may have been made by the part-time employee. The Division has consistently held that failure to identify the person who made the sale is not fatal in disciplinary proceedings. Re La Corte, Bulletin 469, Item 1; Ripa v. Orange, Bulletin 1340, Item 1; Catts v. Lower Penns Neck, Bulletin 1344, Item 2. For the reasons aforesaid, I shall affirm respondent's action.

Accordingly, it is, on this 5th day of January 1961,

ORDERED that the action of respondent be and the same is hereby affirmed; and it is further

ORDERED that the order entered on June 17, 1960 be vacated at 2:00 a.m., Tuesday, January 17, 1961, and that the twenty-day suspension heretofore imposed by respondent be and the same is hereby reimposed against License C-2 now held by appellant to commence at 2:00 a.m., Tuesday, January 17, 1961 and to terminate at 2:00 a.m., Monday, February 6, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

4. APPELLATE DECISIONS - T. & J. TAVERN, INC. v. PATERSON.

T. & J. Tavern, Inc.,)	
Appellant,	)	ON APPEAL
v.	)	CONCLUSIONS
Board of Alcoholic Beverage Control for the City of Paterson,	)	AND
Respondent.	)	ORDERS

Joseph M. Harrison, Esq., and Harry L. Schneider, Esq.,
Attorneys for Appellant.
William Rosenberg, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Board whereby appellant's plenary retail consumption license was suspended for twenty days when it was found guilty of sale of alcoholic beverages to a minor, in violation of R.S. 33:1-77 and Rule 1 of State Regulation No. 20. Appellant's premises are located at 316 Grand Street, Paterson.

"Upon the filing of the within petition of appeal, an order dated July 18, 1960 was entered by the Director staying respondent's order of suspension until further order herein. R.S. 33:1-31.

"At the instant hearing, attorneys for the parties to this appeal agreed that in lieu of calling witnesses who had already testified with reference to the matter, the respective stenographic transcripts of said proceedings held before the municipal magistrate and before the respondent Board be used.

"It appears from the testimony presented herein that Frank ---, age 16 years, and three companions (one male and two females) met on the evening of May 7, 1960 and, at Frank's suggestion, went to the vicinity of appellant's licensed premises; that Frank entered the premises while his companions waited some distance away; that when Frank failed to rejoin them, the male companion walked to appellant's premises where he saw Frank standing at the bar; that thereafter Frank came out of the premises carrying a bag in which were containers of beer; that the four proceeded up the street to a 'sand pit' at which place the beer was consumed; that the four then proceeded to a luncheonette from where they again went to the appellant's tavern; that as on the first visit Frank entered while the others waited outside; that Frank came out of the premises carrying a paper bag in which were containers of beer; that the four proceeded to the 'sand pit' where on this occasion Frank consumed all of the beer; that later Frank was taken into custody and gave a statement to a local police officer wherein he stated that he had purchased the beer at appellant's premises; that when a police officer assigned to investigate the matter brought Frank to the appellant's premises, he identified Charles Smith as the bartender who had served him on both occasions.

"Appellant produced a number of patrons who testified that although they were in the appellant's premises during the evening in question, they did not see Frank in the place. Charles Smith, the bartender, testified that he was on duty from 9:00 p.m. to closing time the next morning and neither sold beer to Frank nor had he ever seen him prior to the time when they met at police headquarters.

"I am cognizant that certain discrepancies in the testimony of Frank and his three companions resulted with reference to the time of the alleged purchase of the beer on the evening of May 7, 1960, where Frank obtained the money to make payment therefor, and the number of containers purchased on each occasion. However, despite these discrepancies, the testimony of Frank and his three companions remained undisputed that Frank had entered appellant's premises on the two occasions in question and each time emerged therefrom carrying a bag containing containers of beer.

"I have carefully considered all of the pertinent testimony presented and am satisfied that Charles Smith sold beer to Frank on two occasions on the evening as alleged in the charge heretofore preferred. I conclude that the appellant has failed to sustain the burden of establishing that the action of respondent was erroneous. Rule 6 of State Regulation No. 15. It is recommended, therefore, that appellant be found guilty of the charge and that an order be entered affirming the action of respondent, vacating the order dated July 18, 1960, and fixing the effective dates for the twenty-day suspension heretofore imposed by respondent."

No exceptions to the Hearer's Report were filed within the time limited by Rule 14 of State Regulation No. 15.

After carefully considering the evidence herein and the memorandum filed by appellant, I concur in the findings and conclusions of the Hearer and shall adopt his recommendation.

The records of this Division disclose that on September 15, 1960, during the pendency of this appeal, the license in question was transferred to Colleen Kelly for premises 316 Grand Street, Paterson. Thus, the said license, now held by Colleen Kelly, is subject to the suspension imposed by order herein. Rule 13 of State Regulation No. 15.

Accordingly, it is, on this 3rd day of January, 1961,

ORDERED that the action of respondent be and the same is hereby affirmed and that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that the twenty-day suspension heretofore imposed by respondent, and stayed during the pendency of this appeal, be restored and reinstated against the license formerly held by appellant but now held by Colleen Kelly, for premises 316 Grand Street, Paterson, to commence at 3:00 a.m. Tuesday, January 10, 1961, and to terminate at 3:00 a.m., Monday, January 30, 1961.

WILLIAM HOWE DAVIS
DIRECTOR

5. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1960 TO DECEMBER 30 1960 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 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	486	\$ 208,160.00	72	\$ 27,625.00	28	\$ 2,595.00					586	\$ 238,380.00	
Bergen	812	308,002.67	301	88,457.00	125	11,561.93	52	\$ 2,451.50	5	\$ 1,398.75	5	1290	411,871.85
Burlington	188	83,260.00	41	12,853.34	47	6,650.00	1	50.00				277	102,813.34
Camden	453	221,930.55	82	35,165.00	79	7,686.44			1	375.00	1	614	265,156.99
Cape May	137	77,800.00	12	4,500.00	18	2,150.00						167	84,450.00
Cumberland	79	40,250.00	15	4,200.00	30	4,060.00						124	48,510.00
Essex	1339	758,710.00	350	210,212.00	107	14,683.49	28	1,400.00	2	1,500.00	1	1825	986,505.49
Gloucester	108	38,650.00	15	3,820.00	23	2,027.26						146	44,497.26
Hudson	1524	689,890.84	298	122,400.00	84	10,051.64	63	2,700.00				1969	825,042.48
Hunterdon	79	28,100.00	11	3,810.00	10	1,100.00						100	33,010.00
Mercer	421	261,210.00	51	22,020.00	57	8,250.00			1	123.93	1	529	291,603.93
Middlesex	631	312,605.00	80	26,045.00	105	9,197.81	4	200.00				820	348,047.81
Monmouth	554	289,031.87	122	42,970.00	48	5,391.25	10	435.00	26	11,906.13	27	733	349,734.25
Morris	355	137,215.00	103	35,935.68	60	5,341.79	16	800.00	4	1,200.00	4	534	180,492.47
Ocean	194	106,601.21	48	20,005.00	31	3,600.00						273	130,206.21
Passaic	862	354,615.00	167	51,430.00	41	5,115.00	6	300.00				1076	411,460.00
Salem	50	19,400.00	8	1,600.00	20	1,675.00						78	22,675.00
Somerset	188	85,565.00	41	12,695.00	30	3,500.00						259	101,760.00
Sussex	165	45,205.00	21	4,185.00	10	595.00	1	50.00	1	225.00	1	197	50,260.00
Union	550	312,340.00	144	67,320.00	75	8,485.59	29	1,425.00				798	389,570.59
Warren	149	44,311.70	21	5,270.00	27	3,025.00			2	337.74	2	197	52,944.44
Total	9324	\$4,422,853.84	2003	\$802,518.02	1055	\$116,742.20	210	\$ 9,811.50	42	\$17,066.55	42	12,592	\$ 5,368,992.11

William Howe Davis
Director

January 5, 1961

6.	RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1960 THROUGH DECEMBER 31, 1960				Total
	1st Quarter		2d Quarter		
	July, Aug.,	Sept.	Oct., Nov.,	Dec.	
ARRESTS:					
Total number of persons arrested	93		76		169
Licensees and employees	47		30		77
Bootleggers	46		46		92
SEIZURES:					
Motor vehicles - cars	11		8		19
-trucks	1		2		3
-trailers	1		0		1
Stills - over 50 gallons	1		2		3
- 50 gallons or under	3		1		4
Mash - gallons	6,275.00		4,775.00		11,050.00
Distilled alcoholic beverages - gallons	120.94		343.30		464.24
wine - gallons	332.09		488.62		820.71
Brewed malt alcoholic beverages - gallons	213.81		65.96		279.77
RETAIL LICENSEES:					
Premises inspected	1,503		1,267		2,770
Premises where alcoholic beverages were gauged	1,392		1,793		3,185
Bottles gauged	23,681		29,348		53,029
Premises where violations were found	139		107		246
Violations found	189		134		323
Unqualified employees	89		40		129
Application copy not available	21		17		48
Reg. #38 sign not posted	25		13		36
Prohibited signs	7		28		35
Disposal permit necessary	8		6		14
Other mercantile business	3		3		6
Improper beer taps	2		1		3
Other violations	26		26		52
STATE LICENSEES:					
Premises inspected	62		61		123
License applications investigated	35		32		67
COMPLAINTS:					
Complaints assigned for investigation	1,285		960		2,245
Investigations completed	1,212		979		2,191
Investigations pending	(180)		145		145
Laboratory:					
Analyses made	565		537		1,102
Refills from licensed premises - bottles	92		63		155
Bottles from unlicensed premises	161		111		272
IDENTIFICATION:					
Criminal fingerprint identifications made	45		33		78
Persons fingerprinted for non-criminal purposes	921		586		1,507
Identification contacts made with other enforcement agencies	666		415		1,081
Motor vehicle identifications via N.J.State Police teletype	6		13		19
DISCIPLINARY PROCEEDINGS:					
Cases transmitted to municipalities	59		45		104
Violations involved	66		49		115
Sale during prohibited hours	35		29		64
Sale to minors	15		12		27
Failure to close prem. during prohibited hours	5		4		9
Sale to non-members by club	6		-		6
Service to women at the bar (local reg.)	4		1		5
Possessing contraceptives on premises	1		-		1
Possessing chilled beer (DL licensee)	-		1		1
Employing female bartender (local reg.)	-		1		1
Permitting brawl on premises	-		1		1
Cases instituted at Division	65		51		116
Violations involved	85		68		153
Sale during prohibited hours	20		12		32
Sale to minors	12		10		22
Possessing liquor not truly labeled	10		12		22
Permitting lottery activity on premises	5		5		10
Conducting business as a nuisance	4		4		8
Sale to intoxicated persons	5		2		7
Permitting foul language on premises	5		1		6
Sale below filed price	3		2		5
Failure to close prem. during prohibited hours	3		2		5
Permitting bookmaking on premises	1		4		5
Permitting immoral activity on premises	4		2		6
Purchase from improper source	3		-		3
Hindering investigation	1		2		3
Sale outside scope of license	2		-		2
Possessing contraceptives on premises	1		1		2
Service to women at the bar (local reg.)	1		1		2
Permitting hostess activity on premises	1		-		1
Sale to non-members by club	1		-		1
Failure to file tax reports within time	1		-		1
Permitting gambling (cards) on premises	1		-		1
Filing false tax reports	1		-		1

DISCIPLINATY PROCEEDINGS (Cont'd)	1st Quarter			2d Quarter			Total
	July,	Aug.	Sept.	Oct.,	Nov.,	Dec.,	
Cases instituted at Division (Cont'd)							
Violations Involved:							
Aiding and abetting unauthorized sale	-	-	-	1	-	-	1
Unauthorized transportation	-	-	-	1	-	-	1
Unlicensed sale by solicitor	-	-	-	1	-	-	1
Failure to file notice of change in application	-	-	-	1	-	-	1
Act or happening	-	-	-	1	-	-	1
Unqualified employee	-	-	-	1	-	-	1
Sale during license suspension	-	-	-	1	-	-	1
Possessing indecent matter	-	-	-	1	-	-	1
Cases brought by municipalities and reported to Division	37			51			88
Violations involved	44			58			102
Sale to minors	21			34			55
Permitting brawl on premises	7			3			10
Sale during prohibited hours	3			6			9
Failure to close prem. during prohibited hours	3			1			4
Permitting bookmaking on premises	1			3			4
Hindering investigation	1			2			3
Failure to afford view into prem. during prohibited hours	1			2			3
Permitting lottery activity on premises	-			2			2
Permitting gambling (dice) on premises	-			2			2
Possessing slot machines on premises	1			-			1
False statement in license application	1			-			1
Conducting business as a nuisance	1			-			1
Permitting persons of ill repute on premises	1			-			1
Employee w/o requisite identification card (local reg.)	1			-			1
Failure to provide constable to maintain law and order in violation of special condition	1			-			1
Sale to intoxicated persons	1			-			1
Sale to non-members by club	-			1			1
Failure to have copy of license application on premises	-			1			1
Unqualified employees	-			1			1
HEARINGS HELD AT DIVISION:							
Total number of hearings held	118			123			241
Appeals	29			25			54
Disciplinary proceedings	49			68			117
Eligibility	19			11			30
Seizures	13			16			29
Tax revocations	7			3			10
Applications for license	1			-			1
STATE LICENSES AND PERMITS ISSUED:							
Total number issued	4,870			4,369			9,239
Licenses	673			11			684
Solicitors' permits	150			155			305
Employment "	996			556			1,552
Disposal "	226			214			440
Social affair "	1,354			1,330			2,684
Wine "	60			909			969
Miscellaneous "	614			509			1,123
Transit insignia	719			653			1,372
Transit certificates	78			32			110
OFFICE OF AMUSEMENT GAMES CONTROL:							
Licenses issued	24			67			91
Premises inspected	626			-			626
Premises where violations were found	20			-			20
Number of violations found	22			-			22
Enforcement files established	196			70			266
Disciplinary proceedings instituted	1			-			1
Violations involved: fraud and front	1			-			1

WILLIAM HOWE DAVIS

Director of Alcoholic Beverage Control
Commissioner of Amusement Games Control

Dated: January 11, 1961

7. SEIZURE - FORFEITURE PROCEEDINGS - SUPPLEMENTAL ORDER FORFEITING MOTOR VEHICLE.

In the Matter of the Seizure)	
on September 10, 1960 of a)	
quantity of alcoholic beverages	)	Case No. 10,391
and a Packard sedan at or near)	
the intersection of Park Avenue	)	SUPPLEMENTAL ORDER
and Ellis Avenue, in the Borough)	
of Lawnside, County of Camden)	
and State of New Jersey.)	

Everett Jones, Esq., Attorney for Roy Littlejohn.
 I. Edward Amada, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On December 5, 1960 my Order was entered in this case wherein, among other matters, I directed that a Packard sedan be returned to Roy Littlejohn, if on or before December 15, 1960 he paid the costs of its seizure and storage.

On December 6, 1960, a copy of such Order was mailed to Everett Jones, Esq., attorney for Roy Littlejohn. On December 21, 1960, said attorney was advised by certified mail that if the costs were not received by December 30, 1960, a supplemental order forfeiting the Packard sedan would be entered. To date the costs have not been paid.

Accordingly, so much of my previous Order as directs the return of the Packard sedan is hereby rescinded and, instead, it is

DETERMINED and ORDERED that Packard sedan, Serial No. 2652-5030, New Jersey Registration FDG-750 be and the same is hereby forfeited in accordance with the provisions of R.S. 33:1-66 and shall be sold at public sale for the use of the State in accordance with State Regulation No. 29 or retained for the use of hospitals and state, county and municipal institutions at the direction of the Director of the Division of Alcoholic Beverage Control.

Dated: January 5, 1961

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

Marie McMaster and Walter McMaster)
522 Central Avenue)
Jersey City, N. J.,)

CONCLUSIONS

AND

Holders of Plenary Retail Consumption License C-385, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)

ORDER

Defendant-licensees, by Walter McMaster.
Dora P. Rothschild, Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

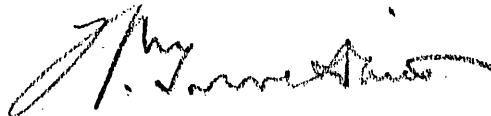
Defendants pleaded non vult to a charge alleging that they sold during prohibited hours an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

On Wednesday, December 7, 1960, at about 8:19 a.m., an ABC agent purchased a pint bottle of whiskey from August Oltmanns who was tending bar in defendants' premises. The agent left the premises with the bottle and contacted another ABC agent who had remained outside. Both agents then entered the premises, where the bartender verbally admitted that he had made the sale.

Defendants have no prior record. I shall suspend defendants' license for the minimum period of fifteen days. Re McHenry, Bulletin 1362, Item 3. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 3rd day of January 1961,

ORDERED that plenary retail consumption license C-385, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Marie McMaster and Walter McMaster, for premises 522 Central Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Tuesday, January 10, 1961, and terminating at 2 a.m. Friday, January 20, 1961.



William Howe Davis
Director