

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

BULLETIN 1576

August 24, 1964

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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.

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BULLETIN 1576

1. STATE REGULATIONS - REGULATION NO. 32 - RULE 7 AMENDED.

SALE AND DISPLAY FOR SALE OF ALCOHOLIC BEVERAGES FOR OFF-
PREMISES CONSUMPTION BY CONSUMPTION LICENSEES WITHOUT
BROAD PACKAGE PRIVILEGE PERMISSIBLE ONLY IN PRINCIPAL
BARROOM.

NOTICE TO ALL RETAIL CONSUMPTION LICENSEES:

Since 1948, the year in which R. S. 33:1-12.23 to R. S. 33:1-12.25 (commonly called the "Broad Package Privilege Law") was adopted by the Legislature, a number of plenary and seasonal retail consumption licensees have established on their licensed premises, more than one barroom. Strictly, the provisions of Rule 7 of State Regulation No. 32 would have confined such licensees to their original barrooms with respect to the sale and display for sale of alcoholic beverages in original containers for off-premises consumption. However, when the additional barroom became the principal barroom and the original barroom merely a subsidiary barroom, a thwarting of the legislative intent would have resulted from the continued sale and display of "package goods" in the original barroom.

In order to avoid a circumvention of the statute, my predecessors have administratively ruled, in particular factual situations, that such "package goods" activity could lawfully take place only in the principal barroom maintained by the licensee. Now, because of the increasing number of retail consumption licensees who have sought to emphasize their "package goods" business through the use of multiple barrooms, it has become necessary to promulgate a formal rule dealing with this aspect of the problem.

Accordingly, Rule 7 of State Regulation No. 32 is amended, effective July 15, 1964, to read as follows:

"No holder of a plenary retail consumption license or seasonal retail consumption license, without the 'Broad Package Privilege' as set forth in Rules 2 and 4 hereof, who maintains at the same time more than one barroom on the licensed premises shall sell or display for sale any alcoholic beverage in the original container for off-premises consumption except from and in the principal bona fide public barroom on the licensed premises."

JOSEPH P. LORDI
DIRECTOR

Promulgated Wednesday, July 15, 1964.

Effective Wednesday, July 15, 1964.

Filed with the Secretary of State (N.J.) Wednesday, July 15, 1964.

2. SEIZURE - FORFEITURE PROCEEDINGS - UNLAWFUL TRANSPORTATION AND STORING OF TAXPAID LIQUOR - CLAIM OF INNOCENT OWNER OF MOTOR VEHICLE RECOGNIZED - ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure on : Case No. 11,155
November 6, 1963 of a quantity of :
alcoholic beverages and a Buick : ON HEARING
sedan at the premises of Karol N. :
Gittner and Max Newman, 401 Clinton : CONCLUSIONS
Avenue, in the City of Newark, : and
County of Essex and State of New : ORDER
Jersey. :

.....
Robert W. Wolfe, Esq., appearing for claimant, Fred Fichtelberg.
Robert P. Glickman, Esq., appearing for claimant, Karol N. Gitter.
David S. Piltzer, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to the provisions of R. S. 33:1-66 and State Regulation No. 28, to determine whether 102 cases of alcoholic beverages and one 1954 Buick sedan, bearing New Jersey Registration GZI-905, more particularly described in a schedule attached hereto, made part hereof, and marked "Schedule A", seized on November 6 and 7, at and in the premises of Karol N. Gitter and Max Newman, 401 Clinton Avenue, in the City of Newark, County of Essex and State of New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing Fred Fichtelberg, represented by counsel, appeared and sought return of the alcoholic beverages. Karol N. Gitter, also represented by counsel, sought return of her said motor vehicle. This matter was presented in a consolidated hearing involving, in addition to this proceeding, 2 disciplinary proceedings; the first, against Karol N. Gitter and Max Newman, t/a M. Newman Liquors with licensed premises at 401 Clinton Avenue, Newark and the second, against Arthur Gitter, a holder of a solicitor's permit issued by the Director of this Division.

The consolidated hearing was consented to by all counsel representing the parties involved and was conducted as one hearing because the matters are inter-related and the same evidence is applicable to the disposition of all proceedings. Separate Hearer's Reports, however, have been presented to delimit the evidence presented for an impartial consideration thereof and to protect the rights of all the parties.

It was further stipulated by counsel for the claimants and the attorney of this Division that the file of this Division, including the affidavits of mailing and publication, shall be admitted into evidence.

I.

With respect to the claim by Karol N. Gitter for the return of the Buick sedan herein described which she owns, I have found the following facts: During the course of their investigation of unlawful activity at these premises, Newark police officers and ABC agents obtained statements from several employees to the effect that one Jack Mason, a clerk, employed by Newman Liquors transported certain cases of alcoholic beverages (other than those referred to in Schedule "A" and not made part hereof) in the said Buick sedan which did not have a transit insignia affixed thereto or an inscription painted thereon. Pursuant to the information obtained, a specific charge was made in disciplinary proceedings against Max Newman and Karol N. Gitter alleging that they transported alcoholic beverages within New Jersey in this said motor vehicle which did not have a transit insignia affixed thereto, or an inscription painted thereon; in violation of Rule 1 of State Regulation 17. However, at this hearing these statements were expressly repudiated by these employees in testimony given when they were called as witnesses for the Division.

After considering all of the testimony and the exhibits, I recommended, in a separate Hearer's Report, that the charge against Gitter and Newman of unlawfully transporting alcoholic beverages within New Jersey in this said motor vehicle, be dismissed.

Accordingly, I recommend that the claim of Karol N. Gitter for the return of her said Buick sedan be recognized, and that the said motor vehicle be returned to her.

II.

The established facts revealed by the file herein and the additional testimony of the ABC agents, local police officers and the stipulation of counsel, are as follows: Fred Fichtelberg, t/a Freddie's Liquors, reported to the Newark police the theft of a quantity of alcoholic beverages at his store and premises, 58 - 17th Avenue, Newark, N. J. on November 2, 1963. An investigation of this "theft" by local police officers and ABC agents revealed that, in fact, no such theft had occurred, but that a scheme was allegedly devised by Fichtelberg to defraud his insurance carrier. In pursuance of this scheme, Fichtelberg arranged with an agent or employee of Gitter and Newman whereby the alcoholic beverages, referred to in Schedule "A", were to be concealed and stored at their licensed premises at 401 Clinton Avenue, Newark. Fichtelberg's agent or employee transported 75 cases of alcoholic beverages in a vehicle not having a transit insignia affixed thereto or an inscription painted thereon, on November 1, 1963 from his premises to those of Gitter and Newman.

At about the same time, one Santo Joseph Russo, Sr., a driver for the National Wine and Liquor Co., a duly licensed wholesaler, was directed by Fred Fichtelberg or his employee to deliver 27 cases, consigned to Fichtelberg at his licensed premises, to the premises of Gitter and Newman, and the same were accordingly delivered on or about November 1, 1963.

On November 6, 1963 Newark police, in the company of ABC agents, seized the 102 cases of whiskey, as listed in the schedule, at the premises of Gitter and Newman, 401 Clinton Avenue, Newark. The seizure was adopted by this Division.

Counsel for Fichtelberg, in a written summation submitted at the conclusion of this case advocates that the seized liquor is not illicit liquor; "was purchased through a wholesaler; and the merchandise was delivered to the Claimant and part direct to Newman's Liquors in violation of the Regulation".

He, therefore, maintains that this is not "unlawful property" as defined in R. S. 33:1-1(y). He additionally urges that Fichtelberg, the claimant, will suffer by reason of criminal proceedings which derived from these alleged transactions as well as disciplinary proceedings instituted against him by this Division; therefore, the said property should not be subject to forfeiture. Finally, he urges "If there was an intent to commit a criminal act, the intent was to defraud, but not to violate the Regulations. The liquor (subject matter) for the purpose of the alleged crime might just as well have been jewelry, so far as these proceedings are concerned."

The crux of the matter is, however, that we are, indeed, dealing here with alcoholic beverages, and not other personal property. R. S. 33:1-1(i) defines "illicit property" as

"Any alcoholic beverage...warehoused, possessed or transported in violation of this chapter,...and any alcoholic beverage possessed, kept, stored, owned or imported with intent to... warehouse or transport in violation of the provisions of this chapter."
(Emphasis Supplied).

Section 33:1-1(y) defines "unlawful property" as

"All illicit beverages and all implements, vehicles, vessels, airplanes, and paraphernalia for the... warehousing or transportation of alcoholic beverages used in the... warehousing or transportation of illicit beverages or owned, possessed, kept or stored with intent to use the same in the... warehousing or transportation of illicit beverages, whether such use be by the person owning, possessing, keeping, or storing the same, or by another with the consent of such person; and alcoholic beverages, fixtures and personal property located in or upon any premises, building, yard or inclosure connected with a building, in which an illicit beverage is found, possessed, stored or kept." (Emphasis Supplied).

R. S. 33:1-66, authorizing the seizure of unlawful property sets forth in pertinent part in paragraph (a) as follows:

"a. Any officer knowing, or having reasonable cause to believe, that any person is engaged in unlawful alcoholic beverage activity, it shall be his duty to investigate, under proper search warrant when necessary, which it shall be his further duty to apply for, and to seize all property which he shall know, or have reasonable ground to believe is unlawful property, ... All property when seized shall be under the jurisdiction of the Director of the Division of Alcoholic Beverage Control subject to this chapter."

R. S. 33:1-66(b) sets forth as follows:

"b. All alcoholic beverages, fixtures and personal property located in or upon any premises, building, yard or inclosure connected with a building, in which an illicit beverage is found, possessed, stored or kept are hereby declared unlawful property and shall be seized, forfeited and disposed of in the same manner as other unlawful property seized under this section."
(Emphasis Supplied).

Reading these provisions of the statute together, it is crystal clear that the alcoholic beverages were illicit beverages, and became unlawful property when they were unlawfully transported and stored. This is equally true of the alcoholic beverages consigned to Fichtelberg by the National Wine and Liquor Co. When it sought to deliver the 27 cases of whiskey to Fichtelberg its driver was directed by Fichtelberg, his agent or employee, to deliver the same to other premises than those stated on the invoices, namely to the premises of Gitter and Newman. Immediately upon acting under this directive, the driver of the wholesaler became the agent of Fichtelberg, and the transporting and storing of those beverages became unlawful, in violation of the law and the Rules and Regulations of this Division.

It has been long established that alcoholic beverages stored unlawfully are subject to seizure and forfeiture. Likewise, such alcoholic beverages which are transported unlawfully are similarly subject to seizure and forfeiture. Seizure Case No. 7245, Bulletin 819, Item 1; Re Betzel, Inc., Bulletin 1350, Item 2; R. S. 33:1-1(1 and y); R. S. 33:1-2; R. S. 33:1-66.

It should be further noted that the motive which prompted the claimant to violate the law, or the fact that he may be penalized in disciplinary proceedings by this Division, or in criminal proceedings is immaterial, and does not warrant or justify relief from forfeiture of his property. Seizure Case No. 7263, Bulletin 812, Item 2. The Director's discretionary authority to return property subject to forfeiture is limited to those cases where it has been established to his satisfaction that the claimant, whose property has been seized, pursuant to the provisions of this section, has acted in good faith, and has unknowingly violated the provisions thereof. Since the claimant has failed or refused to testify in these proceedings in support of his claim, or produced any testimony in his behalf, there is absent any basis upon which such discretionary authority may be properly exercised.

Thus, under these circumstances, the Director is without authority to return the alcoholic beverages. R. S. 33:1-66(e); Re Betzel, Inc., *supra*; Seizure Case No. 9833, Bulletin 1343, Item 3; Cf. Seizure Case No. 9933, Bulletin 1336, Item 7; R. S. 33:1-1(i and y); R. S. 33:1-2; R. S. 33:1-66.

It is, therefore, recommended, on the basis of the evidence herein, that the alcoholic beverages be declared to be unlawful property, and that an Order be entered forfeiting the same.

Conclusions and Order

Written exceptions to the Hearer's Report and written argument thereto were filed with me by the claimant, Fred Fichtelberg, pursuant to Rule 4 of State Regulation No. 28.

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

Accordingly, it is DETERMINED and ORDERED that the claim of Karol N. Gitter for the return of her said Buick sedan be recognized and that if the said claimant shall, on or before the 20th day of July, 1964 pay the costs of the seizure and storage of the said motor vehicle, it shall be returned to her; and it is further

DETERMINED and ORDERED that the alcoholic beverages seized herein and more fully described in Schedule "A" attached hereto constitute unlawful property and that the same be and hereby are forfeited in accordance with the provisions of R. S. 33:1-66, and shall be retained for the use of hospitals and State, county and municipal

institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Dated: July 6, 1964

JOSEPH P. LORDI,
DIRECTOR

SCHEDULE "A"

- 102 - cases of alcoholic beverages
- 1 - 1954 Buick sedan, Serial No. 36005, N.J. Registration GZI-905.

3. APPELLATE DECISIONS - LITTLE JO'S INC. v. WATERFORD

Little Jo's Inc., t/a)	
Melody Inn,)	
)	
Appellant,)	ON APPEAL
v.)	
)	CONCLUSIONS
Township Committee of the)	AND ORDER
Township of Waterford,)	
)	
Respondent.)	
-----)	

Joseph Asbell, Esq., Attorney for Appellant
Vincent L. Gallaher, Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This is an appeal from the action of the respondent which, by unanimous vote of its members, suspended appellant's Plenary Retail Consumption License C-10 for thirty days effective January 6, 1964, after finding appellant guilty of a charge alleging sale of alcoholic beverages to a minor, age 15, in violation of Rule 1 of State Regulation No. 20. Appellant's premises are located on White Horse Pike, Waterford Township.

Upon filing of the appeal, an order dated January 7, 1964, was entered by the Acting Director, staying respondent's order of suspension until further order herein. R. S. 33:1-31.

Appellant, in its petition of appeal, alleges that the action of respondent was erroneous and should be reversed because the appellant was not guilty of the sale to the minor as charged.

John Nicoletti, local police officer, testified that on the evening of October 12, 1963, while on patrol in his police car near the municipal parking lot

at Atco Avenue and Raritan Avenue, he recognized Robert---punching the outside of an automobile; that he (Officer Nicoletti) apprehended Robert and two companions and took them to "the station house" where he attempted to question them; that inasmuch as they appeared intoxicated and their conversation "didn't make too much sense", he telephoned an ABC agent (hereinafter Agent C) and when he "explained what happened" Agent C "felt it was best that they go to sleep and continue the next day."

During cross examination, the officer testified that he contacted the parents of the respective boys, who later picked them up; that none of the boys accused the licensee of selling beer to them until October 14, 1963, when they stated to him and Agent C that the beer was obtained at the licensee's premises (hereinafter Melody Inn). Officer Nicoletti further testified that "the first answer I got was, 'We were drinking home,' and then I got another answer, 'Yes, we got it over at a friend's house,' but they didn't drink anything. I drank the whole fifteen quarts."

Anthony---testified that he was born December 27, 1947; that on two separate occasions Robert drove him and Herman--to the Melody Inn on the night of October 12, 1963; that on the first visit he alone entered the establishment and ordered seven one-quart bottles of Keglet beer from the bartender, Edward Semek (an officer of the corporate licensee); that Semek placed the bottles of beer in a bag and accepted payment therefor; that he left the Melody Inn with the beer, got into the car and was driven to the "Camden County Park" where he and his companions drank the beer; that thereafter they "drove around for a little while" and then went back to the Melody Inn, which he again entered; that he ordered five one-quart bottles of Keglet beer from Semek, who again placed them in a paper bag; that on both occasions he could not recall how much he paid for the beer; that he and his companions consumed the contents of the five quart bottles of beer, drove around until the car got a flat tire and, as they were proceeding to a service station, they were stopped by Officer Nicoletti, who took them to police headquarters.

During cross examination, Anthony testified that he could not remember what day of the week it was or where he had gone prior to visiting the Melody Inn. Further, he did not recall telling the officer at the time he was apprehended where he had obtained the beer; that he had never been to the Melody Inn previous to the alleged times on the date in question; that he was friendly with the son of another liquor licensee in town, had been at his friend's home but was never in the barroom; and that since the incident, he had never gone back to the Melody Inn. Anthony also testified that although he asked for Keglet beer on the two visits to the Melody Inn, he did not know what brand of beer was sold to him.

Appellant's attorney confronted Anthony with a

statement which he had signed for Agent C, wherein it was stated that he had purchased Keglet beer at the Melody Inn. When questioned concerning this, Anthony stated, "That is what I thought I got. That's what I told him, Keglets. That's what I asked for." Anthony also stated that he did not remember giving any statement to Officer Nicoletti at the time he was taken into custody.

Robert --- testified that he drove the car wherein Anthony and Herman rode; that he saw Anthony go into the licensed premises empty-handed and return to the car carrying a bag containing beer; that he drove the car to the Camden County Park where he and his companions drank the beer; that thereafter they drove around and eventually went back to the Melody Inn where Anthony entered and returned to the car with a bag containing beer; that the three consumed the beer while riding until he had a flat tire, when Officer Nicoletti questioned him; that he and his companions were taken to police headquarters where they were asked whether or not they had been drinking; that he did not respond thereto but later told the officer that he had had a few beers at home.

Robert stated he did not mention to the officer the visits to the Melody Inn on the night when he was apprehended. When questioned as to why he told Agent C that he drank Keglet beer, Robert stated that Anthony had said that was the beer he intended to purchase and he believed that was what he got.

Herman --- testified that he was with Anthony and Robert on the night in question and corroborated their testimony that the three boys had gone to the Melody Inn where Anthony entered the premises empty-handed and came out with a paper bag containing bottles of beer. He testified, however, that they drove to Borough Inn Park where they consumed the beer; that upon leaving the park, they drove to the Melody Inn, where Anthony again entered the licensed premises and shortly came out with a bag containing beer. When questioned on cross examination why he had told Agent C that it was Keglet beer, he stated that he believed that it was that brand of beer.

Agent C testified that on October 14, 1963, he obtained voluntary statements signed by Anthony and his two companions; that Anthony stated he had purchased seven quarts of Keglet beer on the first visit to the Melody Inn and some time later returned and purchased five quarts of Keglet beer; that at the direction of the three boys and accompanied by Officer Nicoletti, he drove to the Melody Inn which the boys identified as the place where the alleged purchase was made. Upon entering, he first spoke to Mrs. Semek who said that Mr. Semek had been on duty on the Saturday night in question and then called her husband; that "when he came out, I informed him of the nature of my business and the purpose of my being there was for identification"; that he (Agent C) called in Officer Nicoletti and Anthony and the latter identified Mr. Semek as the bartender who sold beer to him on October 12, 1963; that Mr. Semek informed him that on the

morning of October 13 at about 1:30 a.m. Anthony entered the premises with his mother concerning the alleged purchase of beer, at which time they engaged in conversation. Agent C further stated that upon ascertaining that there was no Keglet beer in stock, he returned to the car and questioned the boys further; that at that time Anthony said he had asked for Keglet beer but, on further thought, had not taken any particular notice of the brand of beer obtained.

Edward Semek testified that the corporation of which he is an officer, although in existence for "seventeen months", has never handled that brand of merchandise; that on the early morning of October 13 Anthony's mother came into the premises and, while he was attempting to calm her down, Anthony threatened to push his wife through the window; that it was on "Monday when the ABC agent and the officer and the kid came in." Semek also testified that "that kid was never in my place."

Elizabeth Semek, an officer of appellant, in substance corroborated the testimony given by her husband, Edward.

I have recited in detail the testimony of the witnesses produced by the parties herein. Notwithstanding that the minors did not recall all the events that occurred, I am satisfied from their testimony that Anthony purchased beer at the Melody Inn on the evening of October 12, 1963. Appellant's attorney placed great emphasis on the fact that appellant does not sell Keglet beer at its licensed premises. The purchase of the beer as alleged by Anthony was made at night and, according to the testimony of the minor, the bottles of beer had been put in paper bags which were immediately removed from the licensed premises on each occasion. According to Anthony's testimony and that of the other two youths, after the first visit they went to a park where, after parking the car, they consumed the beer; that after the second visit, they drank the beer while riding in the car. It is quite understandable and entirely probably that in the darkness and in view of the circumstances existing at the time, the boys did not examine the labels on the bottles to determine the brand of beer which had been purchased.

Anthony's testimony that he purchased the beer at the Melody Inn on two occasions on the night in question and the testimony of the two other youths that they saw him leave the car empty-handed, enter the Melody Inn and return to the car with beer each time appears to be an accurate version of what occurred. The unsupported testimony of Edward Semek denying that he ever saw or sold beer to Anthony carries little weight.

After careful examination of the evidence adduced herein, I find as a fact that Anthony, a minor, purchased twelve one-quart bottles of beer in appellant's premises and that Edward Semek made the sale thereof to him.

The Director should not substitute his judgment and

fact-finding power to reverse the exercise of judgment and fact-finding of a municipal issuing authority in the absence of a clear indication of abuse of discretion or unwarranted finding of fact or mistake of law by such authority. In Abad v. Newark, Bulletin 619, Item 8, it was stated by former Commissioner Driscoll that:

"The ultimate question presented by the record on this appeal, therefore, is one of fact. Notwithstanding the 'de novo' character of the appeal, the Commissioner, in his determination of the issues, should affirm where there is competent evidence in the record 'from which the conclusion of the administrative tribunal (the local issuing authority) could be deduced.' Cf. Vajtauer v. Commissioner of Immigration, 273 U. S. 103, 106. Under the Rules Governing Appeals (Rule 6 of State Regulation No. 15), the burden of proving reversible error rests with the appellant."

It is recommended that an order be entered affirming respondent's action and finding appellant guilty of sale of alcoholic beverages to the minor as charged and fixing the effective date for the thirty-day suspension heretofore imposed by respondent.

Conclusions and Order

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

Having carefully considered the transcript of the testimony, the exhibits, the argument of attorneys for the respective parties presented at the hearing herein, and the Hearer's Report, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 29th day of June 1964,

ORDERED that Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Waterford to Little Jo's Inc., t/a Melody Inn, for premises on White Horse Pike, Waterford Township, be and the same is hereby suspended for thirty (30) days, commencing at 2 a.m. Monday, July 6, 1964, and terminating at 2 a.m. Wednesday, August 5, 1964.

JOSEPH P. LORDI
DIRECTOR.

- 4. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER - RE-IMPOSITION OF SUSPENSION OF LICENSE FOR BALANCE OF TERM WITH LEAVE TO LIFT AFTER 95 DAYS UPON PROOF OF CORRECTION.

In the Matter of Disciplinary Proceedings against)
)
 Joe D's Blue Moon, Inc.)
 t/a Chez Charles)
 165 First Avenue)
 Newark 7, N. J.) SUPPLEMENTAL ORDER
)
 Holder of Plenary Retail Consumption License C-521, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark, N. J.)
 -----)

Thomas E. Durkin, Jr., Esq., Attorney for Licensee David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On November 14, 1963, Conclusions and Order were entered herein suspending the license for ninety-five days with leave to the licensee or any bona fide transferee of the license to file verified petition establishing correction of the unlawful situation for lifting of the suspension of the license on or after 2:00 a.m. Monday, February 24, 1964. Re Joe D's Blue Moon, Inc., Bulletin 1542, Item 1.

Upon appeal filed, the Appellate Division of the Superior Court stayed the operation of the suspension until the outcome of the appeal. On June 30, 1964, on motion of the Appellate Division to dismiss pursuant to Rule A-11 for want of prosecution, the appeal was dismissed by said court. The suspension may now be reimposed.

Accordingly, it is, on this 2d day of July, 1964,

ORDERED that Plenary Retail Consumption License C-521, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Joe D's Blue Moon, Inc., t/a Chez Charles, for premises 165 First Avenue, Newark, be and the same is hereby suspended for the balance of its term, effective 2:00 a.m. Friday, July 3, 1964, with leave to the licensee or any bona fide transferee of the license to file verified petition establishing correction of the unlawful situation for lifting of the suspension of the license on or after 2:00 a.m. Tuesday, October 6, 1964.

JOSEPH P. LORDI
 DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - FALSE STATEMENT IN APPLICATION FOR LICENSE - PRIOR SIMILAR RECORD DISREGARDED BECAUSE OF CHANGE OF STOCKHOLDERS- LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Rick's Circle Inn, Inc.)
t/a Rick's Circle Inn)
Corner Highway S-4 & 35 &)
Chevalier Avenue, Melrose)
Sayreville)
PO RFD 1, South Amboy, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-57, issued by the Borough Council of the Borough of Sayreville.)

John V. Burns, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for the Division
of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on June 7, 1964, it sold drinks of alcoholic beverages to seven minors, two age 17, two age 18 and three age 20, in violation of Rule 1 of State Regulation No. 20, and (2) in its application for current license, it failed to disclose the suspension of license held by Fellows M. Rickwood (president and 99% stockholder) then in partnership with Stephen Srinisky, t/a Hy Tavern, for premises 386 High Street, Perth Amboy, by the municipal issuing authority for five days effective May 25, 1958, for "hours" violation, in violation of R. S. 33:1-25.

In addition to the previous record which is the subject of the second charge, licensee also has a record of suspension of license under its former name, K and L Circle Inn, Inc., by the Director for twenty days effective February 20, 1957, for sale to minors. Re K and L Circle Inn, Inc., Bulletin 1162, Item 1.

The prior record of K and L Circle Inn for similar violation occurring within the past ten years disregarded by reason of the fact that the present stockholders of the licensee-corporation were not then stockholders (Re Murphy's Tavern, Inc., Bulletin 1563, Item 4) and the prior record of dissimilar violation in 1958 disregarded because occurring more than five years ago, the license will be suspended on the first charge for forty days (cf. Re Liebert, Bulletin 1453, Item 3; Re Beacon Manor Hotel, Inc., Bulletin 1474, Item 7) and on the second charge for ten days (Re Villa Rosa, Bulletin 1563, Item 2), or a total of fifty days, with remission of five days for the plea entered, leaving a net suspension of forty-five days.

Accordingly, it is, on this 2d day of July, 1964,

ORDERED that Plenary Retail Consumption License C-57, issued by the Borough Council of the Borough of Sayreville to Rick's Circle Inn, Inc., t/a Rick's Circle Inn, for premises corner Highway S-4 and 35 and Chevalier Avenue, Melrose, Sayreville, be and the same is hereby suspended for forty-five (45) days, commencing at 3:00 a.m. Tuesday, July 7, 1964, and terminating at 3:00 a.m. Friday, August 21, 1964.

JOSEPH P. LORDI
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - PRIOR RECORD - LICENSE SUSPENDED 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)	
)	
Marlborough Hotel Corporation t/a Marlborough Hotel Corp. 323 Lexington Avenue Lakewood, N. J.)	CONCLUSIONS AND ORDER
)	
Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Lakewood)	

Edward M. Rothstein, Esq., Attorney for Licensee
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 6, 1964, it sold a drink of beer to a minor, age 18, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for (1) five days effective May 3, 1958, for sale to a minor (Re Marlborough Hotel Corporation, Bulletin 1218, Item 5), (2) for fifteen days effective September 3, 1958, for sale to a minor (Re Marlborough Hotel Corporation, Bulletin 1242, Item 8), and (3) for thirty-five days effective April 24, 1961, for sale to a minor and foul language (Re Marlborough Hotel Corporation, Bulletin 1391, Item 1, wherein was discussed the continuing responsibility of the licensee for its previous record notwithstanding changes in percentage of stockholdings of its former principal stockholders).

The minimum suspension of license for sale to an 18-year-old minor is fifteen days (Re Brunswick Grove, Inc., Bulletin 1561, Item 7), to which will be added ten days by reason of the record of suspension of license for previous similar violation occurring within five years past (Re Shore Wines & Liquors, Inc.,

Bulletin 1499, Item 5) and ten days by reason of the record of suspension for two previous similar violations occurring more than five but less than ten years ago (Re Carabelli, Bulletin 1428, Item 7), or a total of thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days. In addition, the licensee is pointedly warned that any future violation of the alcoholic beverage law or regulations will be dealt with most severely.

Accordingly, it is, on this 6th day of July 1964,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Lakewood to Marlborough Hotel Corporation, t/a Marlborough Hotel Corp., for premises 323 Lexington Avenue, Lakewood, be and the same is hereby suspended for thirty (30) days, commencing at 2 a.m. Monday, July 13, 1964, and terminating at 2 a.m. Wednesday, August 12, 1964.

JOSEPH P. LORDI
DIRECTOR

7. DISQUALIFICATION REMOVAL PROCEEDINGS - PETTY LARCENY - POSSESSION OF NARCOTIC DRUGS - ORDER REMOVING DISQUALIFICATION.

In the Matter of an Application)
to Remove Disqualification be-)
cause of a Conviction, Pursuant) CONCLUSIONS
to R. S. 33:1-31.2) AND ORDER
)
Case No. 1834)
-----)

BY THE DIRECTOR:

Petitioner's criminal record discloses that he was convicted in a local magistrate's court on July 24, 1939, for petty larceny (radio); on June 2, 1941, as a disorderly person, and on June 28, 1942, for assault and battery; that on his first conviction he was placed on probation for one year; that on his second conviction he was fined \$5 and that on his third conviction he was fined \$25. It further appears that on December 3, 1957, following a plea of guilty in another State to possession of a quantity of heroin (petitioner admits that at the time of his arrest he intended to sell the drug and also used the same), he was sentenced to serve a term of one and one-half to two years in a State prison and was paroled therefrom on June 1, 1959. Since the crimes of petty larceny and possession of narcotic drugs (aggravated circumstances) involve the element of moral turpitude (Re Case No. 1784, Bulletin 1553, Item 6; Re Elig. #695, Bulletin 1391, Item 3), petitioner was rendered ineligible to be engaged in the alcoholic beverage industry in this State. R. S. 33:1-25, 26. Petitioner's criminal record does not disclose that petitioner had ever been adjudged an addict.

At the hearing held herein, petitioner (45

years old) testified that he has resided at his present address for thirty years; that for the past five years he has been self-employed as a painter and plasterer, and that ever since his imprisonment on December 3, 1957, he had neither used nor been addicted to any drug.

Petitioner further testified that he is asking for the removal of his disqualification to be free to engage in the alcoholic beverage industry in this State and that, ever since his parole on June 1, 1959, he has not been convicted of any crime or arrested.

The Police Department of the municipality wherein the petitioner resides reports that there are no complaints or investigations presently pending against the petitioner.

Petitioner produced three character witnesses (two clergymen and a retired fireman) who testified that they have known petitioner for more than five years last past and that, in their opinion, he is now an honest, law-abiding person with a good reputation.

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

Accordingly, it is, on this 8th day of July 1964,

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

JOSEPH P. LORDI
DIRECTOR

8. STATE LICENSES - NEW APPLICATIONS FILED

Dodd Importers & Distributors, Inc.
252A Park Avenue
Newark, New Jersey

Application filed August 21, 1964 for Wine Wholesale License.

Joseph Bruno

t/a Bruno's Soda & Beer Dists.

S/S Cliffwood Avenue, approximately 250 feet east of N.W. & L.B. RR, West of Locust Street, Matawan Township, P.O. Box 295, Cliffwood, New Jersey.

Application filed August 21, 1964 for person-to-person, place-to-place transfer of State Beverage Distributor's License SBO-20 from F. A. Bamman, Inc. 12 McLean Street, Princeton, New Jersey

Joseph P. Lordi
Joseph P. Lordi
Director