

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

BULLETIN 1191

OCTOBER 15, 1957.

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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 1191

OCTOBER 15, 1957.

1. DISCRIMINATION BY MANUFACTURERS AND WHOLESALERS AMONG
RETAILERS - MARKET SURVEY OF SALES VOLUME OF PRIVATE AND
EXCLUSIVE BRANDS OF ALCOHOLIC BEVERAGES.

September 30, 1957

SUMMARY OF INFORMATION FILED BY WHOLESALERS ON
PRIVATE AND EXCLUSIVE BRANDS:

As previously announced to the members of the industry, I have been engaged in a probing and analytical study of all available brands of alcoholic beverages in New Jersey, particularly with respect to private and exclusive brands in the hands of retailers.

In order that I might have a substantially complete basis upon which to evaluate the needs of the New Jersey market and to enlarge a program for the strict maintenance of orderly distribution, on July 10th I requested all holders of New Jersey wholesale licenses to file with this Division a prescribed form of questionnaire. These questionnaires were pointed to pertinent information on private and exclusive brands since this information has not previously been available for the reason that these classes of alcoholic beverages are excepted from the provisions for filing pursuant to the Rules of State Regulations Nos. 30 and 34.

These questionnaires are now complete and the information contained therein has been summarized. As an introductory note to the summary hereinbelow, it is pertinent to observe that, of the 78 wholesale licensees requested to file questionnaires, 20 indicated sales of private and exclusive brands to retailers in the period between January 1, 1956 and June 30, 1957. 14 of the 20 wholesalers had less than 30 retail accounts each to which were delivered private or exclusive brands during the period noted and 58 wholesalers made no sales of private and exclusive brands. On the basis of reports of the number of retailers served by the 20 wholesalers with private and exclusive brands and taking into account certain duplications which occur by reason of the fact that many retailers buy these brands from several wholesalers, it can be safely estimated that the number of retailers receiving private or exclusive brands does not exceed 300.

S U M M A R Y

Total gallons of private and exclusive brands according to type (but not including malt beverages and wines) delivered to retailers during the year 1956, January 1st to December 31st, inclusive:

<u>CORDIALS</u>	<u>GINS</u>	<u>BRANDIES</u>	<u>VODKA</u>	<u>RUMS</u>	<u>WHISKIES</u>
9,508.69	93,955.65	5,090.40	20,323.73	14,688.80	274,911.13

Grand total of private and exclusive brands by gallons (but not including malt beverages and wines) delivered to retailers during the year 1956:

418,418.40

Total gallons of all types of alcoholic beverages of every brand (including standard, private and exclusive brands, etc., but not including malt beverages and wines) delivered during the year 1956:

9,940,844.8

Total gallons of private and exclusive brands according to type delivered to retailers during the first six months of 1957, January 1st to June 30th, inclusive:

<u>CORDIALS</u>	<u>GINS</u>	<u>BRANDIES</u>	<u>VODKA</u>	<u>RUMS</u>	<u>WHISKIES</u>
3,324.59	54,754.20	2,946.40	14,632.20	6,491.00	145,660.90

The grand total of private and exclusive brands by gallons (but not including malt beverages and ~~wines~~) delivered during the first six months of 1957, January 1st to June 30th, inclusive:

228,009.29

Total gallons of all types of alcoholic beverages of every brand (including standard, private and exclusive brands, etc., but not including malt beverages and wines) delivered during the first six months of 1957, January 1st to June 30th, inclusive:

4,699,610.74

Total gallons of private and exclusive brands according to type delivered to retailers during the eighteen-month period from January 1, 1956 to June 30, 1957, inclusive:

<u>CORDIALS</u>	<u>GINS</u>	<u>BRANDIES</u>	<u>VODKA</u>	<u>RUMS</u>	<u>WHISKIES</u>
12,833.28	148,709.85	8,036.80	34,955.93	21,179.80	420,572.03

The grand total of private and exclusive brands by gallons (but not including malt beverages and wines) delivered to retailers during the eighteen-month period of January 1, 1956 to June 30, 1957:

646,427.69

Total gallons of all types of alcoholic beverages of every brand (including standard, private and exclusive brands, etc., but not including malt beverages and wines) delivered during the eighteen-month period from January 1, 1956 to June 30, 1957:

14,640,455.54

Accordingly, the total gallons of private and exclusive brands delivered in New Jersey during the eighteen-month period of January 1, 1956 to June 30, 1957 represent 4.5% of the total gallonage of all alcoholic beverages (exclusive of wines and beers) sold and delivered to retailers during the designated period.

WILLIAM HOWE DAVIS
Director.

2. STATE REGULATIONS - REGULATION NO. 30 (MINIMUM CONSUMER RESALE PRICE REGULATION) - PROPOSAL TO AMEND REGULATION TO PROHIBIT PRICE ADVERTISING OF PRIVATE AND EXCLUSIVE BRANDS OF ALCOHOLIC BEVERAGES.

September 30, 1957

TO ALL MANUFACTURERS, WHOLESALERS AND RETAIL CONSUMPTION AND
RETAIL DISTRIBUTION LICENSEES:

Rule 6 of State Regulation No. 30, as presently written, prohibits the advertisement of the retail price of

(1) all malt alcoholic beverages, whether or not listed in the Minimum Consumer Resale Price Pamphlet; and

(2) all other alcoholic beverages not listed in the Minimum Consumer Resale Price Pamphlet except private or exclusive brands confined to, or owned, controlled or distributed by a single retailer, and stated to be such in the advertisement.

Over a considerable period of time complaints have been received by this Division with respect to alleged problems arising out of the advertising and sale at retail of "private labels" and "exclusive brands" of alcoholic beverages (handled exclusively by one New Jersey retailer) the prices of which are not required to be filed for publication in the Minimum Consumer Resale Price Pamphlet.

In order to ascertain the facts for the purpose of properly evaluating the situation, this Division conducted surveys, held numerous conferences with the representatives of various levels of the industry, and otherwise assembled and studied much data from which it appears that, in some instances, abuses have occurred which may threaten an orderly market with resulting detriment to the public interest.

In some cases, "private label" and "exclusive brand" alcoholic beverages have been advertised (in newspapers and other advertising media) and sold at or near cost, probably, in some instances, below cost. Furthermore, since these alcoholic beverages are not required to be price-filed, they may be sold at any price and the price may fluctuate from day to day. This situation lends itself most readily to "loss leader" merchandising and "tie-in" sales, both inimical to the welfare of the public and the industry.

It would appear from the information now before us that the price advertising of these alcoholic beverages is the principal source of the trouble. Prospective customers are drawn to the licensed premises by means of price inducements emblazoned in advertisements and, once there, may become parties to transactions whose legal and social implications we need not here labor. Nor is it necessary to stretch the imagination very far to envisage "price wars" which may arise out of competitive advertising.

There has been little or no retailer price advertising of the multitude of brands of alcoholic beverages (other than malt alcoholic beverages) which are listed in the Minimum Consumer Resale Price Pamphlet, but the question now arises whether, for uniformity and in the over-all public interest through an orderly market, our regulation dealing with price advertising should not be expanded so as to prohibit the advertising of the retail price of all alcoholic beverages in the hope that such action will effectively solve the problems hereinabove mentioned.

Under all of these circumstances, I am considering such an amendment of the regulation. Of course, if this action is taken and proves inadequate, the matter will be further considered.

If you have any thoughts on this matter, it would be appreciated if you would write to me within ten days expressing your views as briefly as possible.

WILLIAM HOWE DAVIS
Director.

3. DISCRIMINATION BY MANUFACTURERS AND WHOLESALERS AMONG RETAILERS - ANNOUNCEMENT OF DISCIPLINARY POLICY IN CASES INVOLVING CASH KICK-BACKS, FREE GOODS AND OTHER PROHIBITED DEALS.

September 30, 1957

TO ALL DISTILLERS, WHOLESALERS, SOLICITORS AND RETAILERS:

It has been nationally recognized that during the last three years, New Jersey has enjoyed a clean market, free of prohibited deals involving cash kick-backs, free goods and other illegitimate merchandising devices. Now, however, it is widely reported that the market has broken and that certain distillers, wholesalers, solicitors and retailers are engaging in or are about to engage in prohibited deals.

As is generally known, we are presently in the course of conducting intensive investigation of the existence of these reported deals. That investigation will be pursued vigorously to the end that, if such deals in fact are being offered, those involved will be appropriately disciplined.

If any evidence of dealing is obtained, disciplinary proceedings will be instituted and, in the event of a finding of guilt, substantial penalties will be imposed. At the moment, I am considering a suspension of not less than 60 days against any distiller, wholesaler, solicitor or retailer so found guilty and, in the case of distillers, cancellation of solicitors' permits of their state manager and all of their missionary men for a like period.

A clean market is not only a matter of public interest but of industry interest as well. An orderly market has no place for chiselers. They will be driven out of the industry in the public interest.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
)
)
 THE LOPE INN, A CORP.
 44 Temple Street
 Paterson 2, N. J.,
)
 Holder of Plenary Retail Consumption License C-51, issued by the Board of Alcoholic Beverage Control for the City of Paterson.
)
 -----)

CONCLUSIONS AND ORDER

The Lope Inn, a Corp., Defendant-licensee, by Benjamin Berman, President.
 Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on Sunday, May 26, 1957, it sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that on Sunday, May 26, 1957, starting at about 1:00 p.m., two ABC agents kept the licensed premises under surveillance. At about 1:30 p.m. the agents observed one Curtis Boone leave the licensed premises by the side door with a brown paper bag under his arm. The agents identified themselves to Boone and learned that the aforesaid paper bag contained a quart-bottle of Rheingold Extra Dry Lager Beer. The agents, together with Boone, returned to the licensed premises and identified themselves to the bartender and Benjamin Berman, president of the corporate licensee herein. Boone pointed out Mr. Berman as the one who sold him the bottle of beer and Mr. Berman admitted making the aforesaid illegal sale.

The defendant has a prior adjudicated record. Effective June 1, 1954, its license was suspended by the Director of this Division for ten days for an "hours" violation (Re The Lope Inn, A Corp., Bulletin 1021, Item 5). The minimum penalty for an "hours" violation is fifteen days (Re Eckstein, Bulletin 1160, Item 5). Since the defendant committed a similar violation within five years, the penalty will be doubled (Re Czaplicki, Bulletin 1170, Item 6). I shall suspend defendant's license for thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 5th day of September, 1957,

ORDERED that Plenary Retail Consumption License C-51, issued by the Board of Alcoholic Beverage Control for the City of Paterson to The Lope Inn, a Corp., for premises 44 Temple Street, Paterson, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. September 16, 1957, and terminating at 3:00 a.m. October 11, 1957.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

GOLDEN MOON CAFE, INC.
T/a GOLDEN MOON CAFE
Rt. 206 & Chambers Corner
Springfield Township
PO Mount Holly, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Springfield.

Malandra & Tomaselli, Esqs., by Angelo D. Malandra, Esq.,
Attorneys for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

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

The file herein discloses that ABC agents obtained signed sworn statements from Airman Orville --- (age 17) and Airman David --- (age 19) wherein they state that on July 2, 1957, they visited defendant's licensed premises about 1:00 a.m. and remained until about 2:00 a.m. and that during their stay each was served and consumed four glasses of beer without having been required to present written proof of their age. Orville admitted that on three or four previous visits to defendant's premises he was refused drinks of alcoholic beverages. It appears that there was a large crowd in the premises on July 2. The two minors later directed the agents to the licensed premises and pointed it out as the place where they had been served alcoholic beverages, but could not identify the person who served them.

William F. Hare (majority stockholder of defendant corporate licensee) told the agents that he remembered seeing Orville but didn't remember serving him. He refused to give the agents a written statement.

The agents report that each minor looks much older than his actual age.

Defendant has no prior adjudicated record. Ordinarily I would suspend defendant's license for twenty days (Re Benshe Corporation, Bulletin 1127, Item 7). However, under the circumstances of this case I shall suspend defendant's license for fifteen days. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 4th day of September, 1957,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Springfield to Golden Moon Cafe, Inc., t/a Golden Moon Cafe, for premises at Rt. 206 & Chambers Corner, Springfield Township, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. September 16, 1957, and terminating at 2:00 a.m. September 26, 1957.

WILLIAM HOWE DAVIS
Director.

6.

ACTIVITY REPORT FOR SEPTEMBER 1957

ARRESTS:		
Total number of persons arrested - - - - -		19
Licensees and employees - - - - -	3	
Bootleggers - - - - -	16	
SEIZURES:		
Motor vehicles - cars - - - - -		4
Stills - over 50 gallons - - - - -		1
- 50 gallons or under - - - - -		2
Mash - gallons - - - - -		1,012.50
Distilled alcoholic beverages - gallons - - - - -		102.43
Wine - gallons - - - - -		.62
Brewed malt alcoholic beverages - gallons - - - - -		13.50
RETAIL LICENSEES:		
Premises inspected - - - - -		445
Premises where alcoholic beverages were gauged - - - - -		452
Bottles gauged - - - - -		7,293
Premises where violations were found - - - - -		48
Violations found - - - - -		55
Type of violations found:		
Unqualified employees - - - - -	11	Prohibited signs - - - - -
Reg. #38 sign not posted - - - - -	11	Improper beer taps - - - - -
Application copy not available - - - - -	8	Gambling devices - - - - -
		Other violations - - - - -
		17
STATE LICENSEES:		
Premises inspected - - - - -		47
License applications investigated - - - - -		14
COMPLAINTS:		
Complaints assigned for investigation - - - - -		368
Investigations completed - - - - -		381
Investigations pending - - - - -		149
LABORATORY:		
Analyses made - - - - -		162
Bottles from unlicensed premises - - - - -		18
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made - - - - -		15
Persons fingerprinted for non-criminal purposes - - - - -		217
Identification contacts made with other enforcement agencies - - - - -		178
Motor vehicle identifications via N. J. State Police teletype - - - - -		1
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities - - - - -		18
Violations involved - - - - -		21
Sale during prohibited hours - - - - -	12	Serving women at a bar (local reg.) - - - - -
Sale to minors - - - - -	5	Permitting foul language on premises - - - - -
Sale to intoxicated person - - - - -	1	Failure to close during prohibited hrs - - - - -
		1
Cases instituted at division - - - - -		42
Violations involved - - - - -		54
Sale during prohibited hours - - - - -	14	Hindering investigation - - - - -
Sale to minors - - - - -	14	Rebottling by retailer - - - - -
Permitting immoral activity - - - - -	3	Unauthorized transportation - - - - -
Sale below minimum resale price - - - - -	7	Delivery without bona fide invoice - - - - -
Sale outside scope of license - - - - -	2	Sale to intoxicated person - - - - -
Mislabeled beer taps - - - - -	2	Solicitor furnishing unlawful inducements to retailer - - - - -
Employing bartender without requisite identification card (local reg.) - - - - -	1	Solicitor engaging in conduct prohibited to employer - - - - -
Failure to afford view into premises during prohibited hours - - - - -	1	Solicitor violating terms of permit - - - - -
Permitting gambling (cards) - - - - -	1	Solicitor employed by retailer - - - - -
		1
Cases brought by municipalities on own initiative and reported to Division - - - - -		15
Violations involved - - - - -		20
Permitting brawls on premises - - - - -	5	Permitting gambling (cards) on prem. - - - - -
Conducting business as a nuisance - - - - -	3	Failure to afford view into premises during prohibited hours - - - - -
Sale to minors - - - - -	2	Permitting bookmaking on premises - - - - -
Hindering investigation - - - - -	2	Employee working while intoxicated - - - - -
Licensee working while intoxicated - - - - -	1	Sale to intoxicated person - - - - -
Sale on Primary Election Day - - - - -	1	1
Sale during prohibited hours - - - - -	1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held - - - - -		43
Appeals - - - - -	7	Seizures - - - - -
Disciplinary proceedings - - - - -	24	Tax revocations - - - - -
		4
STELLIGIBILITY AND PERMITS ISSUED:		
Total number issued - - - - -		1,305
Licenses - - - - -	4	Social affair permits - - - - -
Employment permits - - - - -	193	Miscellaneous " - - - - -
Solicitors' " - - - - -	40	Transit insignia - - - - -
Disposal " - - - - -	70	Transit certificates - - - - -
		53

Dated: October 7, 1957

WILLIAM HOWE DAVIS
DIRECTOR

7. 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)

VAN HOOK TAVERN (A Corporation))
575 Van Hook Street)
Camden, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-102, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

-----)
Van Hook Tavern (A Corporation), Defendant-licensee, by Tadeusz Kanigowski, President.
Dora P. Rothschild, appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to a charge alleging that he sold, served and delivered during prohibited hours, an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that at 10:35 p.m., Friday, August 2, 1957, an ABC agent purchased in defendant's licensed premises a pint of whiskey from an officer of the corporate licensee. The agent left the premises with the merchandise and within a few minutes returned accompanied by another agent who had remained outside. After both agents identified themselves, the seller readily admitted the after-hour sale.

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of fifteen days and remit five days for the plea entered herein, leaving a net suspension of ten days. Re Monetti Construction Co., Bulletin 1155, Item 4.

Accordingly, it is, on this 9th day of September, 1957,

ORDERED that Plenary Retail Consumption License C-102, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Van Hook Tavern (A Corporation) for premises 575 Van Hook Street, Camden, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. September 16, 1957 and terminating at 2:00 a.m. September 26, 1957.

WILLIAM HOWE DAVIS
Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against)

COUNTRY MANOR, INC.)
T/a COUNTRY MANOR)
Route #206, Byram Township)
P.O. Stanhope RFD, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-7 (for the 1956-57 and 1957-58 licensing years), issued by the Township Committee of the Township of Byram.)
-----)

Mackerley & Friedman, Esqs., by William J. McGovern, Esq., Attorneys for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On March 29, 1957 you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to a person under the age of twenty-one (21) years, viz., John ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20."

Acting on information received from the Office of the Prosecutor of the Pleas of Somerset County, ABC agents obtained two sworn written statements -- one from John --- (age 20) dated April 23, 1957, and the other from George J. Petruce (an adult) dated April 30, 1957. From these statements it appears that the aforesaid affiants and two others were on defendant's licensed premises from about 2:30 a.m. to about 4:30 a.m. on March 29, 1957; that during this period of time Sara C. Thomas (a barmaid) served four bottles of beer to John --- and to each of his three male companions; that each one paid for a round of drinks, and that at no time did anyone on the premises question John --- about his age. Shortly after executing their aforementioned statements, John --- and Mr. Petruce directed the ABC agents to the licensed premises in question and identified the same as the place where they were served the alcoholic beverages aforesaid. Mr. Petruce also identified Sara C. Thomas as the barmaid who served the beer to the group.

Defendant has no prior adjudicated record. I shall suspend its license for a period of ten days, the minimum suspension for the sale of alcoholic beverages to a 20-year-old minor (Re Habbart, Bulletin 1130, Item 9). The non vult plea was not entered in these proceedings until after the hearing was opened. Therefore, the remission usually granted in cases where the plea is received sufficiently in advance of the hearing will not be allowed (cf. Re Spinelli, Bulletin 948, Item 3; Re Trum, Bulletin 1137, Item 6).

Accordingly, it is, on this 22nd day of August, 1957,

ORDERED that Plenary Retail Consumption License C-7, issued for the 1957-58 licensing year by the Township Committee of the Township of Byram to Country Manor, Inc., t/a Country Manor, for premises on Route #206, Byram Township, be and the same is hereby suspended for ten (10) days, commencing at 5:00 a.m. September 3, 1957, and terminating at 5:00 a.m. September 13, 1957.

WILLIAM HOWE DAVIS
Director.

9. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

PETER ANDROS)
T/a PARADISE GRILL)
State Highway No. 35)
Middletown, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Middletown.)

Peter Andros, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to a charge alleging that on July 26, 1957 he sold, served and delivered, and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to a minor and permitted said minor to consume such beverages on his licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that on July 26, 1957 at about 11:50 a.m., an ABC agent at the defendant's licensed premises to make a routine inspection, noticed four soldiers at the bar consuming beer. One of these soldiers appeared to be a minor. The agent discussed the matter with the wife of the licensee, and with the bartender. The bartender stated that he had asked the young soldier his age, and that the soldier told him he was 21. The agent then spoke to this soldier, who stated that he was 19 years old and that the bartender had not inquired as to his age or asked him for any identification. The agent obtained a signed sworn statement from the minor and a statement from one of the minor's companions which confirmed the minor's statement.

It is not necessary to resolve the conflicting accounts as to whether the bartender asked the minor his age and was told that he was 21 (which is stressed by the defendant in his letter of alleged mitigating circumstances), because in any event the bartender failed to obtain a written representation from the minor that he was 21 years of age or over, a necessary requirement in order to establish a valid defense to a sale of alcoholic beverages to a minor. Re Wine & Game Shop Incorporated, Bulletin 1180, Item 10.

Defendant has no prior adjudicated record. The minimum suspension for an unaggravated sale of alcoholic beverages to a nineteen-year-old minor is fifteen days. Re Brudzinski, Bulletin

1164, Item 11. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 4th day of September, 1957,

ORDERED that Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of Middletown to Peter Andros, t/a Paradise Grill, for premises on State Highway No. 35, Middletown, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. September 16, 1957 and terminating at 2:00 a.m. September 26, 1957.

WILLIAM HOWE DAVIS
Director.

10. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

LINDENWOLD OPEN HOUSE (A CORP.)
T/a LINDENWOLD INN
White Horse Pike & Myrtle Ave.
Lindenwold
PO RFD Laurel Springs, N. J.,

CONCLUSIONS
AND ORDER

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

David Novack, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages to a minor and permitted the minor to consume said beverages on its licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that two ABC agents were in defendant's licensed premises on the evening of September 6, 1957. At about 11:15 p.m. two females entered and took seats at the bar. Each female ordered and was served a glass of beer by a bartender later identified as Walter Papp (one of the principal stockholders of defendant corporation). After the females consumed their drinks the agents identified themselves and ascertained that one of the females was twenty-five years of age but that the other female (Marie ---) was only twenty years of age. The agents report that Walter Papp had made no inquiry as to Marie's age before he sold the beer to her, but Marie told the agents that, when she entered the premises, someone at the door had asked her age and that she then stated she was twenty-two years old but was not required by anyone to make a written representation that she was twenty-one years of age or over.

Defendant has no prior adjudicated record. However, effective February 8, 1954, a license then held by Michael Papp and Elizabeth Papp (principal stockholders of defendant corporation), for premises in Trenton, New Jersey, was suspended by the

then Director for two days on a charge that they allowed a mislabeled beer tap on their licensed premises (Re Papp, Bulletin 1002, Item 6). Considering the past dissimilar record of the principal stockholders of defendant corporation, the penalty ordinarily imposed would be fifteen days. However, in view of all the circumstances appearing herein, I shall suspend defendant's license for ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days (Re Wine and Game Shop Incorporated, Bulletin 1180, Item 10).

Accordingly, it is, on this 10th day of September, 1957,

ORDERED that Plenary Retail Consumption License C-10, issued by the Borough Council of the Borough of Lindenwold to Lindenwold Open House (a corp.), t/a Lindenwold Inn, for premises at White Horse Pike & Myrtle Avenue, Lindenwold, be and the same is hereby suspended for five (5) days, commencing at 3:00 a.m. September 16, 1957, and terminating at 3:00 a.m. September 21, 1957.

WILLIAM HOWE DAVIS
Director.

11. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - ALCOHOL ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO INNOCENT OWNER.

In the Matter of the Seizure on) Case No. 9470
April 19, 1957 of a quantity of)
alcohol and a Buick sedan on the)
southbound lane of the New Jersey)
Turnpike, at the 38 Mile Post, in) ON HEARING
the Township of Mount Laurel, County) CONCLUSIONS AND ORDER
of Burlington and State of New Jersey.)

Essia Johnson, Pro se.
I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether 35 two-quart jars of alcohol and a Buick sedan, described in a schedule attached hereto, seized on April 19, 1957 on the southbound lane of the New Jersey Turnpike, at the 38 Mile Post, in the Township of Mount Laurel, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R. S. 33:1-66, Essia Johnson, the registered owner of the motor vehicle, appeared and sought its return. No one opposed forfeiture of the alcoholic beverages.

Reports of ABC agents and other documents in the file presented in evidence with consent of Essia Johnson, disclose the following facts:

A New Jersey State Trooper halted the Buick sedan on the above date and location during his routine patrol of traffic on the highway. The trooper ascertained that the motor vehicle was being operated by King A. Woods accompanied by Edward Payne. When the trooper discovered in the trunk of the car the 35 jars of alcohol without a stamp on any of the

jars evidencing payment of tax on alcoholic beverages, he took into custody the alcohol, motor vehicle and the occupants of the car. Later the alcohol and car were turned over to ABC agents.

A sample of the contents of one of the jars was analyzed by the Division chemist who reports that it is alcohol and water fit for beverage purposes, with an alcoholic content by volume of 46.5 percent.

The seized alcohol is illicit because of the absence of a tax stamp on any of the jars. R. S. 33:1-1(i), R.S. 33:1-88. Such illicit alcoholic beverages and the Buick sedan in which they were transported and found constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

Essia Johnson asserts that he loaned the motor vehicle to his friend, King A. Woods, and did not know, or have any reason to suspect that he would transport illicit alcohol therein. He testified that he is in the trucking business for about three years, owns one truck and the Buick in question, resides with his wife and two children and earns a modest income; that he met Woods in 1950 while both were employed by the same concern, and thereafter they became quite friendly and Woods was a considerable help to Johnson when he first engaged in the trucking business and Woods frequently used Johnson's car for shopping and like purposes.

Woods, who does not appear to have any previous criminal record for violating any liquor laws, testified that he borrowed the Buick sedan for a trip to Washington, D. C. to visit his brother, and while enroute stopped in Newark to see some friends, and there in a bar, a patron then offered to sell him some corn whiskey, and he accepted because it sounded cheap and such was the source of the seized alcoholic beverages; that he has been steadily employed and presently is employed as a machine operator, earning \$68.00 a week, and resides with his wife (who is also employed) and four children.

I am satisfied from the evidence presented that Essia Johnson acted in good faith, and did not know or have any reason to suspect that his car would be used by Woods for the unlawful transportation of alcoholic beverages. Hence I shall return the Buick sedan to him upon payment of the costs of its seizure and storage. R.S. 33:1-66(f). Cf. Seizure Case No. 8764, Bulletin 1049, Item 3.

Accordingly, it is DETERMINED and ORDERED that if on or before the 22nd day of August, 1957, Essia Johnson pays the costs incurred in the seizure and storage of the Buick sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to him; and it is further

DETERMINED and ORDERED that the 35 two-quart jars of alcoholic beverages listed in the aforesaid Schedule "A" constitute unlawful property and the same be and hereby are forfeited in accordance with the provisions of R. S. 33:1-66 and that they be retained for the use of hospitals and State, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
Director.

Dated: August 12, 1957.

SCHEDULE "A"

- 35 - two-quart jars of alcohol
 1 - Buick sedan, Engine and Serial 611A9775,
 Connecticut Registration IM-152.

12. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT ALCOHOL
 TRANSPORTED OR INTENDED TO BE TRANSPORTED IN TWO MOTOR
 VEHICLES - ALCOHOL AND ONE MOTOR VEHICLE ORDERED FORFEITED -
 OTHER MOTOR VEHICLE RENTED FROM U-DRIVE-IT CO. RETURNED TO
 SUCH COMPANY ON SHOWING GOOD FAITH AND REASONABLE PRUDENCE.

In the Matter of the Seizure on) Case No. 9504
 June 5, 1957 of alcohol, yeast, a)
 Ford truck and a Chevrolet truck on)
 a parking lot located at 8 Bruen)
 Street in the City of Newark, County) ON HEARING
 of Essex and State of New Jersey.) CONCLUSIONS AND ORDER

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 Bertram M. Grand, Esq., Attorney for U-Drive-It Co. of N. J.
 I. Edward Amada, Esq., appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of
 Title 33, Chapter 1, Revised Statutes of New Jersey, and further
 pursuant to a stipulation dated July 3, 1957 signed by Henry A.
 Ramey on behalf of U-Drive-It Co., to determine whether 135
 five-gallon cans of alcohol, 350 lbs. of yeast, a Ford van
 truck, and a Chevrolet panel truck, seized on June 5, 1957 on
 a parking lot located at 8 Bruen Street, Newark, New Jersey,
 constitute unlawful property and should be forfeited.

Pending hearing of the case, Henry A. Ramey, President of
 the U-Drive-It Co., and on its behalf, deposited \$1995.00 under
 protest pursuant to R. S. 33:1-66 with the Director of the Divi-
 sion of Alcoholic Beverage Control, representing the appraised
 retail value of the Ford truck registered in the name of such
 company, and thereupon obtained return of such motor vehicle.
 The U-Drive-It Co., by its president, has stipulated that such
 Director should determine in the present proceedings whether
 such sum should be forfeited, or returned to it.

When the matter came on for hearing pursuant to R. S.
 33:1-66 and such stipulation, an appearance was entered on
 behalf of U-Drive-It Co., which sought return of its deposit
 of \$1995.00. No one appeared to oppose forfeiture of the
 Chevrolet truck, alcohol and yeast.

Reports of ABC agents and other documents in the file,
 presented in evidence with consent of counsel for the U-Drive-
 It Co., disclose the following facts:

On June 5, 1957 local police officers observed one John
 Tamburello transferring a number of five-gallon cans from one
 of the trucks to the other while both vehicles were parked on
 the aforesaid lot located at 8 Bruen Street. Upon investiga-
 tion, the officers ascertained that there were 111 of such
 cans containing alcohol in the Ford truck and twenty-four of
 such cans of alcohol in the Chevrolet truck. The 350 lbs. of
 yeast were on the ground, near the truck. None of the cans
 bore a stamp indicating the payment of tax on alcoholic
 beverages.

The police officers seized all of the above described property and later turned over such property to ABC agents. A sample of the contents of one of the cans was analyzed by the Division chemist who reports that it has an alcoholic content by volume of 91.5 percent, and is fit for beverage purposes. It is high proof alcohol which, when diluted with water, may be used for beverage purposes.

The alcohol is illicit because of the absence of a tax stamp on any of the cans. R. S. 33:1-1(i), R.S. 33:1-88. Such illicit alcohol, the trucks in which the illicit alcohol was found, and the yeast found on the premises, constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

The U-Drive-It Co. represents that it is wholly innocent in the matter; that it rented the truck to John Tamburello in the normal course of its business, and did not know or have any reason to suspect that he would use it in unlawful alcoholic beverage activity.

The evidence presented on its behalf indicates that rather than a casual rental to a person merely identified by a driver's license and signature to a document which satisfactorily answers various questions concerning his background, as is generally customary in its business, its truck was rented to a person with whom it has previous satisfactory dealings. On October 19, 1954 Tamburello, recommended by a neighboring automobile repair concern, signed the usual document wherein he gave his name, address, and employment as a gas station attendant, and thereupon rented a passenger vehicle which he retained for eight days while his automobile was being repaired.

Thereafter Tamburello rented trucks from the U-Drive-It Co. on May 20, 1956, December 4, 1956, May 5, 1957, and on June 2, 1957 rented the truck which was seized. In each instance the document signed by him in 1954 was reviewed to establish his background and his new driver's license number noted thereon. In all previous instances he kept the truck for a few hours. John Tamburello has no previous criminal record for violating any liquor laws.

It is evident that in this instance the U-Drive-It Co. went beyond the normal practice of a well-conducted U-Drive-It business, which practice is referred to in Seizure Case No. 8612, Bulletin 1038, Item 2, and which is accepted as justifying relief from forfeiture, in that it dealt with Tamburello on a number of occasions after he had been well recommended and relied thereon and thus actually may be said to have been better informed concerning the background of the person to whom it loaned its equipment than it is generally. I am satisfied that it acted in good faith and exercised reasonable prudence.

Accordingly, it is DETERMINED and ORDERED that the costs of the seizure and storage of the Ford truck, more fully described in Schedule "A" attached hereto, be deducted from the deposit of \$1995.00 and the balance returned to the U-Drive-It Co. of N. J.; and it is further

DETERMINED and ORDERED that the balance of the seized property listed in Schedule "A" attached hereto constitutes unlawful property, and the same be and hereby is forfeited in

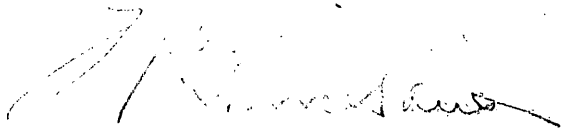
accordance with the provisions of R. S. 33:1-66, and shall be sold at public sale for the use of the state in accordance with State Regulation No. 29 or retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
Director.

Dated: September 9, 1957.

SCHEDULE "A"

- 135 - five-gallon cans of alcohol
- 350 - lbs. of yeast
- 1 - Ford van truck, Serial and Engine T5992, N. J. Registration XKL-479
- 1 - Chevrolet panel truck, Serial D-2707, Engine 5718738Z, N. J. Registration XLW752.



WILLIAM HOWE DAVIS
Director