

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

BULLETIN 1533

October 22, 1963

TABLE OF CONTENTS

ITEM

1. COURT DECISIONS - HIGHLANDER HOTEL CORP. v. DIVISION OF ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.
2. DISCIPLINARY PROCEEDINGS (Highlands) - ORDER REIMPOSING SUSPENSION FOLLOWING AFFIRMANCE ON APPEAL.
3. APPELLATE DECISIONS - ROSNER & GREENWALD v. MONTCLAIR.
4. APPELLATE DECISIONS - ROSENBAUM ET AL. v. PATERSON AND PERRONE  
VREELAND INN, INC. v. PATERSON.
5. DISCIPLINARY PROCEEDINGS (Mansfield Township - Warren County) - SALE TO MINOR - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
6. MORAL TURPITUDE - CONVICTION FOR POSSESSION OF NARCOTICS HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.
7. DISCIPLINARY PROCEEDINGS (Franklin Township) - SALE TO MINOR - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS - NO REMISSION FOR PLEA ENTERED AT HEARING.
8. SEIZURE - FORFEITURE PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES WITHOUT LICENSE - APPLICATION OF OWNER FOR RETURN OF MOTOR VEHICLE DENIED FOR FAILURE TO ESTABLISH GOOD FAITH - MOTOR VEHICLE AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.
9. ACTIVITY REPORT FOR SEPTEMBER 1963.
10. DISCIPLINARY PROCEEDINGS (Passaic) - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR AND DISSIMILAR RECORD - PRIOR RECORD OF CORPORATION WITH COMMON STOCKHOLDER - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.
11. DISCIPLINARY PROCEEDINGS (Netcong) - SALE OF DRINKS FOR OFF-PREMISES CONSUMPTION - LICENSE SUSPENDED FOR 5 DAYS, LESS 5 FOR PLEA.

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

BULLETIN 1533

October 22, 1963

1. COURT DECISIONS - HIGHLANDER HOTEL CORP v. DIVISION OF  
ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
A-1107-61

HIGHLANDER HOTEL CORP., )  
Appellant, )  
vs. )  
DIVISION OF ALCOHOLIC BEVERAGE )  
CONTROL, )  
Respondent. )

---

Argued September 9, 1963 -- Decided September 13, 1963

Before Judges Conford, Freund and Sullivan

Mr. John A. Flood argued the cause for appellant  
(Messrs. Reussille, Cornwell, Mausner & Carotenuto,  
attorneys).

Mr. Avrom J. Gold, Deputy Attorney General, argued  
the cause for respondent (Mr. Arthur J. Sills,  
Attorney General of New Jersey, attorney; Mr. Herbert  
S. Alterman, Deputy Attorney General, of counsel).

PER CURIAM

This is an A.B.C. disciplinary proceeding wherein the licensee's sole defense against the charge of renting rooms on its premises for illicit sexual intercourse, of which it was found guilty by the Division of Alcoholic Beverage Control, (Re Highlander Hotel Corp., Bulletin 1475, Item 1) is that of entrapment by agents of the Division. We find the defense not established. The facts here clearly show a predisposition and previous intention on the part of the licensee's employees; imputable to the licensee, to engage in the prohibited practice. The solicitation by the representatives of the Division was readily accepted; their activity, although planned in advance, merely afforded the licensee the opportunity to perpetrate in a specific instance what the evidence indicates it was prepared to do as a matter of routine practice. See State v. Rosenberg, 37 N.J. Super. 197, 204 (App. Div. 1955), certif. denied 20 N.J. 303 (1956).

We need not in this case consider the State's alternative argument that the defense of entrapment is not entertainable at all in an administrative disciplinary proceeding of this type.

Affirmed.

2. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING SUSPENSION FOLLOWING AFFIRMANCE ON APPEAL.

In the Matter of Disciplinary Proceedings against )  
 )  
 HIGHLANDER HOTEL CORP. )  
 t/a HIGHLANDER HOTEL CORP. ) SUPPLEMENTAL  
 1 Navesink Avenue ) ORDER  
 Highlands, N. J. )

Holder of Plenary Retail Consumption License C-26, issued by the Borough Council of the Borough of Highlands. )  
 )

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 Réussille, Cornwell, Mausner & Carotenuto, Esqs., by John A. Flood, Jr., Esq., Attorneys for Licensee.  
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

On August 6, 1962, the Director entered Conclusions and Order herein suspending the license for two hundred five days for permitting lewdness and immoral activity (room-renting), sale to a minor and conducting a raffle on the licensed premises (Re Highlander Hotel Corp., Bulletin 1475, Item 1).

Upon appeal filed, the Appellate Division of the Superior Court stayed the operation of the suspension until the outcome of the appeal.

The Court affirmed the Director's action on September 13, 1963. Highlander Hotel Corp. v. Division of Alcoholic Beverage Control, Bulletin 1533, Item 1. The suspension may now be reimposed.

Accordingly, it is, on this 26th day of September 1963,

ORDERED that the two-hundred-five (205) day suspension heretofore imposed, and stayed during the pendency of proceedings on appeal, be reinstated against Plenary Retail Consumption License C-26, issued by the Borough Council of the Borough of Highlands to Highlander Hotel Corp., t/a Highlander Hotel Corp., for premises 1 Navesink Avenue, Highlands, commencing at 3 a.m. Wednesday, October 2, 1963, and terminating at 3 a.m. Friday, April 24, 1964.

EMERSON A. TSCHUPP  
 ACTING DIRECTOR

3. APPELLATE DECISIONS - ROSNER & GREENWALD v. MONTCLAIR.

HERMAN ROSNER & EDDIE GREENWALD, )  
t/a SOUTH END LIQUORS & )  
DELICATESSEN, )

Appellants, )

v. )

BOARD OF COMMISSIONERS OF THE TOWN )  
OF MONTCLAIR, )

Respondent. )

ON APPEAL  
CONCLUSION  
AND ORDER

-----  
M. Eugene Speni, Esq., and Max Mehler, Esq., Attorneys for Appellants.  
Samuel Allcorn, Jr., Esq., Attorney for Respondent.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"Appellants appeal from the action of respondent Board of Commissioners (hereinafter respondent) whereby four of the five members thereof (one member having disqualified himself) found appellants guilty of sale of alcoholic beverages to a 19-year-old minor on March 9, 1963, in violation of R.S. 33:1-77, and suspended the license for ten days effective May 18, 1963. The licensed premises are located at 310 Orange Road, Montclair.

"Upon the filing of the appeal an order was entered by the Acting Director on May 17, 1963, staying respondent's order of suspension until further order of the Director. R.S. 33:1-31.

"Although admitting the sale of beer to the minor in question, appellants allege in their petition of appeal that they have established sufficient facts to constitute a defense to prosecution therefor as provided in R.S. 33:1-77.

"Respondent in its answer denies said allegations.

"R.S. 33:1-77 provides that:

'Anyone who sells any alcoholic beverage to a minor shall be guilty of a misdemeanor; provided, however, that the establishment of all of the following facts by a person making any such sale shall constitute a defense to any prosecution therefor: (a) that the minor falsely represented in writing that he or she was twenty-one (21) years of age or over, and (b) that the appearance of the minor was such that an ordinary prudent person would believe him or her to be twenty-one (21) years of age or over, and (c) that the sale was made in good faith relying upon such written representation and appearance and in the reasonable belief that the minor was actually twenty-one (21) years of age or over.'

"The following is an Agreed Statement of Facts submitted by the parties hereto:

The parties to this appeal offer this agreed statement of facts:

1. On March 9, 1963, Harold Rosner, who was employed by the licensee, sold eight cans of beer to William Thayer Hay II at the licensed premises.

2. At that time, that is, on March 9, 1963, Hay was 19 years of age.

3. Hay made previous purchases from this licensee, the initial purchase having been made by him in August of 1962. At the time of the initial purchase in August of 1962 the licensee questioned Hay as to his age, and Hay stated that he was 21 years old. At that time he gave his names as William L. Booth, and he also at that time exhibited to the licensee a driver's license and a draft card both in the name of William L. Booth. Both of these items showed the age of Booth to be 21 years.

In addition to that and at the same time Mr. Hay signed a statement under the name of William L. Booth. In this statement he represented himself to be 21 years of age.

4. Upon the discovery by the town of the sale by the licensee to Hay on March 9, 1963, the employee Harold Rosner was charged criminally with a violation of Revised statute 33:1-77, charging a sale of alcoholic beverage to a minor.

At the preliminary hearing on that complaint before Magistrate Brunetto, the complaint was dismissed by the magistrate on the ground that Rosner had established the necessary facts constituting the statutory defense, which showed:

1. That Hay made a false representation to the licensee in writing.

2. That the physical appearance of Hay was such that an ordinary prudent person would believe him to be 21 years of age or over.

3. That the sale was made by the licensee in good faith and that he was relying on the written representation of Hay and upon his appearance.

5. Following the dismissal of the complaint by the magistrate, the same case was presented by the prosecutor to the Essex County Grand Jury. Hay appeared as a witness before the Grand Jury, which thereafter dismissed the complaint. The reason for the dismissal is not known.

"Various exhibits, viz., a photostat copy of a written statement dated August 11, 1962, signed by the minor as William L. Booth; a photostat copy of the minor's birth certificate disclosing the date of birth of William Thayer Hay II on September 16, 1943, and the original transcript of the proceedings held before respondent were admitted in evidence.

"There is no dispute that, prior to the initial purchase of alcoholic beverages on August 11, 1962, the said minor stated his age to be 21 years, displayed an automobile driver's license and a draft card, each of which bore the name of William L. Booth and indicating that he (Booth) was 21 years old, and thereafter the minor signed the statement aforementioned as William L. Booth.

"Furthermore, a complaint made against Harold Rosner, who sold the beer to the minor on March 9, 1963, was dismissed by the local municipal magistrate, and the Essex County Grand Jury, upon presentment thereto concerning the sale of the beer by Harold Rosner, voted 'no bill.'

"Thus the only question to be resolved is whether the appellants complied with the terms of R.S. 33:1-77 aforementioned in that the appearance of the minor was such that an ordinary prudent person would believe him to be 21 years of age or over.

"At the hearing herein the minor testified that he is about 5 ft. 5 in. in height, weighs 150 lbs., and on March 9, 1963, when he purchased the beer at appellants' licensed premises, was a senior in high school.

"Appellants contend that, since the charge against Harold Rosner was dismissed by the municipal magistrate and the Grand Jury failed to indict, such actions should be considered in the proceeding herein.

"It has heretofore been held that the acquittal of a licensee or, as in this case, its agent and employee on criminal charges is immaterial to a determination in these proceedings. Disciplinary proceedings against a licensee are civil in nature. Kravis v. Hock, 137 N.J.L. 252 (Sup.Ct. 1948); In Re Schneider, 12 N.J. Super. 449 (Sup.Ct. 1951), and the two proceedings (criminal and disciplinary) are different in kind, involve different issues, quantum of proof and types of penalty. See Re DuPree, Bulletin 108, Item 8; Re Messina and Ruisi, Bulletin 392, Item 12; Re Rosenthal and Geller, Bulletin 843, Item 4; Re 17 Club, Inc., Bulletin 949, Item 2; Re The Sports Center Corp., Bulletin 1131, Item 5.

"After personal observation of the minor's physical appearance on the date of the appeal hearing, it is understandable that opinions of ordinary prudent persons may differ concerning his age. Moreover, on August 11, 1962, when the minor ordered beer at appellants' licensed premises, Eddie Greenwald (one of the appellant-licensees) was in doubt concerning the minor's age because he sought the opinion of Harold Rosner and, in addition thereto, requested the minor to exhibit an automobile license, a draft card, and then asked the minor regarding his age and had him fill in a form supplied by Greenwald and sign same. However, the four members of respondent, in finding guilt, necessarily concluded that the appearance of the minor was not that of an adult.

"This is admittedly a close case. However, 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, the burden of proving reversible error rests with the appellant.' Rule 6 of State Regulation No. 15.

"Although I might personally have concluded otherwise, it is apparent from the physical appearance of the minor that reasonable men, acting reasonably, might properly reach the decision that this minor was under the age of 21 years. I, therefore, find that the determination by the respondent now under attack is supported by substantial evidence and that the statutory defense was not fully established.

"It is recommended, therefore, that an order be entered affirming respondent's action and finding appellants guilty of sale of alcoholic beverages to the minor as charged; vacating the order dated May 17, 1963, and fixing the effective dates for the ten-day suspension heretofore imposed by respondent."

Appellant has waived filing of exceptions to the Hearer's Report pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the evidence and the arguments of counsel with respect thereto presented at the hearing herein, I concur in the findings and conclusions of Hearer and adopt his recommendation.

Accordingly, it is, on this 11th day of September 1963,

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 ten-day suspension heretofore imposed by respondent, and stayed during the pendency of this appeal, be restored and reinstated against Plenary Retail Distribution License D-7, held by Herman Rosner & Eddie Greenwald, t/a South End Liquors & Delicatessen, for premises 310 Orange Road, Montclair, to commence at 9 a.m. Wednesday, September 18, 1963, and to terminate at 9 a.m. Saturday, September 28, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

4. APPELLATE DECISIONS - ROSENBAUM ET AL. v. PATERSON AND PERRONE  
VREELAND INN, INC. v. PATERSON.

#2983 & #2989 )  
NORMAN ROSENBAUM et al., )  
Appellants, )  
v. )  
BOARD OF ALCOHOLIC BEVERAGE )  
CONTROL OF THE CITY OF PATERSON, )  
and PETER PAUL PERRONE, t/a PERRONE'S )  
WONDER BAR, )  
Respondents )

ORDER

----- )  
#2990 )  
VREELAND INN, INC., )  
Appellant, )  
v. )  
BOARD OF ALCOHOLIC BEVERAGE CONTROL )  
OF THE CITY OF PATERSON, )  
Respondent. )

-----  
Heyman Zimel, Esq., Attorney for Appellants.  
Theodore D. Rosenberg, Esq., by William J. Rosenberg, Esq.,  
Attorney for Respondent Board.  
Murner & Murner, Esqs., by Carmen A. Ferrante, Esq.,  
Attorneys for Respondent Peter Paul Perrone.

BY THE ACTING DIRECTOR:

These are related appeals as follows:

- (1) Rosenbaum v. Paterson (#2983): Appeal from transfer of 1962-63 Plenary Retail Consumption License No. C-234, issued to Peter Paul Perrone, t/a Perrone's Wonder Bar, from premises 209-A Market Street to 274 Vreeland Avenue, Paterson;
- (2) Rosenbaum v. Paterson (#2989): Appeal from renewal for 1963-64 of license of Peter Paul Perrone, t/a Perrone's Wonder Bar, for premises 274 Vreeland Avenue, Paterson;
- (3) Vreeland Inn, Inc. v. Paterson (#2990): Appeal from denial of renewal license for 1963-64 to Vreeland Inn, Inc., for premises 274 Vreeland Avenue, Paterson.

After partial hearing of these appeals, by letter of September 9, 1963, appellants' attorney advised me that the appeals were withdrawn. No reason appearing to the contrary,

it is, on this 11th day of September 1963,

ORDERED that the appeals herein be and the same are hereby dismissed.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

5. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

GEORGE NEULS )  
t/a RIVERVIEW INN )  
s/s Route #24 )  
Mansfield Township (Warren County) )  
PO Port Murray R.D., N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Township Committee of Mansfield Township. )

-----  
Henry W. Eckel, Jr., Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 29, 1963, he sold a case of beer to a minor, age 17, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for similar violation for twenty-five days effective July 23, 1956. Re Neuls, Bulletin 1099, Item 2; Neuls v. Division of Alcoholic Beverage Control, Bulletin 1122, Item 1; Re Neuls, Bulletin 1126, Item 11; Bulletin 1130, Item 8.

The prior record occurring more than five but less than ten years ago considered, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Cf. Re Wallace, Bulletin 1456, Item 4; Re Carabelli, Bulletin 1428, Item 7.

Accordingly, it is, on this 10th day of September, 1963,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of Mansfield Township to George Neuls, t/a Riverview Inn, for premises on s/s Route #24, Mansfield Township (Warren County), be and the same is hereby suspended for twenty (20) days, commencing at 3:00 a.m. Tuesday, September 17, 1963, and terminating at 3:00 a.m. Monday, October 7, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

6. MORAL TURPITUDE - CONVICTION FOR POSSESSION OF NARCOTICS HELD TO INVOLVE MORAL TURPITUDE UNDER FACTS OF CASE.

September 10, 1963

RE: ELIGIBILITY NO. 715

Applicant seeks an advisory opinion as to whether or not he is eligible to be associated with the alcoholic beverage industry in this state in view of his conviction of a crime.

Applicant's criminal record discloses that on September 2, 1959 he was convicted in a local magistrate's court under the Disorderly Persons Act (possession of marihuana) and was sentenced to serve ninety days in the Somerset County Jail; that on November 30, 1961 he was convicted in a local magistrate's court on a larceny charge (shoplifting) and was sentenced to serve fifteen days in jail or pay a fine of \$100 (paid fine); and that on March 1, 1962 following a plea of non vult in a county court to an indictment charging possession of narcotics (heroin and marihuana), he was sentenced to serve two to three years in New Jersey State Prison and fined \$250; paroled June 22, 1963.

At the hearing held herein, applicant (41 years old) testified that for the past seven years he has resided at his present address; that he has been a musician for twenty years; that in December, 1960, he and a friend went to New York; that he purchased a small quantity of heroin and marihuana cigarettes for his own use; that he gave his friend one or two of the cigarettes; that on March 23, 1961 local police found the balance of aforesaid purchase (5 packets of heroin and 7 marihuana cigarettes) in his home and that as a result thereof he was convicted as aforesaid on March 1, 1962.

Applicant further testified that the heroin and marihuana cigarettes were for his own use "but I was off of it"; and that "it was for myself when I was using it".

Unlawful possession of narcotics may or may not involved moral turpitude. Where aggravated circumstances appear it has been held that such crime involves moral turpitude. Re Case No. 444, Bulletin 520, Item 10; Re Case No. 402, Bulletin 490, Item 8; Re Case No. 663, Bulletin 1052, Item 9.

Reports received by this Division disclose that five packets of heroin and seven marihuana cigarettes were found concealed in various parts of applicant's home following which applicant was arrested on March 22, 1961; that applicant admitted to a probation officer that ever since his conviction on September 2, 1959 he has not used heroin or marihuana or other type of narcotics, and that he thought he had gotten rid of the narcotics at his home after his release from the Somerset County Jail.

Considering the quantity of narcotics (5 packets of heroin and 7 marihuana cigarettes) found in applicant's home, his purchase of narcotics in December, 1960 (about four months previous to his arrest on March 22, 1961), his testimony that he gave one or two cigarettes to a friend, his statement to the probation officer that ever since September 2, 1959 he has not used narcotics, are circumstances which aggravate the offense

in that they raised a strong inference that applicant was trafficking in narcotics and that the cache of cigarettes and heroin found in his home was a source of supply.

In view of the above it is my opinion that applicant's conviction on March 1, 1962 involves the element of moral turpitude.

Under the circumstances I recommend that applicant be advised (1) that, in the opinion of the Acting Director he has been convicted of a crime involving moral turpitude; (2) that the Alcoholic Beverage Law of this State (R.S. 33:1-25) provides that no license of any class shall be issued to a person convicted of a crime involving moral turpitude and (3) that R.S. 33:1-26 and Rule 1 of State Regulation No. 13 provide that no licensee shall employ or have connected with him, in any business capacity whatsoever, a person so disqualified.

I. EDWARD AMADA  
ATTORNEY

APPROVED:

EMERSON A. TSCHUPP  
ACTING DIRECTOR

- 7. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS - NO REMISSION FOR PLEA ENTERED AT HEARING.

In the Matter of Disciplinary Proceedings against  
  
VINCENT FALCIANI  
t/a "LIBERTY INN"  
e/s Harding Highway, approximately  
900' south east of Railroad, South  
of Malaga  
Franklin Township  
PO Newfield RFD, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Franklin

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Angelo J. Falciani, Esq., Attorney for Licensee  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control

BY THE ACTING DIRECTOR:

At the hearing held herein licensee pleaded non vult to charges alleging that on June 14, 1963 (1) he sold three 6-packs of beer to a minor, age 17, in violation of Rule 1 of State Regulation No. 20 and (2) for off-premises consumption during prohibited hours in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Director for five days, effective January 7, 1963 for "refilling". Re Falciani, Bulletin 1492, Item 10.

The license will be suspended on the first charge for twenty days (Re Wallace, Bulletin 1456, Item 4) and on the second charge for fifteen days (Re Beckert, Bulletin 1526, Item 12) to which will be added five days for reason of the record of suspension for previous dissimilar violation within the past five years (Re Brookside Tavern, Inc., Bulletin 1518, Item 6), or a total of forty days without remission for the plea in view of its untimely entry at the hearing. Re Curley's Inc., Bulletin 1518, Item 3.

Accordingly, it is, on this 11th day of September 1963,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Franklin to Vincent Falciani, t/a "Liberty Inn", for premises e/s Harding Highway, Franklin Township, be and the same is hereby suspended for forty (40) days, commencing at 4:00 a.m. Wednesday, September 18, 1963, and terminating at 4:00 a.m. Monday, October 28, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

8. SEIZURE - FORFEITURE PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES WITHOUT LICENSE - APPLICATION OF OWNER FOR RETURN OF MOTOR VEHICLE DENIED FOR FAILURE TO ESTABLISH GOOD FAITH - MOTOR VEHICLE AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure )  
on June 9, 1963 of a quantity ) Case No. 11,059  
of alcoholic beverages, a )  
Chevrolet sedan, and miscellaneous ) ON HEARING  
property at Pulaski Park, Fourth and ) CONCLUSIONS  
Mercer Streets, in the City of Passaic, ) AND ORDER  
County of Passaic and State of New )  
Jersey. )

-----)  
Florentino Medina Cintron, Pro se.  
I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"This matter came on for hearing pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey and State Regulation No. 28, to determine whether 70 cans of beer, 54 empty Schaefer 6 - pack cartons, a 10 gallon tub and a Chevrolet sedan, described in an inventory hereinafter referred to, seized on June 9, 1963 at Pulaski Park, Fourth and Mercer Streets, Passaic, New Jersey, constitute unlawful property and should be forfeited.

"When the matter came on for hearing pursuant to R.S. 33:1-66, an appearance was entered on behalf of the registered owner who sought its return. No one appeared to oppose forfeiture of the alcoholic beverages or the tub.

"The facts as they appear from the reports of ABC agents and other documents in the file, presented in evidence with the consent of the claimant herein, reflect the

following: on Sunday, June 9, 1963 at about 4:00 p.m. a local police officer observed 4 males standing near the open trunk of an automobile. One of the males was observed opening cans of beer which he was selling to various individuals. The method of selling was by handing the open cans of beer to 2 of the other males who, in turn, would mingle with the crowd gathered in that picnic area; and they, in turn, would turn over the receipts to the fourth male.

"The officer apprehended the male whom he had observed opening the cans of beer; he was arrested and questioned at police headquarters. He identified himself as Abdier R. Morales. He explained that he borrowed this automobile from Florentino Medina, its owner, and drove it to the park at the request of one Reinaldo Marquez, who was, in fact, selling the beer.

"The motor vehicle bore New Jersey license plates and was registered in the name of Florentino Medina, the claimant herein. A search of the trunk of the vehicle revealed a 10 gallon galvanized tub, 70 - 12 oz. cans of Schaefer beer on ice and 54 empty 6-pack Schaefer cartons. The alcoholic beverages, the tub and the motor vehicle were subsequently surrendered to agents of this Division.

"A sample of the contents of one of the 12 oz. cans of alleged Schaefer beer was analyzed by the Division chemist who reports that it is an alcoholic beverage, fit for beverage purposes, with alcohol by volume of 3.4 percent.

"The records of this Division do not disclose any license or permit authorizing the sale of alcoholic beverages to Reinaldo Marquez, Florentino Medina or anyone else located at the particular place in Pulaski Park where the beer was allegedly sold. Thus, the seized alcoholic beverages are illicit in the absence of such permit. R.S. 33:1-1(i), (x) and (y); R.S. 33:1-66.

"Marquez was thereafter arrested, charged with the sale of alcoholic beverages without a license and possession of alcoholic beverages with intent to sell without a license in violation of R.S. 33:1-50(a & b). He was held in bail for arraignment on June 12, 1963 before the Passaic Municipal Court.

"At the hearing herein, Medina gave the following account: he admitted that this car was registered in the name of Florantino Medina but that actually his true name is Floretino Medina Cintron; the reason that his true name wasn't put on the registration was that the registration clerk 'made a little mistake'.

"He is employed at Mary's Tavern in Passaic and frequently lends his automobile to Morales.

"On June 9, 1963 he lent Morales his car and, in exchange, Morales permitted him to use Morales' car. He could not explain why this exchange took place at this time. However, he disclaimed any knowledge of the use to which Morales was going to put the car. He also admits that, after the car was seized, he spoke to Morales but did not ask him why he had permitted Marquez to sell beer from his car.

"It should be pointed out that when this claimant was first questioned by the local police with respect to this incident he was uncooperative and refused to make any statements.

"My observation of the witness and my evaluation of his testimony persuades me that this witness was not candid in his testimony and was unwilling to disclose the complete picture of his relations with Morales and Marquez. The exchange of automobiles and circumstances herein make his actions suspect.

"The testimony herein makes it quite manifest and abundantly clear that this claimant displayed an absence of good faith and a careless indifference to what use his car was put, by the transportation and the sale of these alcoholic beverages. In the absence of these essential elements the Director has no authority to relieve the claimant of forfeiture. R.S. 33:1-66(e); Seizure Case No. 10,695, Bulletin 1444, Item 6; Seizure Case No. 10,608, Bulletin 1421, Item 3; Seizure Case No. 9899, Bulletin 1276, Item 8.

"I therefore recommend that the claim of Florentino Medina for the return of the said motor vehicle be denied, and that an order be entered directing the forfeiture of the Chevrolet sedan, the alcoholic beverages and the property in the annexed inventory."

No exceptions were taken to the Hearer's Report within the time limited by 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 them as my conclusions herein.

Accordingly, it is on this 13th day of September, 1963

DETERMINED and ORDERED that the seized property, more fully described in Schedule "A" attached hereto, constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66, and 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 Acting Director of the Division of Alcoholic Beverage Control.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

SCHEDULE "A"

- 70 - cans of beer
- 54 - empty Schaefer 6 - pack cartons
- 1 - Chevrolet sedan, Engine and Serial 79833,  
N.J. Registration XFX-676.
- 1 - 10 gallon tub

9.

ACTIVITY REPORT FOR SEPTEMBER 1963

ARRESTS:

Total number of persons arrested	-----	20
Licensees and employees	----- 10	
Bootleggers	----- 10	

SEIZURES:

Motor vehicles - cars	-----	1
Stills - 50 gallons or under	-----	1
Mash - gallons	-----	10
Distilled alcoholic beverages - gallons	-----	1,760
Wine - gallons	-----	2,939
Brewed malt alcoholic beverages - gallons	-----	31,065

RETAIL LICENSEES:

Premises inspected	-----	878	
Premises where alcoholic beverages were gauged	-----	419	
Bottles gauged	-----	6,394	
Premises where violations were found	-----	61	
Violations found	-----	87	
Unqualified employees	----- 21	Other mercantile business	----- 3
Reg. #38 sign not posted	----- 15	Improper beer taps	----- 2
Application copy not available	----- 13	Disposal permit necessary	----- 1
Prohibited signs	----- 8	Other violations	----- 24

STATE LICENSEES:

Premises inspected	-----	26
License applications investigated	-----	4

COMPLAINTS:

Complaints assigned for investigation	-----	345
Investigations completed	-----	315
Investigations pending	-----	158

LABORATORY:

Analyses made	-----	116
Refills from licensed premises - bottles	-----	51
Bottles from unlicensed premises	-----	3

IDENTIFICATION:

Criminal fingerprint identifications made	-----	13
Persons fingerprinted for non-criminal purposes	-----	288
Identification contacts made with other enforcement agencies	-----	202
Motor vehicle identifications via N.J. State Police teletype	-----	1

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	-----	9	
Violations involved	-----	12	
Sale during prohibited hours	----- 7	Sale to minors	----- 2
Failure to afford view dur. prohibited hours	----- 2	Failure to close during proh. hours	----- 1
Cases Instituted at Division	-----	19	
Violations involved	-----	29	
Sale during prohibited hours	----- 6	Furnishing gift with retail sale	----- 1
Possessing liquor not truly labeled	----- 5	Sale below filed price	----- 1
Sale to minors	----- 2	Permitting foul language on premises	----- 1
Fraud in application	----- 2	Permitting gambling (pool game) on prem.	----- 1
Sale to intoxicated person	----- 2	Hindering investigation	----- 1
Failure to close prem. dur. proh. hrs.	----- 2	Permitting lottery activity ("Daily Double" pool)	----- 1
Permitting bookmaking on premises	----- 2	Conducting business as a nuisance	----- 1
Sale outside scope of license	----- 1	and reported to Division	-----
Cases brought by municipalities on own initiative	-----	22	
Violations involved	-----	27	
Sale to minors	----- 9	Permitting lottery activity on premises	----- 1
Sale during prohibited hours	----- 4	Permitting immoral activity on premises	----- 1
Permitting brawl on premises	----- 3	Act of violence	----- 1
Failure to close prem. during proh. hrs.	----- 3	Permitting minors on prem. unaccomp. by parents or guardians (local reg.)	----- 1
Permitting gambling on premises	----- 2	Hindering investigation	----- 1
Permitting bookmaking on premises	----- 1		

HEARINGS HELD AT DIVISION:

Total number of hearings held	-----	41	
Appeals	----- 5	Seizures	----- 3
Disciplinary proceedings	----- 23	Application for license	----- 1
Eligibility	----- 9		

STATE LICENSES AND PERMITS ISSUED:

Total number issued	-----	1,322	
Licensees	----- 2	Social affair permits	----- 443
Solicitors' permits	----- 60	Miscellaneous permits	----- 199
Employment permits	----- 278	Transit insignia	----- 238
Disposal permits	----- 80	Transit certificates	----- 22

OFFICE OF AMUSEMENT GAMES CONTROL:

Licensees issued	----- 64	Enforcement files established	----- 18
Premises inspected	----- 111		

Emerson A. Tschupp  
Acting Director of Alcoholic Beverage Control  
Acting Commissioner of Amusement Games Control

10. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR AND DISSIMILAR RECORD - PRIOR RECORD OF CORPORATION WITH COMMON STOCKHOLDER - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

TOOLEY'S BAR, INC.  
t/a BEN'S RENDEZVOUS  
413 Monroe Street  
Passaic, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-58, issued by the Board of Commissioners of the City of Passaic.

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

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on August 2, 1963, it sold a pint bottle of vodka for off-premises consumption during prohibited hours, in violation of State Regulation No. 38.

Licensee has a previous record of suspension of license by the Director for ten days, effective April 14, 1958, for similar violation, and for fifteen days, effective April 27, 1959, for sale to minors. Re Tooley's Bar, Inc., Bulletin 1224, Item 3; Bulletin 1278, Item 8. In addition, Nathan Sigelbaum, 66-1/3% stockholder of the licensee corporation, was a stockholder of Keyhole Bar, Inc., 137 Pacific Street, Newark, the license of which was suspended by the Director for ten days, effective May 14, 1956, for violation similar to that herein. Re Keyhole Bar, Inc., Bulletin 1118, Item 7.

Considering the prior record of the licensee as well as that of Keyhole Bar, Inc., to which the licensee is linked by the stockholding of Nathan Sigelbaum (cf. Re The Living Room, Bulletin 1519, Item 4), the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Re Delbono, Bulletin 1461, Item 1.

Accordingly, it is, on this 16th day of September, 1963,

ORDERED that Plenary Retail Consumption License C-58, issued by the Board of Commissioners of the City of Passaic to Tooley's Bar, Inc., t/a Ben's Rendezvous, for premises 413 Monroe Street, Passaic, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. Monday, September 23, 1963, and terminating at 3:00 a.m. Friday, October 18, 1963.

EMERSON A. TSCHUPP  
ACTING DIRECTOR

11. DISCIPLINARY PROCEEDINGS - SALE OF DRINKS FOR OFF-PREMISES CONSUMPTION - LICENSE SUSPENDED FOR 5 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

RALPH N. DeWALD & VELMA M. DeWALD t/a UNCLE RALPHS Water Street Netcong, N. J. )

CONCLUSIONS AND ORDER

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Holders of Plenary Retail Consumption License C-6, issued by the Mayor and Borough Council of the Borough of Netcong. )

Licensees, by Ralph N. DeWald, Pro se. Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

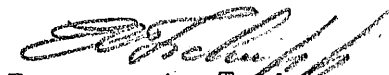
BY THE ACTING DIRECTOR:

Licensees plead non vult to a charge alleging that on July 13, 1963, they sold mixed drinks of alcoholic beverages in cardboard containers for consumption off licensed premises in violation of R.S. 33:1-2.

Absent prior record, the license will be suspended for five days (Re Toleno and Nagren, Bulletin 1512, Item 2) with remission of two days for plea entered, leaving a net suspension of three days.

Accordingly, it is, on this 16th day of September, 1963,

ORDERED that Plenary Retail Consumption License C-6, issued by the Mayor and Borough Council of the Borough of Netcong to Ralph N. DeWald & Velma M. DeWald, for premises Water Street, Netcong, be and the same is hereby suspended for three (3) days, commencing at 2:00 a.m. Monday, September 23, 1963 and terminating at 2:00 a.m. Thursday, September 26, 1963.

  
Emerson A. Tschupp  
Acting Director