

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

BULLETIN 1663

March 14, 1966

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

BULLETIN 1663

March 14, 1966

1. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED -
LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Dolphin Lounge, Inc.)
574 Springfield Ave.)
Newark, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-573, issued by the Muni-)
cipal Board of Alcoholic Beverage)
Control of the City of Newark)

Anthony E. Grasso, Esq., Attorney for Licensee.
Morton B. Zemel, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
October 6, 1965, it possessed alcoholic beverages in three bottles
bearing labels which did not truly describe their contents, in
violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for
twenty days, with remission of five days for the plea entered,
leaving a net suspension of fifteen days. Re Homestead Cafe Bound
Brook, Inc., Bulletin 1639, Item 9.

Accordingly, it is, on this 25th day of January, 1966,

ORDERED that Plenary Retail Consumption License C-573,
issued by the Municipal Board of Alcoholic Beverage Control of the
City of Newark to Dolphin Lounge, Inc. for premises 574 Springfield
Avenue, Newark, be and the same is hereby suspended for fifteen
(15) days, commencing at 2:00 a.m. Tuesday, February 1, 1966, and
terminating at 2:00 a.m. Wednesday, February 16, 1966.

JOSEPH P. LORDI
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY (INDECENT ENTERTAINMENT) - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Caled Corporation t/a Club Flamingo 430 Route 46 South Hackensack, N. J. Holder of Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of South Hackensack

CONCLUSIONS AND ORDER

Chandless, Weller & Kramer, Esqs., by Ralph W. Chandless, Esq., Attorneys 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 September 18-19 and 25, 1965, it permitted lewdness and immoral activity (indecent entertainment) on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Reports of investigation disclose that a female entertainer performed a standard strip tease routine including bumps and grinds, accompanied by suggestive gestures and posturings and involving participation in the performance by male patrons on and off stage.

Absent prior record but deeming the violation aggravated, the license will be suspended for forty-five days (Re Talvacchia, Bulletin 1594, Item 1), with remission of five days for the plea entered, leaving a net suspension of forty days.

Accordingly, it is, on this 26th day of January, 1966,

ORDERED that Plenary Retail Consumption License C-4, issued by the Township Committee of the Township of South Hackensack to Caled Corporation, t/a Club Flamingo, for premises 430 Route 46, South Hackensack, be and the same is hereby suspended for forty (40) days, commencing at 3:00 a.m. Wednesday, February 2, 1966, and terminating at 2:00 a.m. Monday, March 14, 1966.

JOSEPH P. LORDI DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - HOSTESS ACTIVITY - LOTTERY (RAFFLE) - LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Rose Santora 300 Paterson Plank Road Union City, N. J., Holder of Plenary Retail Consumption License C-172, issued by the Board of Commissioners of the City of Union City.

CONCLUSIONS and ORDER

Licensee, Pro se Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that she (1) on December 3-4, 1965, sold mixed drinks of alcoholic beverages to two minors, age 19, in violation of Rule 1 of State Regulation No. 20, (2) on December 4, 1965, permitted a female entertainer to accept a drink at the expense of a male patron, in violation of Rule 22 of State Regulation No. 20, and (3) on November 6, 1965, conducted a raffle (for a prize of a half-gallon bottle of whisky) on the licensed premises, in violation of Rule 6 of State Regulation No. 20.

Absent prior record, the license will be suspended on the first charge for fifteen days (cf. Re J.C.R. Corporation, Bulletin 1650, Item 6; Re Carl's Orchid Lounge, Inc., Bulletin 1649, Item 4), on the second charge for twenty days (Re Stumble Inn, Inc., Bulletin 1652, Item 3) and on the third charge for ten days (Re Highlander Hotel Corp., Bulletin 1475, Item 1), or a total of forty-five days, with remission of five days for the plea entered, leaving a net suspension of forty days.

Accordingly, it is, on this 26th day of January 1966,

ORDERED that Plenary Retail Consumption License C-172, issued by the Board of Commissioners of the City of Union City to Rose Santora, for premises 300 Paterson Plank Road, Union City, be and the same is hereby suspended for forty (40) days, commencing at 3 a.m. Wednesday, February 2, 1966, and terminating at 3 a.m. Monday, March 14, 1966.

JOSEPH P. LORDI DIRECTOR

4. DISCIPLINARY PROCEEDINGS - HOSTESS ACTIVITY - LICENSE
SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 Jayne and Walt's, Inc.)
 t/a Jayne and Walt's, Inc.)
 140 Washington Avenue)
 Belleville, New Jersey)
)
 Holder of Plenary Retail Consumption License C-27, issued by the Municipal Board of Alcoholic Beverage Control of the Town of Belleville)
)

CONCLUSIONS
AND ORDER

Licensee, by Walter T. Hess, President, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on December 17, 1965, it permitted a female entertainer to accept drinks at the expense of male patrons, in violation of Rule 22 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Stumble Inn, Inc., Bulletin 1652, Item 3.

Accordingly, it is, on this 27th day of January, 1966,

ORDERED that Plenary Retail Consumption License C-27, issued by the Municipal Board of Alcoholic Beverage Control of the Town of Belleville to Jayne and Walt's, Inc. for premises 140 Washington Avenue, Belleville, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Thursday, February 3, 1966, and terminating at 2:00 a.m. Friday, February 18, 1966.

JOSEPH P. LORDI
DIRECTOR

5. DISQUALIFICATION REMOVAL PROCEEDINGS - ASSAULT WITH INTENT TO KILL - ROBBERY - CONSORTING WITH CRIMINALS AND PERSONS OF ILL REPUTE - ORDER DENYING PETITION.

In the Matter of an Application)
to remove Disqualification be-)
cause of a Conviction, Pursuant)
to R.S. 33:1-31.2.)

CONCLUSIONS
AND
ORDER

Case No. 1939

Friedman & D'Alessandro, Esqs., by Edward G. D'Alessandro, Esq.,
Attorneys for Applicant

BY THE DIRECTOR:

Petitioner's criminal record discloses that between 1939 and 1961 a Grand Jury presented ten indictments against him; the first two indictments charged petitioner with atrocious assault and battery, assault with intent to kill and robbery, to which the petitioner pleaded non vult and on February 15, 1939 was sentenced to New Jersey State Prison for an aggregate term of four to six years; the second and third indictments charged the petitioner with robbery to which he pleaded non vult and on February 24, 1940 received a suspended sentence; in the fifth and sixth indictments he was charged with robbery, both of which were nolle prossed on February 11, 1940; the seventh indictment charged petitioner and others with conspiracy to defraud and was nolle prossed on May 21, 1945; the eighth and ninth indictments charged petitioner with atrocious assault and battery and possession of a dangerous weapon (revolver) and were nolle prossed December 18, 1944; the tenth indictment charged petitioner with false swearing and was dismissed on January 4, 1966.

It further appears that petitioner was arrested in 1943 for investigation (gas rationing stamps and burglary), in 1944 for investigation (burglary), in 1947 (hold-ups), all of which charges were dismissed in the magistrate's court. On October 26, 1950 petitioner was arrested for investigation (tampering with autos) and was convicted in the local magistrate's court on final charge of being a disorderly person and was fined \$100.00.

Since the crimes of which petitioner was convicted in 1939 and in 1940 involve the element of moral turpitude, he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25,26.

Petitioner's conviction in the magistrate's court is not a conviction of crime.

At the hearing held herein, petitioner (47 years old), testified that he is married and living with his wife and three children; that he has lived all his life in the same municipality where he presently resides; that between 1958 and 1963 he was employed as the maintenance man and buyer of foodstuffs in a licensed premises operated by his sister; that the premises is divided into two sections, a cocktail lounge and a restaurant; that his mother manages the restaurant; that at no time did he perform any services in connection with the operation of the bar or the cocktail lounge; that his work was confined to the restaurant; that he never handled any liquor; that in 1960 or 1961 he was informed by either the licensee, his mother or brother that he was ineligible to work in the cocktail lounge because of his criminal record but that he continued to perform the aforesaid services in the restaurant until 1963 when he obtained employment as a construction worker.

Petitioner further testified that at no time did he know that he was ineligible for limited employment by a licensee in the manner aforesaid; that it was his understanding he was not disqualified from performing such services for a licensee and that he made no effort to determine his eligibility for such work.

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

I would be naive to believe that the petitioner was ignorant of his ineligibility to work on licensed premises in any manner whatsoever and that at no time during his aforesaid five years of employment did he come in contact with any alcoholic beverages in the licensed premises or perform any services in this connection with the operation of the bar or cocktail lounge.

Moreover, the records of this Division disclose that on September 23, 1960 the petitioner and two other individuals (R and A) with criminal records were sitting at a table in a licensed premises and engaged in a conversation; that a shooting took place in which each was shot; that on June 29, 1961, following disciplinary proceedings before the Municipal Alcoholic Beverage Board, the license of the premises in question was revoked by the municipal issuing authority based principally upon the charge of permitting criminals, gangsters and persons of ill repute in the licensed premises.

On appeal to this Division the then Director affirmed the aforesaid revocation, and in his findings found as a fact that petitioner, A and R were gangsters and persons of ill repute. See Club Fremont, Inc. v. Newark, Bulletin 1420, Item 2.

An appeal from the Director's affirmance was taken to the Appellate Division of the Superior Court. Said appeal was dismissed on March 15, 1962, with consent of all parties and the matter was remanded to the municipal issuing authority which amended its order of revocation to a suspension of the license for the balance of its term with termination of the suspension conditioned upon the transfer of the license to a bona fide third party.

With reference to the aforesaid disciplinary proceedings L---, the bartender on duty in the licensed premises on September 23, 1960, testified that at about 10:00 a.m. on said date A entered the licensed premises followed by R about five minutes later; that A and R joined petitioner who was in the premises prior to their arrival; that A, R and petitioner were sitting together at a table; that he served coffee to them following which he returned to the stock room; that he heard noises which sounded like a truck back-fired, but that he did not leave the stock room until about ten minutes thereafter, at which time no one was in the barroom. It further appears that petitioner, A and R were called as witnesses by the municipal board and the licensee, and on both occasions they refused to testify upon the ground that such testimony might tend to incriminate them.

With reference to the aforesaid false swearing indictment, it shows that the same resulted from petitioner's testimony before the Grand Jury that on September 23, 1960 he had not sat at a table in the licensed premises with A and R. On January 4, 1966, on motion of the Prosecution, this indictment was dismissed because "the principal witness to prove the State's case, L---,

has been missing for some time under suspicious circumstances. Without his testimony, successful prosecution is not indicated. One other possible witness is not cooperative and is known to have left the jurisdiction of New Jersey after having served a lengthy prison term."

To afford petitioner the relief requested it is necessary that I find that he has been conducting himself in a law-abiding manner for five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest. See R.S. 33:1-31.2.

While more than five years have elapsed since his conviction in 1940, I am not satisfied, by reason of the foregoing, particularly petitioner's association with criminals and persons of ill repute, that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 24th day of January 1966,

ORDERED that the petition herein be and the same is hereby denied.

JOSEPH P. LORDI
DIRECTOR

6. SEIZURE - FORFEITURE PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES WITHOUT A LICENSE - DEPOSIT POSTED IN LIEU OF RETAIL VALUE OF MOTOR VEHICLE, COMMINGLED CASH AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure)
on August 28, 1965 of a quantity)
of alcoholic beverages, \$35.00 in)
cash and a Chevrolet truck in)
front of 39 Nichols Street, in the)
City of Newark, County of Essex)
and State of New Jersey.)
-----)

Case No. 11,559

On Hearing

CONCLUSIONS and ORDER

Mortimer Katz, Esq., appearing for Diego Alarcon, claimant.
I. Edward Amada, 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, and further, pursuant to a stipulation dated September 20, 1965 signed by Diego Alarcon to determine whether a quantity of alcoholic beverages, \$35.00 in cash and a Chevrolet truck, more particularly described in an inventory attached hereto, made part hereof, and marked Schedule "A", seized on August 28, 1965 in front of 39 Nichols Street, Newark, constitute unlawful property and should be forfeited; and further, to determine whether the sum of \$400.00, representing the retail value of the aforesaid motor vehicle, exclusive of the alcoholic beverages and \$35.00 in cash, paid under protest by the said Diego Alarcon, should be forfeited or returned to him.

When the matter came on for hearing pursuant to R.S. 33:1-66, Diego Alarcon, represented by counsel, appeared and sought return of the money deposited by him or some part thereof, on the basis of the said stipulation. No one opposed forfeiture of the alcoholic beverages or cash.

At the commencement of the hearing, counsel for the claimant stipulated the following facts: On August 28, 1965 Diego Alarcon was in possession of a quantity of beer in his 1957 Chevrolet truck, the exact quantity of which is set forth in the schedule attached hereto; the said motor vehicle bearing license plates XRW-268 is registered in his name; on that day he sold beer from his truck to some of his customers and also to an ABC agent; he had been carrying on this business with a particular licensee since May, 1965; prior thereto he had been selling beer for about six years in the same manner; he had no license or permit authorizing the sale of the alcoholic beverages; he made the actual sale to the ABC agent on August 16, 1965.

Reports of the ABC agent and other documents in the file which include the affidavit of mailing, affidavit of publication, chemist's report, stipulation and cash receipt, and a voluntary signed statement of Diego Alarcon setting forth the said facts were admitted into evidence, with the consent of the claimant.

In the said statement Alarcon sets forth the following facts in addition to those admitted in the stipulation: He leased his truck to the New Peppermint Lounge, Inc., a holder of a plenary retail consumption license, at premises in the City of Newark. This licensee obtained a transportation permit for the said truck, which said permit was entered into evidence. It entered into an agreement with Alarcon whereby it sold him cases of beer for \$4.50 (which is 50¢ per case below the minimum re-sale price). Under the said agreement it was understood and agreed that Alarcon was not an employee of the New Peppermint Lounge, Inc. but was, in fact, an independent contractor, who purchased the said alcoholic beverages for purpose of re-sale to his own customers.

The seized beer is illicit because it was clearly intended for unlawful sale. R.S. 33:1-1(i). Such illicit beer, the cash and the motor vehicle in which the said beer was transported and found, and from which it was intended for sale, constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y); R.S. 33:1-2; R.S. 33:1-66; Seizure Case No. 11,516, Bulletin 1645, Item 4; Seizure Case No. 10,759, Bulletin 1469, Item 5.

Diego Alarcon, testifying in support of his claim, asserted that he was advised by an officer of the New Peppermint Lounge, Inc. that the transportation permit was his authorization to sell beer from his truck, and that he had no intention of violating the law. However, on cross-examination, he seemed to be confused about who actually gave him this information and at one point, confessed that, actually, nobody so advised him. In any event, he admitted that he never inquired of this Division respecting the right to sell alcoholic beverages from his truck and that, indeed, he did sell these beverages without legal authorization. He further admitted that he purchased the beer at \$4.50 which was below the minimum re-sale price and sold the same to his own customers, as well as to the ABC agent.

Since it is obvious from the testimony and the admission of the claimant, that he knew that the said motor vehicle was used and intended to be used in unlawful liquor activity, the Director has no authority to return the said motor vehicle to

him or to order the return of the monies deposited upon the said stipulation. It is also clear from the evidence presented that the seized cash was clearly commingled with the "marked" money used by the agent, and no satisfactory proof was offered to demonstrate that the money seized came from any source other than that of unlawful sales. Thus, all of the seized money is subject to forfeiture. Seizure Case No. 10,646, Bulletin 1435, Item 5; R.S. 33:1-2.

It is equally abundantly clear that the seized alcoholic beverages are illicit because they were intended for illegal sale.

Counsel for claimant argued that since there was "...no intent to deliberately violate the law or regulations of the state ABC", that this claimant was entitled to some "leniency" with respect to the monies deposited on account of the stipulation, so that only part of the same should be forfeited. There is no authority which authorizes the return of the motor vehicle or part of the monies deposited upon the stipulation under these circumstances either under the law or the adjudicated cases. Thus, I recommend that this plea be rejected.

It is recommended that claimant's application for return of the deposit, or any part thereof, be denied, and that, accordingly, an order be entered forfeiting the cash, the alcoholic beverages and the sum of \$400.00 deposited by this claimant under protest under the stipulation pursuant to R.S. 33:1-66, all of which shall be disposed of thereunder, in accordance with law. Seizure Case No. 10,985, Bulletin 1516, Item 6; Seizure Case No. 10,918, Bulletin 1504, Item 3; R.S. 33:1-1 (x and y); R.S. 33:1-2; R.S. 33:1-66.

Conclusions and Order

No exceptions were taken to the Hearer's Report 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 them as my conclusions.

Accordingly, it is on this 24th day of January, 1966,

DETERMINED and ORDERED that the seized property, including the \$35.00 in cash, more fully described in Schedule "A", attached hereto, constitutes unlawful property; and that the sum of \$400.00, (representing the retail value of the motor vehicle described in the said Schedule "A", which was returned to Diego Alarcon) paid under protest to the Director of the Division of Alcoholic Beverage Control by the said Diego Alarcon, together with the \$35.00 in cash, and the other personal property set forth in the said schedule be and the same are hereby forfeited in accordance with the provisions of R.S. 33:1-66, to be accounted for in accordance with law; and it is further

DETERMINED and ORDERED that the alcoholic beverages are hereby forfeited 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.

JOSEPH P. LORDI
DIRECTOR

SCHEDULE "A"

- 216 - bottles of beer
- 216 - bottles of soda
- 504 - empty bottles
- 1 - hand truck
- \$35.00 in cash
- 1 - 1957 Chevrolet truck Serial No. 18195,
New Jersey Registration XRW-268

7. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOLIC BEVERAGES - ALCOHOLIC BEVERAGES ORDERED FORFEITED - MOTOR VEHICLE RETURNED TO INNOCENT LIENOR.

In the Matter of the Seizure)	
on August 25, 1965 of a quantity)	Case No. 11,557
of alcoholic beverages and a)	
Chevrolet sedan at Mahwah Ford,)	On Hearing
in the Township of Mahwah, County)	
of Bergen and State of New Jersey.)	CONCLUSIONS and ORDER

Robert S. Miller, Esq., appearing for Bernard F. Carter, claimant. National Newark and Essex Bank by John Saggese, Collection Manager

I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

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 R.S. 33:1-66 and State Regulation No. 28 to determine whether six bottles of alcoholic beverages and a 1965 Chevrolet automobile, more particularly described in a schedule attached hereto, made part hereof and marked Schedule "A", seized on August 25, 1965 at Mahwah Ford in the Township of Mahwah, Bergen County, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R.S. 33:1-66, Bernard F. Carter, the registered owner of the said motor vehicle, represented by counsel, appeared and sought its return.

The National Newark and Essex Bank also entered an appearance and sought recognition of its alleged lien on the said motor vehicle.

No one opposed forfeiture of the alcoholic beverages.

Counsel for claimant, Carter, stipulated the following facts on his behalf: On or about July 4, 1965 Carter purchased six bottles of corn whiskey from an unknown male in North Carolina and transported the said corn whiskey in the subject motor vehicle to New Jersey. The motor vehicle bore New Jersey license JVu 296 and was registered in the name of Bernard F. Carter, claimant herein. None of the bottles bore any stamps or labels indicating payment of taxes.

On July 10, 1965, Carter returned to New Jersey and while entering the Ford plant at Mahwah where he was employed, he was intercepted by a Ford company security guard who found him in possession of the said alcoholic beverages; the alcoholic beverages were taken from him at that time. On August 25, 1965 Carter was arrested by local police, charged with a violation of R.S. 33:1-50(e), possession of illicit alcoholic beverages, and was released on bail pending arraignment in the Mahwah Municipal Court.

Carter was interviewed by ABC agents and executed a voluntary sign statement on August 25, 1965 wherein he admitted possessing and transporting the said corn whiskey which he stated was for the use of any "parties I might have had".

On August 26, 1965 a sample of the contents of one of the bottles was analyzed by the Division chemist who reports it is an alcoholic beverage fit for beverage purposes with an alcoholic content by volume of 47.1%.

The file of this Division was received in evidence with the consent of claimants and contains the affidavit of mailing, affidavit of publication, chemist's report and the inventory of the alcoholic beverages.

The seized alcoholic beverages are illicit because of the absence of a tax stamp on any of the bottles. R.S. 33:1-1(i); R.S. 33:1-88. Such alcoholic beverages and the motor vehicle in which they were transported constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y); R.S. 33:1-2; R.S. 33:1-66.

Bernard F. Carter, testifying in support of his claim, admitted the facts as hereinabove set forth, stated that he was unaware that the transportation of "moonshine" whiskey into this State was unlawful; that he intended to use them "for a party or social occasions", and that they were not intended for re-sale.

Counsel argues that since the claimant did not intentionally violate the law, intended to have the same for his own personal use and cooperated fully with the police authorities, the Director should exercise his discretion sympathetically by directing the return of the motor vehicle. The Director has the discretionary authority to order the return of property subject to forfeiture to a person who establishes to his satisfaction that he acted in good faith, and had unknowingly violated the provisions of this section. R.S. 33:1-66(e).

However, a person who purchases bootleg alcoholic beverages has not acted in good faith and unknowingly violated the law. It would be anomalous and indeed, fatuous, to reason that so long as a person purchased bootleg whiskey and transported the same in a low quantity because it was for his personal use, that he would not be violating the law. Seizure Case No. 3858, Bulletin 1080, Item 10; Seizure Case No. 8742, Bulletin 1060, Item 11; Seizure Case No. 10,473, Bulletin 1390, Item 8. Hence, under these circumstances, he cannot obtain the benefit of the Director's discretionary authority to return property subject to forfeiture.

The National Newark and Essex Bank has presented into evidence an installment security agreement and bill of sale with their encumbrance annexed thereto.

John Saggese, its collection manager, who supervises consumer credit time sales, testified that a complete credit investigation was made of this account which satisfied him that Carter had a good credit rating, was regularly employed as a mechanic at the Ford Company in Mahwah and was apparently able to meet his regular payments. He stated that he received no reports of any prior liquor law or other criminal violation.

I am satisfied on the basis of the evidence presented that this claimant appears to have made a reasonable investigation; that it did not know or have any reason to believe that Carter was engaged in illicit liquor activity or that the said motor vehicle would be used in connection therewith.

This deponent states that there is presently due on this account, after allowance for insurance rebates, the sum of approximately \$2,200.00; that the present book value of this motor vehicle is approximately \$2,295.00. It is recommended that the lien of this claimant be recognized to the extent of its present outstanding balance, in the sum of \$2,200.00.

It appears likely that the amount realized at public sale of the motor vehicle will not exceed the amount of the lien claim and the costs of seizure and storage. Since this lien claimant has set forth its willingness to accept the return of the car upon payment of the costs of seizure and storage in full satisfaction of its claim, it is, accordingly, recommended that the said motor vehicle be returned to the National Newark and Essex Bank upon payment of such costs.

Conclusions and Order

No exceptions were taken to the Hearer's Report 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 them as my conclusions.

Accordingly, it is on this 25th day of January, 1966,

DETERMINED and ORDERED that if, on or before the 4th day of February, 1966, the National Newark and Essex Bank pays the costs of seizure and storage of the said 1965 Chevrolet motor vehicle, more particularly described in the annexed schedule, the said Chevrolet motor vehicle will be returned to it; and it is further

DETERMINED and ORDERED that the alcoholic beverages, more particularly described in Schedule "A" constitute unlawful property, and the same be and are hereby 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 Alcoholic Beverage Control.

JOSEPH P. LORDI
DIRECTOR

SCHEDULE "A"

6- bottles of alcoholic beverages
1 - 1965 Chevrolet, Serial No. 164395T244492,
Engine No. 65-16439 TAR 21982, Registration
JVU 296.

8. DISQUALIFICATION REMOVAL PROCEEDINGS - LARCENY - CONVICTION FOR POSSESSION OF BARBITURATES WITHIN PAST FIVE YEARS - PETITION DENIED.

In the Matter of an Application)
to Remove Disqualification be-)
cause of a Conviction, Pursuant)
to R.S. 33:1-31.2.)

CONCLUSIONS
AND
ORDER

Case No. 1978

BY THE DIRECTOR:

Petitioner's criminal record discloses that he was convicted in a local magistrate's court on November 14, 1957 for larceny (theft of accessories from an automobile); on October 4, 1962 for assault and battery and on February 17, 1964 for possession of barbiturates; that on his first conviction he was placed on probation for one year, on his second conviction he was fined \$25.00 or fifteen days in jail, paid fine, and on his last conviction he was given a ninety day suspended sentence and placed on probation for one year.

With reference to petitioner's conviction in 1964, the police report shows that at the time of his arrest he "had to be assisted to the Third Precinct being unable to walk under his own power. Property voucher executed for two orange pills", and was taken to the city hospital.

Since the crime of which petitioner was convicted in 1957 involves the element of moral turpitude, he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

Petitioner's other convictions in the magistrate's court are not convictions of crime.

To afford petitioner the relief requested, it is necessary that I find that he has been conducting himself in a law-abiding manner for five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest. See R.S. 33:1-31.2.

In view of his convictions in 1962 and 1964, I conclude that the petitioner has not so conducted himself and, therefore, will deny his petition. Re Case No. 904, Bulletin 914, Item 13; Re Case No. 1606, Bulletin 1396, Item 7.

Petitioner, however, may reapply to remove his disqualification on or after February 17, 1969 (five years from February 17, 1964, the date of his last conviction), provided, however, that he has been law-abiding during said five years and has proven to be a fit person to become engaged in the alcoholic beverage industry in this State.

Accordingly, it is, on this 31st day of January 1966,

ORDERED that the petition herein be and the same is hereby denied.

JOSEPH P. LORDI
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - FALSE STATEMENT IN LICENSE APPLICATION - PORTION OF PRIOR RECORD DISREGARDED BECAUSE OF CHANGE OF STOCKHOLDERS - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Bruno Hardcastle, Inc.)
138 Park Ave.)
Hoboken, N. J.)

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-25, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken.)
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Licensee, by Edward Freer, Secretary-Treasurer, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on November 14, 1965, it sold drinks of alcoholic beverages to four minors, two age 18 and two age 19, in violation of Rule 1 of State Regulation No. 20, and (2) in its current application for license failed fully to disclose its record of prior license suspensions, in violation of R.S. 33:1-25.

Licensee has a previous record of suspension of license by the municipal issuing authority for fifteen days effective October 16, 1960, for sale to minors (non-disclosure of which being the subject of the second charge) and for five days effective October 18, 1964 and again for five days effective August 4, 1965, both for sale during prohibited hours.

The prior record of suspension of license for similar violation occurring in 1960 disregarded for penalty purposes by reason of intervening change of stockholders (Re Lounge 68, Bulletin 1602, Item 10), the license will be suspended on the first charge for twenty days (Re Stratford Inn, Inc., Bulletin 1641, Item 7) and on the second charge for ten days (Re John Johnson Lodge #587, Bulletin 1652, Item 5), to which will be added ten days by reason of the record of two previous suspensions of license for dissimilar violations occurring within the past five years (Re Cameron, Bulletin 1643, Item 6), or a total of forty days, with remission of five days for the plea entered, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 27th day of January, 1966,

ORDERED that Plenary Retail Consumption License C-25, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Bruno Hardcastle, Inc. for premises 138 Park Avenue, Hoboken, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. Thursday, February 3, 1966, and terminating at 2:00 a.m. Thursday, March 10, 1966.

JOSEPH P. LORDI
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 Sidney Vegotsky
 t/a Frank's Liquor Store
 s/e corner of Prospect Street and Olden Ave.
 Ewing Township
 PO Trenton, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-5, issued by the Township Committee of the Township of Ewing

James J. McLaughlin, 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 November 30, 1965, he sold a case of twelve 4/5 quart bottles of whiskey below filed price, in violation of Rule 5 of State Regulation No. 30.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re City Hall Wines & Liquors, Inc., Bulletin 1615, Item 7.

Accordingly, it is, on this 31st day of January, 1966,

ORDERED that Plenary Retail Distribution License D-5, issued by the Township Committee of the Township of Ewing to Sidney Vegotsky, t/a Frank's Liquor Store, southeast corner of Prospect Street and Olden Avenue, Ewing Township, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. Monday, February 7, 1966, and terminating at 9:00 a.m. Saturday, February 12, 1966.

JOSEPH P. LORDI
 DIRECTOR

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

In the Matter of Disciplinary Proceedings against

Patrick LaGreca
t/a LaGrey's Bar & Grill
749 Main Avenue
Passaic, N. J.,

)
)
) CONCLUSIONS
) AND
) ORDER

Holder of Plenary Retail Consumption License C-142, issued by the Board of Commissioners of the City of Passaic.

Licensee, Pro se
Morton B. Zemel, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on December 28, 1965, he possessed an alcoholic beverage in one bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for five days effective November 20, 1939, for sale below filed price. Re La Greca, Bulletin 349, Item 8; Bulletin 362, Item 1.

The prior record of suspension of license for dissimilar violation occurring more than five years ago disregarded, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Puratti, Bulletin 1651, Item 10.

Accordingly, it is, on this 31st day of January 1966,

ORDERED that Plenary Retail Consumption License C-142, issued by the Board of Commissioners of the City of Passaic to Patrick LaGreca, t/a LaGrey's Bar & Grill, for premises 749 Main Avenue, Passaic, be and the same is hereby suspended for five (5) days, commencing at 3 a.m. Monday, February 7, 1966, and terminating at 3 a.m. Saturday, February 12, 1966.


JOSEPH P. LORDI
DIRECTOR

12. STATE LICENSES - NEW APPLICATIONS FILED.

The American Distilling Company
150 East 42d Street, New York, N. Y.
Application filed March 7, 1966 for place-to-place transfer of Plenary Wholesale License W-39 to maintain a warehouse in New Jersey at 161 Frelinghuysen Ave., Newark, N. J.

J. J. Fitzsimmons, Inc.
9-29 Getty Avenue, Paterson, N. J.
Application filed March 10, 1966 for place-to-place transfer of State Beverage Distributor's License SBD-143 from 843-851 Belmont Avenue, North Haledon, N. J.

New Jersey State Library


Joseph P. Lordi
Director