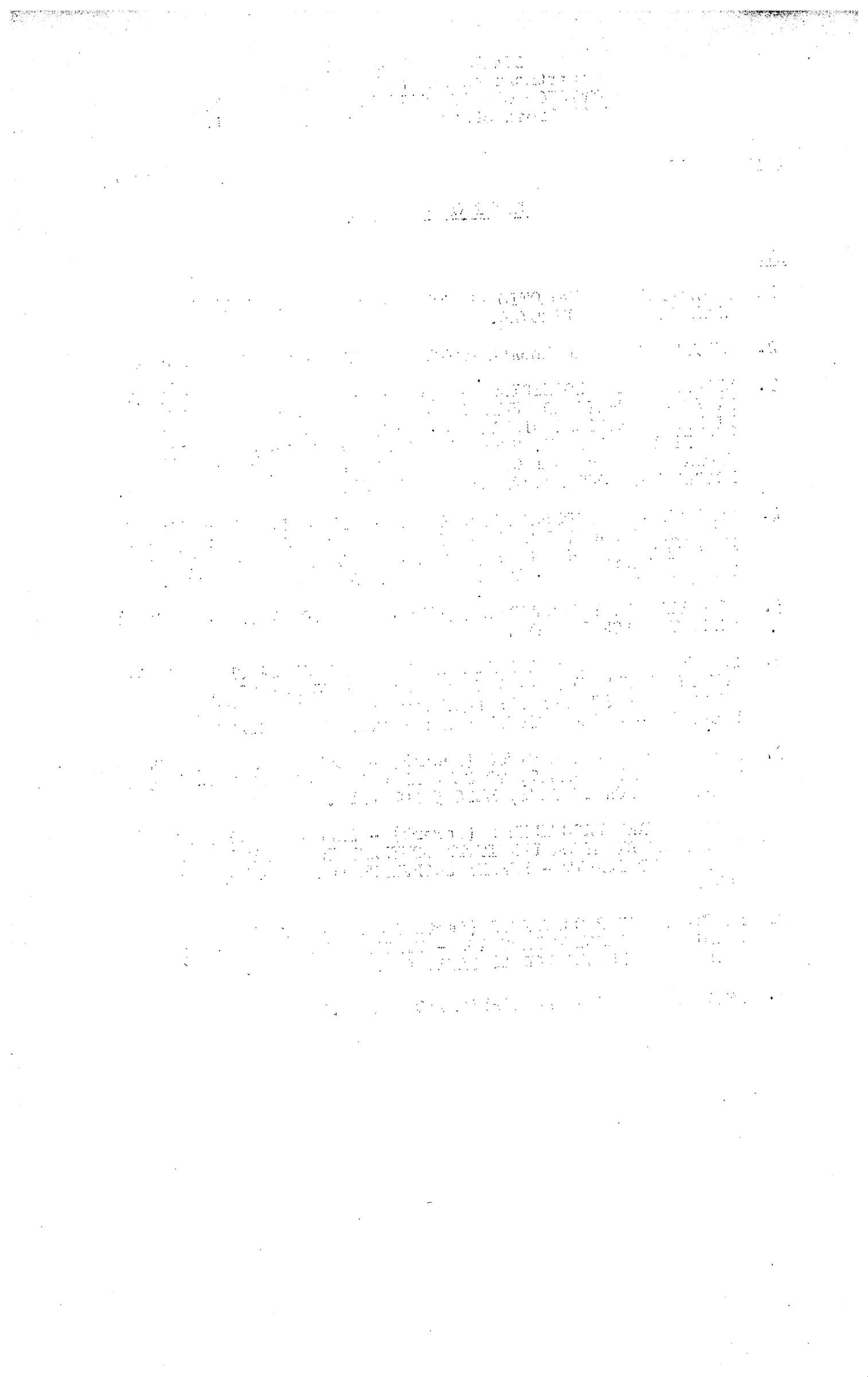
26 Rose Avenue,
Madison,
Morris County, New Jersey

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 1014 MAY 6, 1954.

TABLE OF CONTENTS

ITEM



STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 1014 MAY 6, 1954.

1. ADVERTISING - PROMOTIONAL CONTEST BY MANUFACTURER OR WHOLESALER DISAPPROVED.

Gentlemen:

You hold a wine wholesale license for New Jersey.

Our attention has been called to a circular of yours dealing with what is described as "Chateau Martin 'Old Timers' Contest". In this alleged contest persons are to show how long they have been drinking Chateau Martin Wine, and are also to identify their retail wine dealer and to finish the statement, "I like Chateau Martin Wine because..." The prize is a free two-week vacation for two in Florida, and is to be awarded to two winners every week.

We have long and consistently disapproved of any manufacturer or wholesaler of alcoholic beverages conducting this or any other similar type of contest in New Jersey in which the public is to participate and win any type of award. See Bulletin 800, Item 9, copy enclosed. We are of the opinion that the public should not be made alcoholic beverage conscious by manufacturers or wholesalers through the use of such contests, and that any such scheme based thereon is contrary to sound alcoholic beverage control in this state. We allow manufacturers and wholesalers the traditional means of advertising (newspapers, billboards, etc.) and we feel that these are ample. For your benefit, we are enclosing a copy of our mimeographed summary dated May 15, 1953 covering the subject of advertising in New Jersey by alcoholic beverage manufacturers or wholesalers.

In view of the foregoing, the contest in question is not permissible in New Jersey. You may not in any way engage in or foster any such contest in this state, nor may any retail licensee in New Jersey possess any advertisement, circular, or entry blank dealing with any such contest. If you have distributed any such material to any retail licensees in this state, you must retrieve same forthwith.

Please send us a prompt letter assuring us that you are immediately complying with these directives.

Very truly yours,

Dated: April 13, 1954

William Howe Davis
Director

2. MINIMUM CONSUMER RESALE PRICE PAMPHLET - NOTICE OF PUBLICATION.

May 3, 1954

The next complete and official publication of minimum consumer resale prices pursuant to Regulations No. 30 will become effective on July 1, 1954. Prices to be listed must be filed with the office of this Division not later than 4:00 P.M. of May 20, 1954. It is extremely important to note the following:

1. A listing of minimum consumer resale prices covering every brand and item sold to retailers in this state must be made either by the manufacturer or wholesaler who owns the brands; or a wholesaler who sells the brands and has written authorization from the owner of the brands to file price listings, or by any wholesaler who sells a brand whose owner does not file or is unable to file a schedule or designate an agent for such purposes, provided my approval is obtained for such filing. Each schedule of minimum consumer resale prices submitted by a manufacturer or wholesaler not owning the designated brands must be accompanied by an affidavit certifying that the lister has been authorized to file prices for such designated brands. Note particularly that every wholesaler is not required to file minimum consumer prices.

2. Manufacturers or wholesalers are not required to file a schedule of minimum consumer resale prices for any brand sold exclusively to one New Jersey retailer.

3. Where listers of brands choose to publish a permissive case lot discount of either 5 or 10 per cent, the phrase "Discount of __% permitted on case lot purchases" should be used.

4. True copies of labels or photostats of labels of brands to be listed in the Minimum Consumer Resale Price Pamphlet must be submitted with the schedule of price listings, if such labels have not been previously submitted. (A separate label for each type listed under a brand name and each label must be attached to a separate letterhead.)

5. Price listings may be submitted by letter in the same form as heretofore.

NOTE OF CAUTION AND WARNING. ANY BRAND OF ALCOHOLIC BEVERAGE NOT LISTED IN THE MINIMUM CONSUMER RESALE PRICE PAMPHLET TO BECOME EFFECTIVE JULY 1, 1954 MAY NOT BE SOLD TO A NEW JERSEY RETAILER BY ANY MANUFACTURER OR WHOLESALER ON AND AFTER JULY 1, 1954.

Notification of the proportionate share of aggregate expenses involved in the publication of the new complete Minimum Consumer Resale Price Pamphlet will be made to participating listers as soon as the pamphlet is mailed to all retail licensees.

WILLIAM HOWE DAVIS
Director

3. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING THAT LICENSEE PERMITTED LEWDNESS AND IMMORAL ACTIVITIES ON LICENSED PREMISES DISMISSED - LICENSEE FOUND GUILTY OF PERMITTING LOTTERY, SELLING DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38, AND POSSESSING CONTRACEPTIVES - LICENSE SUSPENDED FOR 40 DAYS.

In the Matter of Disciplinary Proceedings against

STEPHEN ZUKOWSKI
T/a STAND BY TAVERN
369 Broadway
Bayonne, N. J.

Holder of Plenary Retail Consumption License C-64 for the 1952-53 and 1953-54 licensing periods, issued by the Board of Commissioners of the City of Bayonne.

CONCLUSIONS AND ORDER

- -

Jack Feinberg and Maurice Summer, Esqs., Attorneys for defendant-licensee.

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

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charges:

"1. On June 5, 6, 10, 11, 12, 1953, you allowed, permitted permitted and suffered lewdness and immoral activity in and upon your licensed premises, viz., the making of arrangements for illicit sexual intercourse; in violation of Rule 5 of State Regulations No. 20.

"2. On June 12, 1953, you allowed, permitted and suffered a lottery, commonly known as a 'fight pool' to be conducted in and upon your licensed premises and sold and offered for sale and possessed, had custody of and allowed, permitted and suffered tickets and participation rights in such aforementioned lottery, in and upon your licensed premises; in violation of Rule 6 of State Regulations No. 20.

"3. On Friday, June 12, 1953 at about 10:40 P.M., you sold and delivered and allowed, permitted and suffered the sale and delivery of alcoholic beverages at retail in their original containers for consumption off the licensed premises, viz., three 12-ounce cans of Schaefer beer; in violation of Rule 1 of State Regulations No. 38, which prohibits any such sale and delivery before 9:00 A.M. or after 10:00 P.M. on any weekday.

"4. On June 13, 1953, you possessed and allowed, permitted and suffered prophylactics against venereal disease and contraceptives and contraceptive devices in and upon your licensed premises; in violation of Rule 9 of State Regulations No. 20."

At the hearing herein, three ABC agents who participated in the investigation testified on behalf of the Division. In the testimony, herein set forth, each agent will be referred to as "investigator" and the full name will not be used but, instead, only the initial letter of the last name: "B," "C," and "F." The testimony of these agents is substantially as follows: Investigators "B"

and "C" made four visits, as hereinafter described, to defendant's licensed premises, all after 8 p.m. On each occasion there were patrons in the barroom and in the adjoining rear sitting room. For the most part the patrons in the rear room (including females) were middle aged or elderly. However, the agents met there three young females with whom they danced and for whom they bought drinks. One of these females, known as "Dotty," who admittedly had been frequenting the premises for some time, was present on all four occasions.

On their first visit on the evening of June 5, and early morning of June 6, 1953 the agents saw Dotty enter the barroom from the rear sitting room, approach a male patron at the bar and ask him to join her in the rear room. The man followed her into the rear room and, later, they went out together through the rear door.

On June 10, Dotty introduced the investigators to two other females, "Flo" and "Helen." The latter invited investigator "B" to go to "her place" with her and arranged to meet him at another licensed premises two nights later. She volunteered to bring a girl friend for investigator "C." However, nothing came of these arrangements.

On June 11 and June 12, Dotty spent considerable time with investigator "B" in the rear room and, from time to time on each occasion, openly cuddled up to him in an affectionate manner. During these episodes the investigators, principally investigator "B," engaged in conversation with Dotty during which she offered to get another girl for investigator "C" and suggested to investigator "B" that he accompany her to her apartment where she would "keep him all night."

On June 11, Dotty made a date with investigator "B" while on the licensed premises to meet him there the following night. While the investigators, or either of them, sat and talked with Dotty in the rear room, drinks were ordered from and served by "Charlie," who is admittedly employed by defendant to wait on tables and assist the bartender and, from time to time, the investigators jointly and severally talked with "Walter," the bartender, concerning the availability of Dotty and several other females for the purpose of sexual intercourse. Walter disclaimed any knowledge of such matters but volunteered that he had experienced sexual stimulation (other than intercourse) with Dotty upon the licensed premises. Charlie claimed and then disclaimed having had sexual intercourse with her.

When investigator "B" entered the barroom of defendant's licensed premises at 9 p.m. on June 12, 1953, Walter informed him that Dotty had telephoned and left a message for him that she would be there later to keep her "date." Investigator "C" entered shortly thereafter at which time Walter asked the agents if they wanted to participate in a "pool" on a championship prize fight to be televised that night. Investigator "B" drew from a cigar box a slip of paper for round 15 and investigator "C" drew one for round 6. Each paid 50¢ to Walter who placed the money in the cigar box. In his testimony, Walter admitted that he supplied the paper for the "fight pool" and that he paid the proceeds to the holder of the slip for the winning round but claimed that the pool was conducted for the amusement of the patrons and that the licensee did not receive any of the proceeds.

As Dotty entered the licensed premises at approximately 9:20 p.m., Walter announced her arrival to investigator "B" who accompanied her to the rear room. From time to time the investigators talked with Walter. Investigator "B" told him that he was going to go with Dotty to her apartment and asked him if he had any "rubbers" (contraceptive devices). Walter said that he had none but pointed

out that there was a drug store across the street. Investigator "B" then asked investigator "C" to go to the drug store to get some for him. Investigator "C" left the premises, contacted investigator "F" who had remained outside and returned to the barroom. About 10:40 p.m. investigator "B" went to the bar, said he was leaving and purchased three cans of beer to take with him. Thereafter, at approximately 10:55 p.m. Dotty and the agents left the licensed premises. Investigator "B" and Dotty were later found in her apartment, fully clothed, drinking beer. At no time did Dotty ask for or receive any money from either of the investigators.

Subsequent inspection of the licensed premises revealed a single rubber contraceptive in a package in a drawer behind the bar.

Walter, Charlie, a Bayonne detective, a number of patrons and defendant testified in his behalf. Their testimony will be reviewed in connection with a consideration of the individual charges.

As to charge (1), Walter and Charlie denied that the investigators, or either of them, told them of any plan to take any female out of the licensed premises for illicit sexual intercourse. They also denied overhearing any of the conversations between the agents and any of the females, and further denied that they had told the investigators that they had been intimate with Dotty. However, Walter admitted that investigator "B" had asked him for "rubbers" and that he had directed him to the drug store across the street. The patrons testified that the licensed premises are well conducted; that elderly people, many of them husbands and wives, frequent the premises and sit in the rear room; that a birthday party was held in that room on the night of June 12 and that they neither saw nor heard anything untoward on that or any other occasion. The licensee was not present on any of the occasions mentioned in the charge.

At their request, counsel for defendant appeared before me in oral argument and urged that the Division had failed to prove defendant's guilt by the requisite preponderance of the evidence. I have considered the record and counsels' argument in arriving at the decision herein.

Charge (1) is a most serious indictment and, if established, would warrant revocation of the license. See Re 17 Club, Inc., Bulletin 949, Item 2; affirmed In Re 17 Club, Inc., 26 N. J. Super. 43 (App. Div. 1953); Re Arlington Inn, Bulletin 982, Item 1; Re Paton, Bulletin 898, Item 3. Obviously, considerations of fairness necessitate a most careful study and evaluation of the evidence. I am convinced that the agents met and conversed with the females as related in their testimony; that, pursuant to conversations with investigator "B" on the licensed premises, Dotty left the licensed premises with him on the night of June 12 and took him to her apartment. I am further convinced that Walter and Charlie engaged in conversations with investigators "B" and "C" and that the subject of availability of females for sexual intercourse was discussed. These facts and circumstances constitute more than a mere suspicion that arrangements could be made with females at the licensed premises for illicit sexual intercourse. Indeed, I incline strongly to the belief that such arrangements were, in fact, made. However, in all fairness and after carefully considering the entire record before me, I find that the charge (that the licensee allowed, permitted and suffered lewdness and immoral activity in and upon his licensed premises, viz., the making of arrangements for illicit sexual intercourse) has not been established by the requisite preponderance of the evidence.

I find defendant not guilty as to charge 1.

As to charge (2), the "fight pool" was a lottery and constituted a violation of Rule 6 of State Regulations No. 20. The fact that there were no commercial aspects involved, is no defense. CF. Re Deutsch, Bulletin 904, Item 5.

I find defendant guilty as to (2).

As to charge (3) investigators "B" and "C" testified that the cans of beer were sold at approximately 10:40 p.m. They testified at length with respect to their movements on that night, carefully noting the time of the several events, including the telecast of the fight which did not commence until 10:00 p.m. Furthermore, investigator "F" testified fully with respect to his activities on the night in question, also noting carefully the time of various events, especially the time when he saw the other investigators emerge from the defendant's licensed premises carrying the bag containing the cans of beer which was then delivered to him. He fixed that time at 10:55 p.m.

Defendant's witnesses testified that the sale was made before 10:00 p.m., and before the telecast of the fight began. Detective De Luca estimated that he and investigator "F" had left Police Headquarters at 9:40 p.m. or 9:15 p.m. and had waited 35 or 40 minutes before Dotty and the other investigators emerged from defendant's licensed premises and expressed it as his opinion that it was not later than 10:00 p.m. The bartender testified that the sale was made at 9:50 p.m. but, on cross-examination, admitted that, immediately before making the sale, he had seen on the television set the advertisement of the sponsor of the fight program (which begins at 10:00 p.m.). Charlie testified that the beer was sold at 9:45 p.m. but admitted that he was not good at telling time.

However, taking into account all of the testimony and all of the circumstances, I find that the sale was made after 10:00 p.m., in violation of Rule 1 of State Regulations No. 38, which prohibits such sales for off-premises consumption after 10:00 p.m. on any weekday.

I find defendant guilty as to charge (3).

As to charge (4) the licensee admitted that the contraceptive device had been upon the licensed premises. In seeking to explain its presence there he testified that, some time ago, a man had brought it into the licensed premises to demonstrate a trick having suggestive implications and, after the demonstration, had asked if he could leave it there for a while. However, the agents testified that, at Police Headquarters on the night in question, defendant had admitted ownership of the article and had said that he (the licensee) had performed the trick (which he explained) when there were no women in the barroom.

This explanation, however plausible, does not excuse the violation. Indeed, it reflects no credit on defendant whose duty it is to conduct his licensed premises in a proper manner at all times and to avoid not only evil but the appearance of evil. See Re DiAngelo, Bulletin 753, Item 4, and cases there cited. Regulation No. 20, Rule 9 is plain. For obvious reasons no contraceptive may be upon a licensed premise. No alibis will be accepted.

I find defendant guilty as to charge (4).

Under all of the circumstances in this case I shall suspend defendant's license for fifteen days on charge (2), Re Deutsch, supra; for fifteen days on charge (3), Re Pickwick Products, Inc., Bulletin 1004, Item 6 and for ten days on charge (4), Re Fort Lee

Tavern, Inc., Bulletin 913, Item 9, a total of forty days.

Although this proceedings was instituted during the 1952-53 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1953-54. State Regulations No. 16.

Accordingly, it is, on this 13th day of April, 1954,

ORDERED that Plenary Retail Consumption License C-64, issued for the current fiscal year by the Board of Commissioners of the City of Bayonne to Stephen Zukowski, t/a Stand By Tavern, for premises 369 Broadway, Bayonne, be and the same is hereby suspended for a period of forty (40) days, commencing at 2:00 a.m. April 19, 1954, and terminating at 3:00 a.m. May 29, 1954.

WILLIAM HOWE DAVIS
Director

4. SEIZURE - FORFEITURE PROCEEDINGS - ATTEMPTED DIVERSION BY TRUCKER OF SUGAR FROM LEGITIMATE USE TO USE IN MANUFACTURE OF ILLICIT ALCOHOLIC BEVERAGES - TRUCK AND UREA THEREIN ORDERED FORFEITED - SUGAR RETURNED TO INNOCENT LIENOR.

In the Matter of the Seizure on January 4, 1954, of an International truck and 150 one-hundred pound bags of sugar and 12 fifty pound bags of Urea, on Route No. 9 in Manalapan Township, County of Monmouth and State of New Jersey.	Case No. 8489 ON HEARING CONCLUSIONS AND ORDER

Meehan Brothers, Esqs., by John J. Meehan, Esq., Attorneys for Sidney Rheiner.
Harry Castelbaum, 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 an International truck, and 150 one-hundred pound bags of sugar and 12 fifty pound bags of urea being transported therein, seized on January 4, 1954 on Route No. 9, Manalapan Township, New Jersey, constitute unlawful property and should be forfeited.

It appears that New Jersey State Troopers observed the truck parked at the side of the highway at about 10:00 P. M. on the day in question. Leroy Roezell and Joseph Segari were in the truck. Asked to account for their presence with the truck and sugar, they failed to give the troopers a satisfactory explanation of their activities. Accordingly the troopers detained the men, and the truck and its cargo, and notified the Division of Alcoholic Beverage Control.

It was later ascertained that the truck was registered in the name of one John Riker whose residence was given as 159 King Street, Belleville, New Jersey. A check was made, and it developed that there is no such address, and that persons residing on King Street did not know, and had not heard of, any John Riker in that vicinity.

The truck and its cargo were ultimately turned over to the Division of Alcoholic Beverage Control. Its agents recognized Roezell as one of the persons arrested in 1952 in Barnegat, N. J. during the seizure of an illicit still. Roezell has a long criminal record of

arrests on charges of operating illicit stills.

The agents sought to ascertain from Roezell and Segari the source and destination of the sugar. The gist of their statements, similar to those they gave to the troopers, is that a man, whose name they thought was Sidney Lowe, previously unknown to them, made arrangements for them to drive the truck to Atlantic City; that they received the truck on McCarter Highway, Newark, N. J. at about 3:00 P. M., on the day in question, without any knowledge of its contents; and that they were instructed to drive to Atlantic City, without any specific address, but that some man would meet them there.

Urea is identified by the Division chemist as a substance which elevates or raises the alcoholic content of mash; that it acts as a catalyst or agent which causes the alcoholic fermentation to increase; and that such substance is frequently used by illicit still operators.

The use of sugar to manufacture illicit alcohol is a customary practice of bootleggers. The transportation of a large quantity of sugar at night, in a vehicle with fictitious registration, by a person with a long criminal record of arrests for illicit still activities; the presence of urea; the concealment of the source and destination of the sugar by the pretense that it was picked up on the highway from a stranger to be delivered to a stranger who would meet them somewhere on the highway; and the forfeiture by default of the truck and urea, as appears hereafter, follows the familiar pattern of surreptitious transportation of sugar to an illicit still. See Seizure Case No. 8281. Seizure Case No. 7005, Bulletin 728, Item 3.

Under the circumstances above described, the inference is justified that the sugar and urea were actually for delivery to an illicit still, there to be converted into, or used in the manufacture of, illicit alcoholic beverages. The sugar, urea, and truck therefore constitute unlawful property within the meaning of R.S. 33:1-1(y), and are subject to forfeiture. R.S. 33:1-66.

The Superior Court of Pennsylvania has given the same effect to a somewhat similar Pennsylvania statute and directed the forfeiture of a truck transporting sugar to an illicit still. Commonwealth vs. One 1936 Ford Truck, 7 Atl. 2nd 532.

As a general principle of law, vehicles used for the transportation of materials for the manufacture of liquor have been held forfeitable under statutes providing for the forfeiture of property used in the illegal manufacture of liquor. 48 C.J.S. p. 608.

When the matter came on for hearing, pursuant to R.S. 33:1-66, forfeiture of the truck and urea were not opposed by any person. However, Sidney Rheiner appeared, claimed that he purchased the sugar and arranged for its transportation in the truck as part of a legitimate venture, that any purported diversion thereof for use in the manufacture of illicit alcoholic beverages was without his knowledge or consent, and hence seeks return of the sugar.

According to Mr. Rheiner, he is 35 years of age, married, with six years service in the armed forces in the military police and assigned for a considerable period of time to the Intelligence Corps. He states that he has no criminal record. His father-in-law, Morris Loew, conducts a wholesale grocery business and Rheiner is employed there. From time to time Rheiner engages in independent ventures in commodities with which he is familiar.

On January 4, 1954, there was what he describes as a "tight" market in sugar, temporary in nature. He therefore decided to purchase 150 bags of sugar, which he hoped to sell in Atlantic City,

which he concluded was a desirable market. Since he had no personal account with the refinery, and because of other requirements the sugar was purchased in the name of M. Loew's & Son.

After such purchase, Rheiner sought a means of transportation. He observed an International truck with New Jersey license plates with a sign thereon "General Delivery" at a nearby scrap metal yard with whose owner he is acquainted. He inquired of this person, and was informed that the man with the truck came there frequently and was considered reliable. Rheiner then arranged with this man for transportation of the sugar. Rheiner was actually present at the refinery when the 150 bags of sugar were loaded on the truck. He states that the urea was not on the truck then. The records of the refinery disclose that at about 4:00 P. M. on January 4, 1954, 150 bags of sugar were loaded on the truck bearing the New Jersey registration of the truck seized.

The identity of the sugar seized and that purchased by M. Loew's & Son (for Sidney Rheiner) thus appears to be established.

Rheiner states that he described a motel in Atlantic City to the driver and told the driver he would meet him there. Rheiner had not arranged to sell the sugar to anyone in advance, and decided it would be more convenient to drive to Atlantic City in his own car, stay over at the motel where the truck would also be parked, and attempt to sell the sugar the following day. He intended to return to New York in his car, rather than some other form of transportation. He deemed it expedient to find an immediate market for the sugar because it was only a temporary scarcity. He expected to have a clear profit of about $150.00.

While some aspects of Rheiner's actions remain obscure and perhaps illogical, nevertheless his background and personal character appears to be such as to render it unlikely that he would be a participant in illicit still activities. I shall therefore give him the benefit of the doubt, and accept his assurance that any attempted diversion of his sugar for illicit still purposes was without his knowledge or consent. The sugar will be returned to him, pursuant to the discretionary authority afforded me by R.S. 33:1-66(f), upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 19th day of April, 1954, Sidney Rheiner pays the costs of the seizure and storage of the 150 one-hundred pound bags of sugar, they will be returned to him, and it is further

DETERMINED and ORDERED that the International Truck, and the 12 bags of urea, more fully described in Schedule "A", attached hereto, constitute unlawful property, and the same be and hereby is 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: April 7, 1954

SCHEDULE "A"

150 - one hundred lb. bags of sugar
12 - fifty pound bags of urea
1 - International truck, Serial No. KB89650, 1953 N. J. Registration XG9332

5. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS.

In the Matter of Disciplinary Proceedings against	)	
THE RENDEZVOUS, INC. T/a THE RENDEZVOUS 6 Charles Street Lodi, N. J.	)	CONCLUSIONS AND ORDER
Holder of Plenary Retail Consumption License C-31, issued by the Mayor and Council of the Borough of Lodi.	)	

Chandless, Weller & Kramer, Esqs., by Julius E. Kramer, Esq., Attorneys for Defendant-licensee.
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to a charge alleging that, during the early morning hours and evening hours of Friday, October 30, 1953. it sold, served and delivered alcoholic beverages to minors, and permitted the consumption of said beverages by said minors upon its licensed premises, in violation of Rule 1 of State Regulations No. 20.

At the hearing the two minors, Ronald --- and Nelson ---, both 17 years of age, and three of their alleged companions appeared and testified.

Ronald testified that he and Nelson had visited defendant's licensed premises on two occasions on Friday, October 30, 1953, once at approximately 12:30 a.m. and again at 10:30 or 11:00 p.m.; that on the first occasion, he and Nelson were alone and each consumed one glass of beer; that, on the second occasion, they were accompanied by three other young males and he and Nelson again consumed glasses of beer; that, on both occasions, they were served by a bartender whom they identified as Henry Schiaffo; that they were not questioned with respect to their ages; and that the beer cost ten cents per glass. On cross-examination he described the licensed premises and neither admitted nor denied that such description was different from his description of such premises when he testified in the municipal court. He further testified that the television set was on during their second visit and that a prize fight was being telecast.

Nelson testified that he and Ronald had visited defendant's licensed premises on three occasions; that the first time was at approximately 8:30 p.m. on Friday, October 30, 1953, when he and Donald were alone; that the second time was at approximately 10:30 p.m. on the same night, when they were accompanied by three other young males; that the third time was at approximately 12:30 a.m. to 1:30 a.m. on Saturday morning, October 31, 1953, at which time he and Ronald were again alone; that on each occasion, he and Ronald consumed glasses of beer served to them by the bartender, Henry Schiaffo, for which they paid ten cents per glass, and that they were not questioned as to their ages. On cross-examination he admitted that he had been apprehended by the authorities and had been sentenced to a reformatory (for some undisclosed reason) after this alleged incident. He also described the licensed premises. He could not recall whether the television set was on when he was there but testified that he saw no prize fights on television there on that night.

The three other young men named by Ronald and Nelson as their companions on their 10:30 p.m. visit, as hereinabove related, all testified that they had, in fact, accompanied the two aforementioned minors on such visit to defendant's licensed premises and that both Ronald and Nelson consumed glasses of beer which had been served to them by the bartender, Henry Schiaffo. Each briefly described defendant's licensed premises and each testified that there is a television set in the barroom. Two of the three testified that a fight was being telecast.

An ABC agent testified that Ronald had directed him and another agent to defendant's licensed premises and had identified it as the place where he and Nelson had been served and had consumed beer on the occasions in question.

On behalf of defendant, Henry Schiaffo testified that he is and has been the manager of defendant's licensed premises, that he alone tended bar there on the night of October 30 and early morning of October 31, 1953; that he did not see any of the aforementioned young men in the premises on the night in question; that, on Friday night, defendant usually provides entertainment by means of a 3-piece band or piano and the television set is tuned off and that, on that night, a pianist was employed. He further testified that, at such time, only bottled beer is served and that the price is forty cents per bottle. He also testified that the licensee maintains a supply of forms upon which persons suspected of being minors are required to make written representation of their ages. He also described the licensed premises. On cross-examination he admitted that, if the piano player were late in arriving, the television set would be on until he arrived, but stated that he did not remember which of several piano players had been employed on that night.

The bartender's father testified that only bottled beer is served there after 10 p.m. on Friday nights, but he did not specifically recall the night in question.

A female patron testified that she had never seen beer served at defendant's premises on Friday nights, except bottled beer.

The case resolves itself into a question of credibility. Counsel for the defendant, in his memorandum, contends that (1) the Division's witnesses made no claim that they had been in defendant's premises until after December 1, 1953 and after some of them had been in some difficulty with the law; (2) that their testimony is vague and contradictory and (3) that, since such testimony was contradicted by defendant's witnesses, the charge should be dismissed.

I cannot agree.

As to (1), it is not unusual that their claim came to light some time after their visit to defendant's licensed premises. Such events frequently are unearthed during investigations of other matters.

As to (2), while there are some discrepancies in the testimony of the minors, Ronald and Nelson, as to the number and time of their several visits to defendant's licensed premises, all five witnesses testified that they visited such premises together between 10:30 p.m. and 11:00 p.m. on Friday, October 30, 1953, and that, on that occasion, the two minors, Ronald and Nelson, consumed beer served to them by Henry Schiaffo, whom they all identified and who, admittedly, was the only bartender on duty there on the night in question. Furthermore, despite some apparent confusion on the part of two of the witnesses, all five young men identified the only bartender on duty that night and the description of the interior of the licensed

premises contained in their testimony was substantially in accord with the bartender's own description of such premises. Moreover, no reason appears why these five witnesses should deliberately give false testimony under oath.

As to (3), the testimony on behalf of defendant was directed more to its alleged general practices and customs than to the actual occurrences on the night in question.

After carefully reviewing all of the evidence, I am convinced that defendant, through its manager and bartender, sold, served and delivered alcoholic beverages to the minors, Ronald and Nelson, on at least one occasion on Friday, October 30, 1953, namely, between 10:30 p.m. and 11:00 p.m. and, consequently, I find defendant guilty as to that portion of the charge which refers to the evening hours of October 30, 1953.

Defendant has no prior adjudicated record. I shall suspend its license for fifteen days, the minimum penalty for a violation of this kind involving a minor as young as 17 years of age. Re Jacobs, Bulletin 995, Item 7.

Accordingly, it is, on this 15th day of April 1954,

ORDERED that Plenary Retail Consumption License C-31, issued by the Mayor and Council of the Borough of Lodi to The Rendezvous, Inc., t/a The Rendezvous, 6 Charles Street, Lodi, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 4 a.m., April 26, 1954, and terminating at 4 a.m., May 11, 1954.

WILLIAM HOWE DAVIS
Director

6. SEIZURE - FORFEITURE PROCEEDINGS - FAILURE OF CLAIMANT TO COMPLY WITHIN TIME LIMITED WITH ORDER TO PAY COSTS OF SEIZURE AND STORAGE PREREQUISITE TO RETURN OF SEIZED PROPERTY - ORDER RESCINDED AND PROPERTY FORFEITED.

In the Matter of the Seizure on July 26, 1953 of 4 one-gallon jugs with alcohol on U. S. Highway #1, West Windsor Township, and the seizure on July 30, 1953 of a Chevrolet sedan at 471 Southard Street, in the City of Trenton, both in the County of Mercer and State of New Jersey.	Case No. 8377 ORDER

Louis Bernocchi and Charles Alu, t/a Max's Auto Parts, by Louis Bernocchi.
Harry Castelbaum, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On March 11, 1954 my Order was entered in the case wherein I directed that a Chevrolet sedan be returned to Leroy Ealey if on or before March 22, 1954 he paid the costs of storage and seizure thereof.

A copy of such Order and a statement of the costs was mailed on March 11, 1954 to Emanuel Kaplan, attorney for Leroy Ealey. On March 26, 1954 a letter was mailed to the above attorney calling his attention to the fact that the costs had not as yet been paid. On April 1, 1954 a letter was mailed directly to Leroy Ealey, en-

closing copies of the letters to his attorney, and advising him that if the costs were not paid, a supplemental order would be entered forfeiting said car. These costs have not been paid to date.

My Order of March 11, 1954 recited that it was not necessary to determine whether Louis Bernocchi and Charles Alu, t/a Max's Auto Parts had a lien on the Chevrolet sedan as they could proceed to enforce whatever claim they might have by taking action against Ealey when the motor vehicle was returned to him.

In view of Ealey's failure to reclaim the motor vehicle, it now becomes necessary to consider the claim of Max's Auto Parts.

Max's Auto Parts presented an invoice covering the sale of the Chevrolet sedan to Leroy Ealey. This invoice contains no reservations of title to the motor vehicle pending payment of whatever balance is due on the purchase price. It merely evidences a sale on credit. It does not establish a specific lien on the motor vehicle. Since the invoice is the primary evidence of the terms upon which the motor vehicle was sold, Max's Auto Parts is merely a general creditor. I am not authorized to recognize such a claim. See R.S. 33:1-66(f). Its application for recognition of a lien on the Chevrolet sedan is therefore denied.

Accordingly, so much of my previous Order as directs the return of the Chevrolet sedan to Leroy Ealey is hereby rescinded and instead it is

DETERMINED and ORDERED that such Chevrolet sedan be and the same is hereby forfeited in accordance with the provisions of R.S. 33:1-66 and that it be retained for the use of hospitals and state, county and municipal institutions at the direction of the Director of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
Director

Dated: April 20, 1954

7. DISCIPLINARY PROCEEDINGS - PERMITTING MINOR, HOLDER OF EMPLOYMENT PERMIT, TO SELL ALCOHOLIC BEVERAGES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY MINOR PERMITTEE CONTRARY TO CONDITIONS OF EMPLOYMENT PERMIT - PERMIT SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

FAY'S WINE & LIQUOR CO., INC.
367-369 Springfield Avenue
Newark, New Jersey

Holder of Plenary Retail Distribution License D-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark,

and

EARL T. PEASE
317 Waverly Avenue
Newark, New Jersey

Holder of Employment Permit No. 91, issued by the Director of the Division of Alcoholic Beverage Control.

CONCLUSIONS AND ORDER

- -

Fay's Wine & Liquor Co., Inc., Defendant-licensee, by David Kreuger, President.

Earl T. Pease, Defendant-permittee, Pro se.

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

BY THE DIRECTOR:

Defendant-licensee pleads guilty to a charge of permitting an employee (Earl T. Pease), a minor, to sell alcoholic beverages, in violation of Rule 2 of State Regulations No. 13.

Defendant-permittee, sixteen years of age, who holds an employment permit, pleads guilty to a charge of selling and serving alcoholic beverages, contrary to the conditions upon which his permit was issued. See Rule 10(a) of State Regulations No. 13; also see Rule 2, same Regulations.

Both proceedings will be considered and disposed of herein since they arose out of the same incident.

The file discloses that on March 19, 1954, at about 8 p.m., an ABC agent entered the premises of defendant-licensee and observed the defendant-permittee in the act of putting three quart bottles of beer into a paper bag, which he handed to a customer, receiving therefor $1.26, which he gave to Harry Brandywine, an officer of the licensee corporation, who rang up the sale. While the agent was taking a statement from the minor, a woman entered and said, "Come on Earl, I'm in a hurry. We are double parked", whereupon the minor left the agent, took twelve cans of beer from the refrigerator, put them in a bag, and gave them to the woman who paid Brandywine for the purchase. Brandywine admitted the violation above set forth. The defendant-permittee now holds Employment Permit No. 129.

Neither defendant has an adjudicated record. I shall suspend the license of defendant-licensee for a period of ten days, less remission of five days for the plea entered herein, or a net suspension of five days. I shall suspend the permit issued Earl T. Pease for a period of thirty days, less five days for the plea, or a net suspension of twenty-five days, effective after the expiration of the aforesaid suspension. Cf. Re Trenz, Bulletin 736, Item 2; Re Yeide, Bulletin 847, Item 9.

Accordingly, it is, on this 19th day of April, 1954,

ORDERED that plenary retail distribution license D-130, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Fay's Wine & Liquor Co., Inc., for premises 367-369 Springfield Avenue, Newark, be and the same is hereby suspended for five (5) days, commencing at 9 a.m. April 26, 1954, and terminating at 9 a.m. May 1, 1954; and it is further

ORDERED that Employment Permit No. 129, issued by the State Director of Alcoholic Beverage Control to Earl T. Pease, for the fiscal year 1954-55, be and the same is hereby suspended for twenty-five (25) days, commencing at 9 a.m. May 1, 1954, and terminating at 9 a.m. May 26, 1954.

WILLIAM HOWE DAVIS
Director

8. DISCIPLINARY PROCEEDINGS - HOSTESSES - PERMITTING OBSCENE LANGUAGE - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against	)	
A. & J. COCKTAIL LOUNGE, A NEW JERSEY CORPORATION 266-68 Madison Avenue Perth Amboy, N. J.	)	CONCLUSIONS AND ORDER
Holder of Plenary Retail Consumption License C-78, issued by the Board of Commissioners of the City of Perth Amboy.	)	

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

BY THE DIRECTOR:

Defendant pleaded guilty to the following charges:

"1. On Friday night, February 26, early Saturday morning, March 6 and early Saturday morning March 13, 1954, you allowed, permitted and suffered a female employed on your licensed premises to accept beverages at the expense of and as gifts from customers and patrons; in violation of Rule 22 of State Regulations No. 20.

"2. During the early morning hours of Saturday, March 13, 1954, you allowed, permitted and suffered foul, filthy and obscene language in and upon your licensed premises; in violation of Rule 5 of State Regulations No. 20.

"3. During the early morning hours of Saturday, March 13, 1954, while investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety were conducting an investigation, inspection and examination at your licensed premises, you by your officer, shareholder, agent and employee, Jerome Stolz, failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination, in violation of R.S. 33:1-35."

The file herein discloses that, on each of the dates set forth in Charge (1), a waitress employed by defendant accepted and consumed drinks of alcoholic beverages purchased for her at defendant's bar by male patrons, including two ABC agents. When the agents identified themselves, as such, to Jerome Stolz, defendant's secretary and treasurer and the holder of 49 per cent of its capital stock, he abused and vilified them in foul, filthy and obscene language. Both he and the waitress attempted to take from the agents certain alcoholic beverages which they had seized as evidence.

Defendant has no prior adjudicated record. The minimum suspension for the violation set forth in Charge (1) is twenty days. Re Goldberg, Bulletin 962, Item 4. Since the conduct which forms the basis of Charge (2) is an integral part of Charge (3), I shall consider these two charges together, and since the hindering involves deliberate castigation and vilification of enforcement agents, I shall impose an additional suspension of twenty days. Re Menzel, Bulletin 948, Item 2. This makes a total suspension of forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 26th day of April 1954,

ORDERED that Plenary Retail Consumption License C-78, issued by the Board of Commissioners of the City of Perth Amboy to A. & J. Cocktail Lounge, A New Jersey Corporation, 266-68 Madison Avenue, Perth Amboy, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 2 a.m., May 4, 1954, and terminating at 2 a.m., June 8, 1954

WILLIAM HOWE DAVIS
Director

9. STATE LICENSES - NEW APPLICATION FILED.

Charles A. Diehl
T/a Diehl Beverage Co.
East 90 East Ridgewood Avenue
Paramus, New Jersey
Application filed April 30, 1954 for transfer of License SBD-94 from Rear 187-189 Franklin Street, Secaucus, to East 90 East Ridgewood Avenue, Paramus, New Jersey and to maintain an additional warehouse at Rear 187-189 Franklin Street, Secaucus, New Jersey.

WILLIAM HOWE DAVIS
Director