

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 877

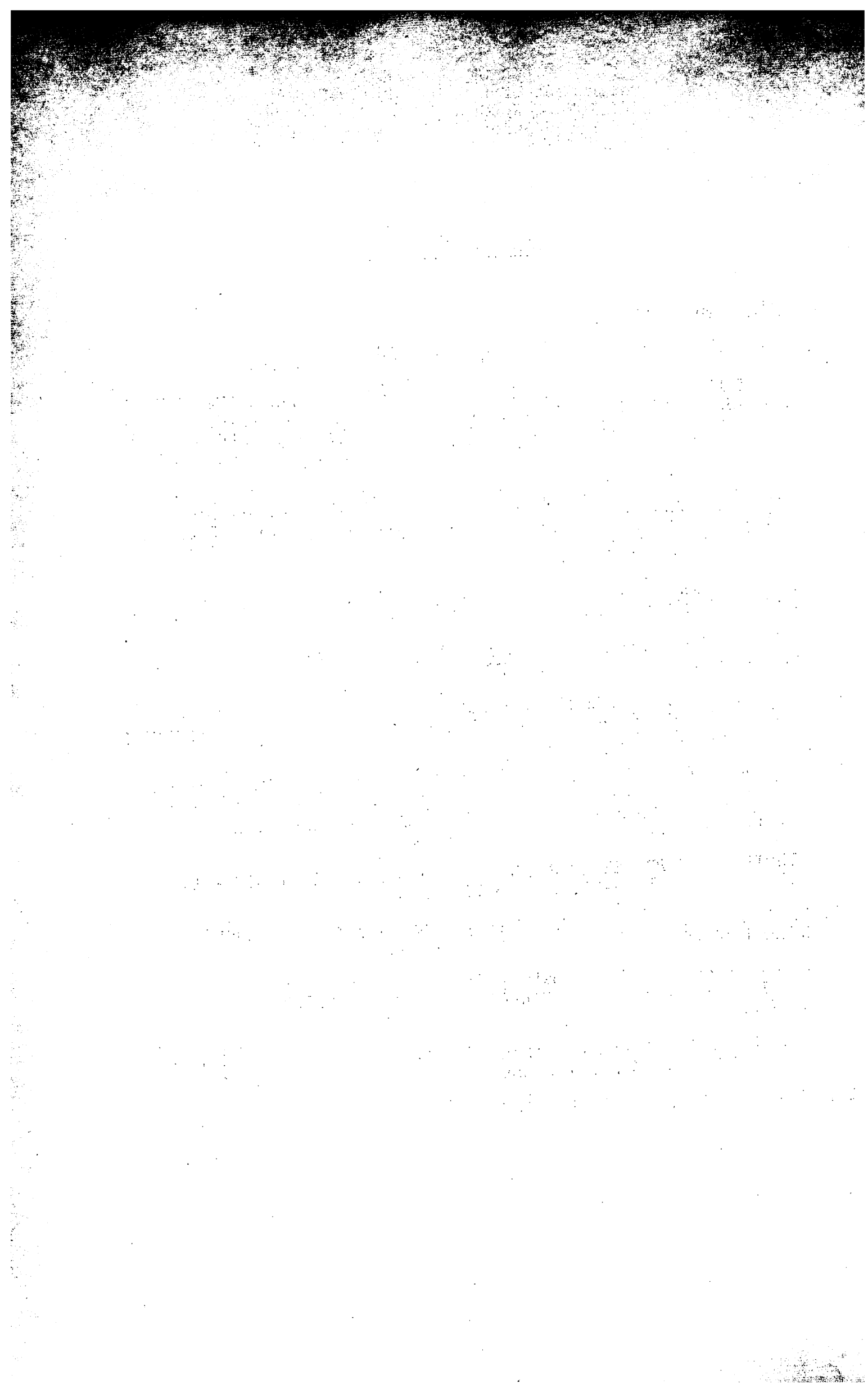
JUNE 1, 1950.

TABLE OF CONTENTS

ITEM

1. RULES AND REGULATIONS - REVISION.
2. APPELLATE DECISIONS - STAFFORD v. HADDON TOWNSHIP.
3. DISCIPLINARY PROCEEDINGS (East Paterson) - FALSE STATEMENTS IN LICENSE APPLICATION CONCEALING MATERIAL FACTS - AIDING AND ABETTING NON-LICENSEE TO EXERCISE THE RIGHTS AND PRIVILEGES OF LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR 25 DAYS.
4. DISCIPLINARY PROCEEDINGS (Greenwich Township, Warren County) - SALE OF ALCOHOLIC BEVERAGES BY RETAILER TO ANOTHER RETAILER IN VIOLATION OF RULE 15 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Atlantic City) - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS.
6. DISCIPLINARY PROCEEDINGS (Atlantic City) - SALE TO MINOR - PRIOR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
7. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT STILL AND EQUIPMENT ORDERED FORFEITED - PREMISES ORDERED PADLOCKED - MOTOR VEHICLES SEIZED ON PREMISES RETURNED TO INNOCENT CLAIMANTS.
8. SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC BEVERAGES PEDDLED FROM MOTOR VEHICLE CONVERTED TO "MOBILE KITCHEN" - ALCOHOLIC BEVERAGES, "MOBILE KITCHEN", AND ANOTHER MOTOR VEHICLE, MERCHANDISE AND EQUIPMENT ORDERED FORFEITED.
9. DISCIPLINARY PROCEEDINGS (Princeton) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
10. DISCIPLINARY PROCEEDINGS (Jersey City) - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
11. AUTOMATIC SUSPENSION (Roxbury Township) - SALE TO MINORS - LICENSE PREVIOUSLY SUSPENDED BY DIRECTOR FOR 20 DAYS - APPLICATION TO LIFT GRANTED.
12. DISCIPLINARY PROCEEDINGS (Sea Girt) - EFFECTIVE DATE FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING OF BUSINESS.
13. STATE LICENSES - NEW APPLICATION FILED.

New Jersey State Library



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

BULLETIN 877

JUNE 1, 1950.

1. RULES AND REGULATIONS - REVISION.

I am hereby promulgating a revised pamphlet of State Rules and Regulations.

The Revision, being issued today in pamphlet form, is to become effective July 1, 1950. The existing State Rules and Regulations continue in full force until July 1st and disciplinary proceedings for any violation thereof during that time shall not be barred or abated by reason of the taking effect of the Revision.

An appropriate number of copies of these new pamphlets has been forwarded to the respective municipal clerks, or to the clerks or secretaries of municipal boards of alcoholic beverage control where such exist, with instructions that a copy be furnished to each holder of a retail license issued by the municipality.

Holders of State licenses or retail licenses issued by this Division will be served their copies of the pamphlet by the Division.

If any licensee fails to receive his copy by the end of June, he should request such copy from his municipal issuing authority (or from this Division if the license is State issued).

Although in general the Revision leaves most of the State Rules and Regulations as they stand, there are, however, various changes in substance, or in wording, or in regrouping of the Rules.

Every licensee should very carefully read and become familiar with this new pamphlet since, effective July 1, 1950, he will be bound by the contents thereof.

ERWIN B. HOCK
Director.

Dated: June 1, 1950.

2. APPELLATE DECISIONS - STAFFORD v. HADDON TOWNSHIP.

JOSEPH JAMES STAFFORD,
t/a CHUBBY'S CAFE,

Appellant,

-vs-

TOWNSHIP COMMITTEE OF THE
TOWNSHIP OF HADDON,

Respondent.

ON APPEAL
CONCLUSIONS AND ORDER

Carl Kisselman, Esq., Attorney for Appellant.
Emory S. Kates, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby it found appellant guilty in disciplinary proceedings on a charge of selling alcoholic beverages to minors, and suspended his plenary retail consumption license for a period of ten days, effective May 15, 1950, at 10:00 a.m. The premises in question are located at 3002-04-06 Black Horse Pike, Haddon Township.

Upon the filing of the appeal an order was entered on May 5, 1950, staying the effect of the order of suspension until further order of the Director. R. S. 33:1-31.

The attorneys for the respective parties have stipulated that, subject to the approval of the Director, this appeal may be presented solely upon the stenographic transcript of the proceedings below, in accordance with Rule 8 of State Regulations No. 15.

I have examined the transcript of the testimony taken at the disciplinary proceedings conducted before respondent. It appears from said testimony that on the evening of January 27, 1950, two ABC agents were in the barroom of appellant's premises and observed "two youngsters drinking beer". They waited a short time until one of the "youngsters", namely, Laurence ---, purchased from William Gross, the bartender, two glasses of beer, one of which was handed by Laurence "to his friend Theodore ----". After Laurence and Theodore consumed part of the beer, the agents identified themselves and questioned both as to their ages. It further satisfactorily appears from the record that the drinks sold and served by the bartender consisted of beer with an alcoholic content of four per cent. by volume.

As stated by one of the Township Committeemen at the close of the agents' testimony: "Then, the only thing in question is whether or not the subjects are minors or not of full age?" Subpoenas to appear at the hearing below had been served upon Laurence and Theodore in Pennsylvania, and a copy of the subpoena was left at the home of one of them in Atlantic City but not with the witness himself. A few days before the hearing a letter was also sent to the President of a college in Pennsylvania advising him of the date of the hearing and stating: "We would like the boys to be present." Neither Laurence nor Theodore appeared at the hearing below. The hearing had been twice previously adjourned.

The only evidence presented below as to the age of either of these boys is contained in statements taken from each of them and admitted into evidence, over an objection by appellant's attorney that such statements were not admissible for the purpose of proving

the age of the boys. I must conclude that this proof, standing alone, is not legally sufficient to establish the age of the alleged minors. Proof of age and identity should be established by one of the better recognized methods, namely, by the production of a birth certificate, testimony of the minor, or the testimony of a member of the family. Re Alberti's Inc., Bulletin 604, Item 1; Ashen v. Carteret, Bulletin 652, Item 6. In the absence of competent proof as to the age of the alleged minors, I have no alternative except to reverse the action of respondent. Cino v. Driscoll, 130 N.J.L. 535.

Accordingly, it is, on this 23rd day of May, 1950,

ORDERED that the action of respondent, whereby it found appellant guilty of the aforesaid charge and suspended his license for ten days, be and the same is hereby reversed.

ERWIN B. HOCK
Director.

3. DISCIPLINARY PROCEEDINGS - FALSE STATEMENTS IN LICENSE APPLICATION
CONCEALING MATERIAL FACTS - AIDING AND ABETTING NON-LICENSEE TO
EXERCISE THE RIGHTS AND PRIVILEGES OF LICENSE - ILLEGAL SITUATION
CORRECTED - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary)
Proceedings against)

ELMWOOD HOUSE (Corp.))
Broadway & River Drive)
East Paterson, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-11, issued by the)
Borough Council of the Borough)
of East Paterson.)

-----)
Eisenstein & Eisenstein, Esqs., by Max Eisenstein, Esq.,)
Attorneys for Defendant-licensee.)

William F. Wood, Esq., appearing for Division of Alcoholic)
Beverage Control.)

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that it (1) falsified the application by virtue of which it received its current plenary retail consumption license in suppressing the fact that Nicholas DiStefano had an interest in the licensed business, in violation of R. S. 33:1-25; (2) aided and abetted the said Nicholas DiStefano to exercise the rights of its licenses, in violation of R. S. 33:1-52; and (3) falsified its above application by failing to disclose the interest of Samuel Sieber, a stockholder, in the stock held by two nominal stockholders, in violation of R.S. 33:1-25.

Defendant, holder of successive plenary retail consumption licenses from about May 20, 1948 to the present time, in effect, leased the liquor business conducted under its said licenses to Nicholas DiStefano. This leasing of the liquor business effectively "farmed out" the license and virtually constituted the licensee (defendant) an extra-legal issuing authority.

Such action is a serious violation of the licensing laws, and, in effect, circumvents the control of the license by legally constituted authority. Re Stetz, Bulletin 512, Item 3; Re Beringer, Bulletin 571, Item 10.

The third charge, while serious, was perhaps caused by an inadvertent confusion between the corporation laws and the licensing laws. Such confusion is not an excuse. This Division is always available to explain the law and help the licensee in any way.

All parties mentioned herein appear to be fully qualified to hold a liquor license. The unlawful condition has been corrected.

Under the circumstances herein, I shall suspend the license for the minimum period usual for charges (1) and (2), twenty days. Cf. Re DiPaolo, Bulletin 568, Item 5. Five days will be added for Charge (3). Re Fair Wine & Liquor Stores, Inc., Bulletin 611, Item 6.

Accordingly, it is, on this 24th day of May, 1950,

ORDERED that Plenary Retail Consumption License C-11, issued by the Borough Council of the Borough of East Paterson to Elmwood House (Corp.), for premises Broadway & River Drive, East Paterson, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 3:00 a.m. June 6, 1950, and terminating at the expiration of the license, namely, at midnight, June 30, 1950.

ERWIN B. HOCK
Director.

4. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES BY RETAILER TO ANOTHER RETAILER IN VIOLATION OF RULE 15 OF STATE REGULATIONS NO. 20 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

ARTHUR W. REYNOLDS)
T/a HILL TOP LIQUOR STORE)
Route #22-28 State Highway)
Greenwich Township (Warren County))
P.O. Bloomsbury, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution)
License D-2, issued by the Township)
Committee of the Township of Greenwich.)

Arthur W. Reynolds, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold alcoholic beverages to another retailer, in violation of Rule 15 of State Regulations No. 20.

It appears that on several dates between July 1, 1949 and March 24, 1950, defendant sold various assorted kinds and brands of alcoholic beverages to a corporation which defendant knew was the holder of a plenary retail consumption license. This is a violation of Rule 15 of State Regulations No. 20. Defendant alleges that he did not know he was prohibited from selling to another retailer but this cannot be accepted as an excuse.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days. Five days will be remitted for the plea, making a net suspension of ten days. Re Rappaport, Bulletin 641, Item 1.

Accordingly, it is, on this 22nd day of May, 1950,

ORDERED that Plenary Retail Distribution License D-2, issued by the Township Committee of the Township of Greenwich to Arthur W. Reynolds, t/a Hill Top Liquor Store, on Route #22-28 State Highway, Greenwich Township (Warren County) be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. May 31, 1950, and terminating at 9:00 a.m. June 10, 1950.

ERWIN B. HOCK

5. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary
Proceedings against

HOTEL TRAYMORE COMPANY
T/a HOTEL TRAYMORE
Illinois Avenue & Boardwalk
Atlantic City, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-185, issued by the Board
of Commissioners of the City of
Atlantic City, and transferred
during the pendency of these
proceedings to

TRAYMORE OF ATLANTIC CITY, INC.
T/a HOTEL TRAYMORE,

for the same premises.

Kirkman, Mulligan & Harris, Esqs., by Frank P. Mulligan, Esq.,
Attorneys for Defendant-licensee.

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

BY THE DIRECTOR:

Defendant pleaded not guilty to a charge alleging that it sold, served and delivered alcoholic beverages to a minor, and allowed, permitted and suffered the consumption of alcoholic beverages by said minor, in violation of Rule 1 of State Regulations No. 20.

At the hearing held herein, Corporal Billy T. L---, who was then nineteen years of age, testified that on Saturday, April 1, 1950, at about 11:00 p.m., he and another serviceman entered the Submarine Lounge located on defendant's premises and sat at the bar. He testified that he ordered two "coke highs", one for himself and the other for his companion, and that the bartender, in accordance with their order, poured two shots of whiskey from a bottle labeled "Carstairs", for which the witness paid \$1.66. He further testified that he remained in the premises for approximately five or ten minutes, during which time he observed on the television various dances by actors impersonating pirates. Corporal Billy T. L--- stated that he paid the bartender who had presented a check to him for the drinks.

The testimony given by Sergeant Forrest Williamson, in so far as the purchasing and consuming of the alcoholic beverages is concerned, is substantially the same as that given by Corporal Billy T. L----. Sergeant Williamson, however, testified that he "didn't pay any particular attention to television". Both witnesses denied observing anybody dancing at any time during their presence in the licensed premises.

According to the testimony of an ABC inspector, he, another ABC agent and a municipal detective were directed, on Tuesday, April 4, 1950, to defendant's licensed premises by the two servicemen. The inspector testified that they were led into the Submarine Lounge by the servicemen who indicated to them the particular stools which the servicemen occupied on the evening of April 1, 1950. It was stipulated by the parties that the other ABC agent, if called as a witness, would corroborate the testimony of his fellow agent.

Defendant produced Jerry J. Sullivan, a municipal detective, who testified that on Sunday, April 2, 1950, he had been assigned to investigate another matter in which Corporal Billy T. L----, the

minor, was involved and which occurred during the early morning hours of that day. The detective contended that the youth never mentioned to him that he had visited defendant's licensed premises on the evening of April 1, 1950. The detective did not ask the youth if he had visited defendant's premises and, apparently, confined his questions to the events which occurred on the following morning.

Andrew Henry, owner-representative of defendant corporation, testified that he was seated at the bar at 11 o'clock on the evening of April 1, 1950 and that he did not observe any servicemen in the barroom. Moreover, the witness testified that the television program consisted of a basketball game at the time. The witness also testified that the system used at all times by the defendant for payment of beverages consumed in the barroom is for the bartender to present the check to the customer and then, upon payment by the customer, the bartender takes the check and payment money to the cashier to obtain the change, if any. The bartender then returns to the customer any change.

Bernard Goebel testified that at about 11:00 p.m., on Saturday, April 1, 1950, he was in the licensed premises with Andrew Henry but did not observe any men in uniform in the barroom. However, the record does not disclose whether or not the two servicemen were in uniform at the time. The witness corroborated the testimony of Andrew Henry that a basketball game was being televised at the time in question.

It was stipulated by agreement between the parties that five employees of defendant, namely, a cashier, two bartenders and two waiters, who were in court at the time, would testify, if called as witnesses by the defendant, in substantial corroboration of the testimony given by Andrew Henry, i.e., that they did not observe any "servicemen" in the barroom on the evening in question. It is very possible that these witnesses may not have seen the servicemen who said they were present only five or ten minutes.

I am convinced, however, after consideration of all of the evidence presented in the instant case, that the two servicemen were in the licensed premises on the evening of April 1, 1950 and that they purchased and consumed the alcoholic beverages described by them. Although the method of payment to the bartender in attendance at the time, as testified to by the servicemen, may differ slightly from the manner which is ordinarily used in the barroom, the details might be easily overlooked by one who had been in the premises for a short time on one occasion. I find the defendant guilty as charged.

Defendant has no prior adjudicated record. Since no aggravating circumstances appear, I shall suspend defendant's license for the minimum period of ten days. Re Grosso, Bulletin 843, Item 3.

Accordingly, it is, on this 23rd day of May, 1950,

ORDERED that Plenary Retail Consumption License C-185, issued by the Board of Commissioners of the City of Atlantic City to Hotel Traymore Company, t/a Hotel Traymore, for premises Illinois Avenue & Boardwalk, Atlantic City, and transferred during the pendency of these proceedings to Traymore of Atlantic City, Inc., t/a Hotel Traymore, for the same premises, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 a.m. May 31, 1950, and terminating at 7:00 a.m. June 10, 1950.

ERWIN B. HOCK
Director.

6. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - PRIOR RECORD - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

MARTIN CASPER & CHARLES MERLIN)
T/a MERLIN BAR)
17 South Virginia Avenue)
Atlantic City, N. J.,)

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consump-)
tion License C-151, issued by the)
Board of Commissioners of the City)
of Atlantic City.)

Edward I. Feinberg, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendants plead non vult to a charge alleging that they sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages at their licensed premises to a minor, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that in the early morning of April 2, 1950, Corporal Billy T. ----, nineteen years of age, was served with and consumed a coke highball, which he described as "a shot of rye whiskey mixed with coke".

Defendants have a prior record. Effective April 28, 1947, defendants' license was suspended for five days for sale of alcoholic beverages at retail for a price below the minimum consumer price. Bulletin 759, Item 10.

Under the circumstances, I shall suspend defendants' license for fifteen days, less five days' remission for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 24th day of May, 1950,

ORDERED that Plenary Retail Consumption License C-151, issued by the Board of Commissioners of the City of Atlantic City to Martin Casper & Charles Merlin, t/a Merlin Bar, for premises 17 South Virginia Avenue, Atlantic City, be and the same is hereby suspended for a period of ten (10) days, commencing at 7:00 a.m. June 5, 1950, and terminating at 7:00 a.m. June 15, 1950.

ERWIN B. HOCK
Director.

2. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT STILL AND EQUIPMENT
ORDERED FORFEITED - PREMISES ORDERED PADLOCKED - MOTOR VEHICLES
SEIZED ON PREMISES RETURNED TO INNOCENT CLAIMANTS.

In the Matter of the Seizure on)	Case No. 7559
December 27, 1949, of a still and)	
two Ford sedans, on premises)	
occupied by James Kennedy Combs,)	ON HEARING
located on w/s Woodstown-Mullica)	CONCLUSIONS AND ORDER
Hill Road, approximately one-quarter)	
mile north of Rt. 100, in the Town-)	
ship of Harrison, County of Gloucester)	
and State of New Jersey.)	

Joseph Adamo, Esq., Attorney for Nicholas Mesiano.
I. Finkelstein, Esq., Attorney for Hammonton Investment and Mortgage Co.
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 2, Revised Statutes of New Jersey, to determine whether a still and appurtenant equipment and two Ford sedans, described in a schedule attached hereto, seized on December 27, 1949 on a farm occupied by James Kennedy Combs located on Woodstown-Mullica Hill Road near Route 100, in Harrison Township, Gloucester County, New Jersey, constitute unlawful property and should be forfeited, and further, to determine whether the premises should be padlocked.

When the matter came on for hearing pursuant to R.S. 33:2-4, one Nicholas Mesiano appeared with counsel and sought return of his Ford sedan. An appearance was also entered on behalf of Hammonton Investment and Mortgage Co. which sought recognition of its alleged lien on the other Ford sedan, registered in the name of Millard Wood. No one opposed forfeiture of the other seized property or padlocking of the premises.

It appears from the evidence that there is a farmhouse and a large barn on the premises and that on the day in question ABC agents seized a large illicit still, not registered with the Director of Alcoholic Beverage Control, set up in the barn. James Kennedy Combs, who resided at the farm, arrived there shortly after the seizure. He told the agents that the operators of the still had arranged that he and his family should occupy the place rent free, to give the impression that the farm was occupied for legitimate purposes.

While the agents were guarding the still and completing arrangements for its removal, Millard Wood arrived at the farm in his Ford sedan. A galvanized preheater (a still part), was in the car. Wood admitted to the agents that he was there to operate the still.

A short time thereafter, Nicholas Mesiano, Angelo Palverento and Tony DeAngelo arrived at the farm in Mesiano's Ford sedan. Palverento told the agents that he, Wood, and DeAngelo owned and operated the still. He said that Mesiano was there to repair the roof of the barn and had been there previously for other repairs.

The illicit still, the appurtenant equipment, and the two Ford sedans seized on the premises constitute unlawful property and are subject to forfeiture. R.S. 33:2-2 to 5, inclusive. I have the discretionary authority to return property subject to forfeiture to a person who establishes to my satisfaction that he acted in good faith and unknowingly violated the law. R.S. 33:2-7.

Nicholas Mesiano testified that he is 23 years of age, was honorably discharged from the Navy in 1946, and shortly thereafter established a sheet metal roofing business. He says that he knew Palverento for 10 or 12 years and on various occasions had been employed by Palverento and some of his relatives to make repairs at their homes. He said further that the day before the seizure he was at Palverento's home making some repairs when Palverento asked him to estimate on repairing the roof of a barn and arranged that Mesiano should pick him up at his home the following morning. When Mesiano arrived at Palverento's home the morning of the seizure, Palverento and DeAngelo, whom he also knew, entered his car and Palverento directed him to the farm. Mesiano says that he had never been there previously or made any repairs there, and did not know that there was a still on the farm until after his car was seized. He does not appear to have any previous criminal record.

The manager of a life insurance company testified that he had known Mesiano for many years and knows that he is in the sheet metal business and that he is reputed to be a law-abiding citizen. Two poultry merchants testified that they have known Mesiano for about 10 or 12 years, and likewise know that he is in the sheet metal business and is reputed to be law abiding.

In view of this background, I am inclined to give Mesiano the benefit of the doubt and hence, will accept his statement that he was completely unaware of the presence of the still when he drove to the farm. Accordingly, his car will be returned to him.

Documentary evidence submitted by Hammonton Investment and Mortgage Co. discloses that Millard S. Wood purchased the Ford sedan on November 2, 1949 from Grant Motors, Inc., of Salem, on a conditional sales contract wherein he agreed to pay \$349.32, the balance of the purchase price, in monthly installments. This contract was assigned to the mortgage company and its encumbrance was noted on the certificate of ownership of the motor vehicle issued by the Division of Motor Vehicles of New Jersey.

When applying for the loan Millard Wood represented to the mortgage company that he was in the electrical and plumbing business and gave the names of two references. The mortgage company, upon checking these references and the other information given by Wood, found it to be accurate and was advised that Wood was considered to have a good reputation. Wood does not appear to have had any previous criminal record.

I am satisfied that the Hammonton Investment and Mortgage Co. acted in good faith and had no knowledge that the motor vehicle would be used in connection with the operation of an illicit still or have any reason to suspect such fact. Accordingly, I shall recognize its lien pursuant to the discretionary authority afforded me by R. S. 33:2-7.

The amount presently due on this lien claim is \$297.48. It appears that this amount and the costs of seizure and storage of the car exceeds its appraised retail value. Hence, it would not benefit the state to retain the car for the use of a state institution conditioned upon payment of such lien. The Ford sedan will therefore be turned over to the mortgage company upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 29th day of May, 1950 Nicholas Mesiano pays the costs incurred in the seizure and storage of his Ford sedan and Hammonton Investment and Mortgage Co. pays the costs incurred in the seizure and storage of Millard Wood's Ford sedan, each more particularly described in Schedule "A" attached hereto, such motor vehicles will be turned over to them respectively; and it is further

DETERMINED and ORDERED that the balance of the seized property described in Schedule "A" constitutes unlawful property and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:2-5 and that it 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; and it is further

ORDERED that the farmhouse and barn occupied by James Kennedy Combs located on Woodstown-Mullica Hill Road, near Route 100, in the Township of Harrison, County of Gloucester and State of New Jersey, being the premises on which the still was seized, shall not be used or occupied for any purpose whatsoever, for a period of six months, commencing the 20th day of June, 1950.

ERWIN B. HOCK

Director.

Dated: May 17, 1950.

SCHEDULE "A"

- 2 - stoves
- 1 - 50-gal. preheater
- 1 - wooden cooker
- 1 - wooden cooler
- 1 - set of coils and gooseneck
- 10 - 250-gal. hogsheads with mash
- 5 - 50-gal. barrels
- 1 - A.C. General Electric Motor,
Model 5KC47AB8990Y
- 1 - Ford sedan - Serial & Engine #185581849,
N.J. 1949 Registration #SF20P
- 1 - Ford sedan - Serial & Engine #6619875,
N.J. 1949 Registration ZU82U
- Miscellaneous personal property

8. SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC BEVERAGES PEDDLED FROM MOTOR VEHICLE CONVERTED TO "MOBILE KITCHEN" - ALCOHOLIC BEVERAGES, "MOBILE KITCHEN", AND ANOTHER MOTOR VEHICLE, MERCHANDISE AND EQUIPMENT ORDERED FORFEITED.

In the Matter of the Seizure on)
February 7, 1950 of a quantity of)
alcoholic beverages, a Studebaker)
truck, a Ford truck, and various)
other items of personal property,)
on the premises occupied by Sandoz)
Pharmaceutical Company, located in)
the vicinity of Route No. 10,)
Township of East Hanover, County of)
Morris and State of New Jersey.)

Case No. 7583

ON HEARING
CONCLUSIONS AND ORDER

-----)
Margolis & Margolis, Esqs., by George Margolis, Attorney for)
Frances Bruder and Karl Klepfer.)
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, and further pursuant to a stipulation hereinafter referred to entered into on February 14, 1950 by Karl Klepfer to determine whether a quantity of alcoholic

beverages, a Studebaker truck, a Ford truck, and various other items of personal property, described in a schedule attached hereto, seized on February 7, 1950 on premises of the Sandoz Pharmaceutical Company, located in the vicinity of Route #10, in East Hanover Township, Morris County, New Jersey, constitute unlawful property and should be forfeited.

It appears that both vehicles are registered in the name of Karl Klepfer and that the seizure was made when beer was sold on the day in question to ABC agents and other persons from the Studebaker truck, described as a "Mobile Kitchen". The "Kitchen" was patronized by workers on a construction job at the premises. There were 41 bottles of beer and a bottle of whiskey in the Studebaker truck at the time of the seizure.

Karl Klepfer gave the agents a signed statement admitting the sale of beer on the day in question and on other days, and that a few days before the seizure he transported a case of beer and the bottle of whiskey to the premises in the Ford truck. He further states that William Chiovarou was his partner in the enterprise.

Neither Karl Klepfer nor William Chiovarou hold any license authorizing either of them to sell or serve alcoholic beverages and, in any event, even a retail licensee may not sell or peddle alcoholic beverages from a motor vehicle. Rule 3, State Regulations No. 17.

Pending the seizure hearing in the case, the two trucks, and their contents, excepting the bottles of beer and bottle of whiskey, were returned to Karl Klepfer upon payment of the sum of \$650.00, the appraised retail value of the Studebaker truck and its contents, and the payment of \$350.00, the appraised retail value of the Ford truck, to the Director of Alcoholic Beverage Control, under protest, pursuant to R. S. 33:1-66. Klepfer has stipulated that said Director shall determine in this proceeding whether said sum of \$1,000.00 shall be returned to him or shall be forfeited.

When the matter came on for hearing pursuant to R.S. 33:1-66, Karl Klepfer and Frances Bruder appeared with counsel and sought return of the money deposited with the Director.

Counsel for Klepfer admitted that beer was sold in the "Mobile Kitchen". His contentions are (1) that the Ford truck was in no way involved in the sale or transportation of any alcoholic beverages, but was merely on the scene of the seizure; and (2) that Frances Bruder, mother of Karl Klepfer, had advanced all of the money used to purchase the motor vehicles and their equipment, and that the loss of such vehicles will work hardship upon her; and (3) that the appraised valuation of the property fixed by the Director did not represent its actual value. Counsel has since advised that he is satisfied with the appraisals and does not contest their accuracy.

The seized beer is illicit because it was intended for sale in violation of the Alcoholic Beverage Law. R. S. 33:1-1(i). Such illicit beer, the bottle of whiskey, and the two motor vehicles and any equipment therein, on the premises where the illicit alcoholic beverages were seized, constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66. Hence, whether or not the Ford truck was used to transport any of such alcoholic beverages is immaterial, although the evidence strongly indicates that such motor vehicle was actually used for that purpose.

Under R.S. 33:1-66(e) I have the discretionary authority to return property subject to forfeiture to its owner if he establishes to my satisfaction that he acted in good faith and unknowingly violated the law. Under R.S. 33:1-66(f) I have the discretionary authority to recognize the claim of a person who has a bona fide and valid lien upon or interest in such property, if he establishes that he acted in good faith and did not know or have any reason to suspect that such property is used in connection with unlawful alcoholic beverage activity.

Mrs. Bruder does not claim any specific lien upon or interest in the two motor vehicles or any other property seized. Hence, I have no authority to recognize her claim. See Seizure Case No. 7544, Bulletin 873, Item 9. It may be noted that there is considerable doubt as to the nature of her claim, in that there is some indication that the money advanced to her son was more of an outright gift than a loan. In addition, the two motor vehicles and the equipment therein have never been physically removed from her son's possession, and Mrs. Bruder may therefore resort to the property in satisfaction of any claim she may have. See Seizure Case No. 7322, Bulletin 829, Item 7. For the above reasons, I cannot return any of the money to Mrs. Bruder.

Klepfer does not claim that he unknowingly violated the law. On the contrary, he stated that he was aware that he was required to have a license to sell alcoholic beverages. His admission merely acknowledges the accuracy of the oft-repeated statement that at this late date everyone should know that it is illegal to sell alcoholic beverages without a license. Forfeiture of the money deposited by Klepfer must follow as of course. See Seizure Case No. 7145, Bulletin 783, Item 6; Seizure Case No. 7532, Bulletin 862, Item 7.

Accordingly, it is DETERMINED and ORDERED that the 41 bottles of beer and the bottle of whiskey constitute unlawful property and the same be and hereby are forfeited in accordance with the provisions of R.S. 33:1-66 and that such alcoholic beverages 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; and it is further

DETERMINED and ORDERED that the Studebaker truck, Ford truck, and the other articles, listed in Schedule "A" attached hereto, constitute unlawful property, and that the sum of \$1,000.00 representing the retail value of such trucks and other articles returned to Karl Klepfer, paid under protest to the Director of Alcoholic Beverage Control by Karl Klepfer, be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66, to be accounted for in accordance with law.

ERWIN B. HOCK
Director.

Dated: May 22, 1950.

SCHEDULE "A"

- 41 - bottles of beer
- 1 - 4/5 qt. bottle of whiskey
- 132 - bottles of soda
- 2 - gas stoves
- 1 - grill
- 3 - ice boxes
- 1 - oil stove
- 1 - meat slicer
- 1 - gas tank
- Miscellaneous personal property
- 1 - Studebaker truck, Serial No. 2M2-1339,
1949 N. J. Reg. XK7781
- 1 - Ford truck, Serial No. 6096609, 1949 N.J.
Reg. XK7769

9. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

PEARL ALLEN MOORE
T/a ALLEN'S GREEN TAVERN
148-150 Witherspoon St.
Princeton, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-11, issued by the
Mayor and Council of the Borough
of Princeton.

Charles R. Sperling, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that she possessed an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 28 of State Regulations No. 20.

On March 17, 1950, an inspector employed by the Alcohol Tax Unit, Internal Revenue Service, Treasury Department, examined fourteen opened bottles of alcoholic beverages on defendant's premises and seized a 4/5 quart bottle labeled "Seagram's V. O. Canadian Whisky" when field tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by a Federal chemist disclosed that the contents of the seized bottle were not genuine as labeled.

The licensee denied tampering at any time with the contents of the seized bottle. Nevertheless, the licensee is strictly responsible for the contents of her stock of liquor.

Defendant has no previous adjudicated record. I shall, therefore, suspend defendant's license for a minimum period of fifteen days, less five days' remission for the plea entered herein, leaving a net suspension of ten days. Re Weaver, Bulletin 851, Item 1.

Accordingly, it is, on this 19th day of May, 1950,

ORDERED that Plenary Retail Consumption License C-11, issued by the Mayor and Council of the Borough of Princeton to Pearl Allen Moore, t/a Allen's Green Tavern, for premises 148-150 Witherspoon Street, Princeton, New Jersey, be and the same is hereby suspended for a period of ten (10) days, commencing at 12:01 a.m. May 31, 1950, and terminating at 12:01 a.m. June 10, 1950.

ERWIN B. HOCK
Director.

10. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

NATHAN WAHL & EARL ROSENFELD
268 Duncan Avenue
Jersey City 6, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-235, issued by the Board of Commissioners of the City of Jersey City.

Defendant-licensees, by Nathan Wahl, Partner.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they possessed on their licensed premises alcoholic beverages in a bottle bearing a label which did not describe its contents, in violation of Rule 28 of State Regulations No. 20.

On April 21, 1950, an ABC agent examined 39 opened bottles of alcoholic beverages on defendants' licensed premises and seized a bottle of Canadian Club Blended Canadian Whisky when his field tests indicated that the contents thereof were not genuine as labeled. Subsequent analysis by a Division chemist disclosed that the contents of the seized bottle were not genuine as labeled.

Defendants have no previous adjudicated record. Under the circumstances, I shall suspend defendants' license for the minimum period of fifteen days, less five days' remission for the plea entered herein, leaving a net suspension of ten days. Re Meehan, Bulletin 857, Item 7.

Accordingly, it is, on this 19th day of May, 1950,

ORDERED that Plenary Retail Consumption License C-235, issued by the Board of Commissioners of the City of Jersey City to Nathan Wahl & Earl Rosenfield, for premises 268 Duncan Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. May 31, 1950, and terminating at 2:00 a.m. June 10, 1950.

ERWIN B. HOCK
Director.

11. AUTOMATIC SUSPENSION - SALE TO MINORS - LICENSE PREVIOUSLY
SUSPENDED BY DIRECTOR FOR 20 DAYS - APPLICATION TO LIFT GRANTED.

Case No. 75

In the Matter of a Petition by)

CHRISTIAN ADOLPH BACKHAUS)

T/a LAKE END INN)

West Shore Road)

Roxbury Township)

P.O. Landing, N. J.,)

ON PETITION
O R D E R

To Lift the Automatic Suspension)

of License, Pursuant to R. S.)

33:1-31.1.)

Eugene F. Hillery, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

It appears from the records of the Division of Alcoholic Beverage Control that on April 26, 1950, I suspended the license held by petitioner for a period of twenty days after he had pleaded non vult in disciplinary proceedings to charges alleging that he sold alcoholic beverages to minors and that he sold alcoholic beverages at retail below the minimum consumer price. As a result of said suspension petitioner's licensed premises have been closed from 2:00 a.m. May 3, 1950 to 2:00 a.m. May 23, 1950 (see Bulletin 874, Item 7). The licensed premises have remained closed since the expiration of said suspension because on April 21, 1950 petitioner pleaded guilty in the Morris County Court to an accusation alleging that he sold alcoholic beverages to minors, as a result of which he was fined \$100.00 in said County Court and his license was automatically suspended for the balance of its term, pursuant to the provisions of R.S. 33:1-31.1.

The verified petition filed herein prays that the automatic suspension of the license may be lifted. The accusation in the criminal proceedings and the charges in the disciplinary proceedings were based upon the same facts in so far as the two minors mentioned in the charges in the disciplinary proceedings are concerned.

Under the circumstances, the suspension heretofore imposed by me appears to be adequate. Hence, the relief sought herein will be granted.

Accordingly, it is, on this 23rd day of May, 1950,

ORDERED that the automatic suspension of License C-6, issued by the Township Committee of the Township of Roxbury to Christian Adolph Backhaus, t/a Lake End Inn, for premises on West Shore Road, Roxbury Township, be and the same is hereby lifted, and said license is hereby restored to full force and operation, effective immediately.

ERWIN B. HOCK
Director.

12. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATE FIXED FOR SUSPENSION
PREVIOUSLY IMPOSED UPON REOPENING OF BUSINESS.

In the Matter of Disciplinary)
Proceedings against)

POWELL T. LINDGREN)
T/a PARKER HOUSE)
S/E corner Beacon Blvd. & First Ave.)
Sea Girt, N. J.,)

O R D E R

Holder of Seasonal Retail Consumption)
License CS-171, issued by the Director)
of the Division of Alcoholic Beverage)
Control.)

- - - - -)

BY THE DIRECTOR:

It appearing that by Order dated September 14, 1949, the license held by the above named defendant, for the period from May 1 to November 1, 1949, was suspended for thirty days, and that subsequent order was to be entered fixing the suspension period after defendant obtained a renewal of said license for the period commencing May 1, 1950 (Re Lindgren, Bulletin 853, Item 11); and

It further appearing that defendant has obtained a renewal of his license and that defendant's premises will be reopened for business on and after May 26, 1950;

It is, on this 24th day of May, 1950,

ORDERED that Seasonal Retail Consumption License CS-171, for the period from May 1 to November 1, 1950, issued by the Director of the Division of Alcoholic Beverage Control to Powell T. Lindgren, t/a Parker House, for premises at S/E corner Beacon Blvd. & First Ave., Sea Girt, be and the same is hereby suspended for a period of thirty (30) days, commencing at 1:00 a.m. June 1, 1950, and terminating at 1:00 a.m. July 1, 1950.

ERWIN B. HOCK
Director.

13. STATE LICENSES - NEW APPLICATION FILED.

Theodore K. and Margaret E. Danford
T/a Bond Beverage
1250 Cedar Lane
Hamilton Township, P.O. Trenton, N. J.

Application filed May 24, 1950 for transfer of State Beverage Distributor's License SBD-4 from Rudolph F. Bonanni, t/a Bond Beverages.

New Jersey State Library

Director.