

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

BULLETIN 1112

MAY 16, 1956.

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

BULLETIN 1112

MAY 16, 1956.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(FEMALE IMPERSONATORS - INDECENT SONGS) - SALES TO MINORS -
LICENSE SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

COPA CLUB, INC.)
145-147 Front Street)
Secaucus, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-33, issued by the)
Town Council of the Town of)
Secaucus.)

Copa Club, Inc., Defendant-licensee, by Michael Warianka, Jr.,
President.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that
(1) it permitted and suffered a female impersonator on its
licensed premises; (2) it sold, served and delivered alcoholic
beverages to a minor and permitted the consumption of such bever-
ages by said minor on its licensed premises; (3) it permitted
and suffered lewdness and immoral activities on its licensed
premises; all in violation of State Regulations No. 20.

The file herein discloses that on the nights of March
10 and 11, 1956, and on the nights of March 17 and 18, 1956,
ABC agents visited defendant's licensed premises wherein, on
each occasion, a large gathering of patrons of both sexes were
being entertained by a six-piece male orchestra under the leader-
ship of Michael Warianka, Jr., president of the corporate licen-
see herein. On their first visit the agents observed one of the
musicians in female attire engage in a pantomime with a fellow
musician on the stage. On their second visit the agents heard
the same male musician, now in padded house-dress and wearing a
wig, sing an indecent parody of a popular song to a guitar player.
Thereafter another performer sang a double entendre song to a
couple celebrating their wedding anniversary. At about 1:00 a.m.
on March 18, 1956, the agents observed a waitress serving an alco-
holic drink to an apparent female minor to whom, after she had
consumed some of the beverage, they made their identities known
and obtained from her a signed sworn statement in which she
identified herself as Joan --- (age 18) and stated that she had
consumed four or five drinks of whiskey and soda which were
served to her by the waitress who made no inquiry as to her age.
The impersonator and the waitress admitted their participation
in the respective violations but Warianka refused to give a
statement.

Defendant has no prior adjudicated record. The per-
formances which resulted in Charges 1 and 3 have no place and
will not be tolerated on licensed premises. Rigid enforcement
of the regulations pertaining thereto is essential to the
preservation of decency and public morals. I shall suspend
defendant's license for thirty days on Charges 1 and 3 (cf.

Re Louis O. Palma, Inc., Bulletin 1067, Item 3). As to Charge 2, the usual penalty heretofore imposed for an unaggravated sale of alcoholic beverages to an eighteen-year-old minor was ten days (Re Sylvester, Bulletin 1080, Item 4). However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days (Re Increased Penalties, Bulletin 1095, Item 1). Since the violation in the instant case occurred after that announcement, I shall suspend defendant's license for an additional period of fifteen days on Charge 2, making a total suspension of forty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of forty days for the three violations.

Accordingly, it is, on this 6th day of April, 1956,

ORDERED that Plenary Retail Consumption License C-33, issued by the Town Council of the Town of Secaucus to Copa Club, Inc., for premises 145-147 Front Street, Secaucus, be and the same is hereby suspended for forty (40) days, commencing at 2:00 a.m. April 13, 1956, and terminating at 2:00 a.m. May 23, 1956.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - AGGRAVATED SALES TO MINORS -
LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

BELLA Wm. MARRILLO)
t/a PLAZA RESTAURANT)
White Horse Pike)
Waterford Township)
PO Atco, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Waterford.)

Robert T. Healey, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to a charge alleging that she sold, served and delivered alcoholic beverages to twelve minors and permitted the consumption of such beverages by said minors in and upon her licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that at about 12:50 a.m. March 10, 1956, ABC agents visited defendant's licensed premises wherein they observed twelve apparent minors consuming alcoholic beverages served to them by the licensee. The agents made known their identities and obtained signed sworn statements from the youths who identified themselves as Thomas --- (age 16), Richard --- (age 16), William --- (age 16), Robert --- (age 17), Rodrick --- (age 17), Ronald --- (age 17), Frederick --- (age 17), Roland --- (age 17), James --- (age 17), Andrew --- (age 18), Manfred --- (age 19) and James H. --- (age 20). The statements show that James, Andrew and Roland were each served two drinks of

whiskey and soda and one bottle of beer; Fred and Ronald one drink of whiskey and soda and one bottle of beer; Manfred and James H. one drink of whiskey and soda; and Richard, Rodrick, Thomas, William and Robert one bottle of beer each. The minors further stated that they were not questioned as to their ages.

Defendant has no prior adjudicated record. The attorney for defendant has advised me in writing that his client is a widow; that she is suffering from a very serious nervous condition, and that she is endeavoring to sell the business. Nevertheless, this is an extremely serious violation. In view of the number of minors involved, the tender age of most of them, and the type of alcoholic beverages served, I shall suspend defendant's license for forty days (Re Tony's White Tavern, Inc., Bulletin 990, Item 3). Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 6th day of April, 1956,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Waterford to Bella Wm. Marrillo, t/a Plaza Restaurant, for premises on White Horse Pike, Waterford Township, be and the same is hereby suspended for thirty-five (35) days, commencing at 2:00 a.m. April 13, 1956, and terminating at 2:00 a.m. May 18, 1956.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

STEVE KICEY)
T/a STEVE'S TAVERN)
330 St. Pauls Avenue)
Jersey City 6, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-243, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.)
-----)

Israel E. Mischel, Esq., Attorney for Defendant-licensee.
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, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to two minors in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that two ABC agents were in defendant's licensed premises on the evening of August 30, 1955. At about 9:45 p.m. two young men entered, went to the bar and spoke to Martha Kicey, wife of the licensee, who was behind the bar. Mrs. Kicey filled two quart-containers with beer, put the

containers in a bag and placed the bag on the bar. Defendant-licensee, who was also behind the bar, picked up a dollar bill which had been placed on the bar by the young men and rang up the sale on the cash register. After the young men had left the premises with the bag, they were stopped by the agents who ascertained that they were, respectively, 17 and 16 years of age. The agents returned with the minors to the licensed premises and identified themselves to defendant and his wife.

Defendant has a prior record. Effective January 19, 1948, his license was suspended by the local issuing authority for five days for being open during prohibited hours. However, since that violation is dissimilar and is beyond the five-year period, I shall not consider it in fixing penalty herein (Re Weinstein, Bulletin 1002, Item 13). Effective April 5, 1954, I suspended his license for five days for sale to a minor (Re Kicey, Bulletin 1009, Item 9). The usual penalty for sale prior to January 16, 1956, to minors 16 and 17 years of age was a suspension for twenty-five days (Re Pine Acres Country Club, Inc., Bulletin 1089, Item 6). Since this is a second similar violation within five years, I shall suspend defendant's license for thirty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 19th day of April, 1956,

ORDERED that Plenary Retail Consumption License C-243, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Steve Kicey, t/a Steve's Tavern, for premises 330 St. Pauls Avenue, Jersey City, be and the same is hereby suspended for thirty (30) days, commencing at 2:00 a.m. April 25, 1956, and terminating at 2:00 a.m. May 25, 1956.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - GAMBLING - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN AVOGARDO)
T/a 10th AVENUE TAVERN)
350 Tenth Avenue)
Paterson 4, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-131, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)

-----)
John Avogardo, Defendant-licensee, Pro se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On February 7 and 19, 1956 and on divers other days you allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20."

The file herein discloses that ABC agents were at defendant's licensed premises on five occasions between January 20, 1956 and February 9, 1956 to investigate alleged bookmaking being carried on at the premises. A man called "Harry" (subsequently identified as Carl Zito and also known as Harry Dell) was present on all of these occasions and was observed accepting what appeared to be horse race bets in the premises on the first three occasions.

The details of what occurred on February 7 and 9, 1956, the specific dates set forth in the charge, are as follows: On February 7th, two ABC agents entered the licensed premises. One of the agents obtained pencil, paper and a newspaper from the bartender called "Barney" (subsequently identified as Angelo Felicita) and told the bartender he was going to place a bet with "Harry". The agent then placed a bet of \$12.00 on two horse races with "Harry".

On February 9, 1956, the same agents returned to the premises. "Harry" approached the agents and handed \$9.00 to the agent who had placed the bet with him previously, which sum represented in part winnings and in part the bet on a horse which had been "scratched". "Barney" joined in the conversation concerning the bet previously made by the agent. The agent then obtained a newspaper from "Barney" remarking that he wanted to place more bets with "Harry". The agent then placed a \$6.00 horse race bet with "Harry" using "marked" money. Shortly thereafter, by prearrangement, local police officers entered and disclosed their identities. The agents recovered the "marked" money from "Harry".

Angelo Felicita (Barney) acknowledged, in a signed sworn written statement, that he has known "Harry" for about seven years and has known for the last four years that "Harry" is a "bookie"; that "Harry" has been frequenting the licensed premises for the past two years and accepting horse race bets there for about eight months; and that on various occasions he picked up bets from patrons and handed them over to "Harry", and received money from "Harry" representing winnings on horse race bets and handed such money to patrons who had placed said bets. Carl Zito, in a signed sworn written statement, signed Harry Dell, relates that everyone knows him as Harry Dell; that he has been "making book" in the licensed premises for the last six or seven months, usually arriving there for that purpose each day at about noon and leaving between 1:30 and 2:00 p.m.

Defendant has a prior adjudicated record. Effective March 13, 1944, his license was suspended by the local issuing authority for four days for sale of alcoholic beverages during prohibited hours and for failure to provide a clear view of the interior of the licensed premises. Since this dissimilar violation occurred more than ten years ago, it will not be considered in fixing the penalty herein. Re Hempel & Baer, Bulletin 1099, Item 1. However, defendant was advised by letter, dated March 12, 1954, that the Division had information indicating that theretofore he may have permitted four persons including a person called Harry to enter his tavern from time to time for the obvious reason of accepting horse race bets from his patrons. At that time, defendant was advised that formal disciplinary proceedings by this Division had been withheld in accordance with its policy because there was no evidence available that the licensee or his employees had participated in the activities but, at most, merely tolerated such activities

and because it appeared to be the first instance of such activities at the premises. Defendant was, therefore, warned not to permit any such activities at his licensed premises in the future. Although the defendant in a letter signed by him promised to heed the warning, it is now apparent that such promise has not been kept for many months.

Until recently, a twenty-day suspension was usually imposed for a first offense of the nature charged herein. Re Conklin, Bulletin 1086, Item 4. However, on January 16, 1956, I announced that the penalty in such cases would be increased five days. Re Increased Penalties, Bulletin 1095, Item 1. Since the instant case involves commercialized gambling which occurred on February 7th and 9th, after my announcement, and because of the previous warning, I shall suspend defendant's license for thirty days and remit five days for the plea entered herein, leaving a net suspension of twenty-five days. Re Warren, Bulletin 1104, Item 11 and Re Andy's Tavern (A Corp.), Bulletin 1055, Item 3.

Accordingly, it is, on this 6th day of April, 1956,

ORDERED that Plenary Retail Consumption License C-131, issued by the Board of Alcoholic Beverage Control for the City of Paterson to John Avogardo, t/a 10th Avenue Tavern, 350 Tenth Avenue, Paterson, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 3:00 a.m. April 13, 1956, and terminating at 3:00 a.m. May 8, 1956.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE - INDECENT ACTIONS AND LANGUAGE) - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

GORDON S. SHARPE)
T/a GORDON'S GRILL)
219 Washington Street)
Mount Holly, N.J.,)

CONCLUSIONS
AND ORDER

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

Powell and Davis, Esqs., by James M. Davis, Jr., Esq., Attorneys for Defendant-licensee.

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

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On Monday night, March 5 and early Tuesday morning, March 6, 1956, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises in that a female entertainer performed in a lewd, indecent and immoral manner, used foul, filthy and obscene language

and uttered words and phrases and made gestures and movements having lewd, lascivious, indecent, filthy, disgusting and suggestive import and meaning; in violation of Rule 5 of State Regulations No. 20."

The file in the within case discloses that on Monday night, March 5, 1956, at about 10:00 p.m., an ABC agent entered defendant's licensed premises and observed about 150 male and female patrons at or near the bar. A four-piece band was on a small platform behind the bar. At about 10:30 p.m., a master of ceremonies announced that a floor show was about to be presented. During the course of said show, he introduced "Fabulous Margo", a female dancer. She proceeded to dance what she described as an "exotic" dance but which, without giving the specific details was, in reality, a strip tease dance with the familiar "bumps and grinds", and then degenerated into the typical sensuous and depraved dance, rotating her buttocks with her back to the audience, and simulating sexual intercourse and then followed with the further obscenity of a sensuous "flame" dance of the same nature.

The agent left the premises at about 11:15 p.m. and returned at about 11:50 p.m. Shortly thereafter, by pre-arrangement, two other ABC agents entered the premises. The three agents then observed Margo repeat her so-called dance. When she concluded her performance, the audience vociferously called for an encore. Margo faced the audience and said, "That's enough for the night, you b---. Do you think that I'm going to dance all night, you son of a b---".

It is obvious that a vulgar exhibition such as took place in the instant case has no place on licensed premises and merits substantial penalty. Re Eaton Club 88, Bulletin 1108, Item 1.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of thirty days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days. Re Hotel Holiday, Inc., Bulletin 1083, Item 7.

Accordingly, it is, on this 17th day of April, 1956,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Mount Holly to Gordon S. Sharpe, t/a Gordon's Grill, 219 Washington Street, Mount Holly, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 6:00 a.m. April 23, 1956, and terminating at 6:00 a.m. May 18, 1956.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

STEPHEN KEBALO)
608 Paterson Plank Road)
Union City, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-81, issued by the)
Board of Commissioners of the City)
of Union City.)
-----)

Alexander A. Abramson, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charge:

"On March 3, 1956, and on divers days prior thereto, you allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets in and upon your licensed premises; in violation of Rule 7 of State Regulations No. 20."

The file herein discloses that ABC agents visited defendant's licensed premises on three occasions in February 1956 to investigate alleged bookmaking and observed therein a man called Mack whose activities appeared to be those of a bookmaker, although the agents were then unable to obtain probative evidence to that effect. Walter P. Kebalo, son of the licensee, was tending bar during all of the agents' visits.

On March 3, 1956, two ABC agents, continuing the investigation, entered defendant's licensed premises. Walter was tending bar. Mack was present therein, shuttling between the dining room and a telephone in the barroom, where he answered numerous telephone calls. On occasion, when in the barroom, Mack was handed money by various patrons. One of the agents asked Walter for a newspaper and discussed horse racing in his presence. Shortly thereafter, one of the agents placed a \$5.00 bill on the bar and told Walter he wanted to place a bet on a horse race. Walter obtained a slip of paper and a pencil from the back bar and handed it to the agent who recorded the bet. Walter brought the slip of paper into the dining room, returned within a few moments, and informed the agent that it was "o.k." The agent picked up the \$5.00 bill and handed it to Walter who then again went into the dining room.

Later, the second agent recorded a bet on a slip of paper given to him by Walter, handed said slip to Walter, who again went into the dining room, returned, and told this agent, "He's (the person in the dining room) a little afraid of you guys". After a short conversation, Walter volunteered to introduce the agents, and the three men walked into the dining room where Walter introduced the agents to Mack. Thereupon the second agent, in Walter's presence, handed \$6.00, identified by serial number, to Mack as a bet on a horse race. The first agent told Mack to make it a \$7.00 bet and handed \$1.00 to him. Mack took the money, went to a telephone and the agents returned to the bar. Mack left the premises but returned shortly thereafter and entered the dining room. Other ABC agents came into

the premises, by prearrangement, joined the other two agents, and went into the dining room. The agents identified themselves and recovered from Mack the \$7.00 in "marked" money. Walter gave the agents a signed statement wherein he acknowledged that he acted as intermediary in placing the \$5.00 horse race bet with Mack for the first agent; that he had introduced the two agents to Mack and witnessed their placing of horse race bets with the latter; that he had observed Mack accept horse race bets on the licensed premises on a number of occasions; and that Mack frequented the premises almost daily from 12:30 to about 4:00 or 4:30 p.m.

Defendant has no prior adjudicated record. It is urged in mitigation of the offense that defendant has held the license for more than two years without committing any violation, and unknowingly permitted the violation in question, at most through the instrumentality of an employee, although cognizant of the fact that he is responsible in disciplinary proceedings for such conduct by his employee.

Until recently, the minimum penalty of twenty days has been imposed for a first offense of the nature herein. Re Dakos, Bulletin 1095, Item 10. However, on January 16, 1956, I announced that the penalty in such cases would be increased by five days. Re Increased Penalties, Bulletin 1095, Item 1. Since the instant case involves commercialized gambling which occurred on March 3, 1956, after my announcement, I shall suspend defendant's license for twenty-five days and remit five days for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 6th day of April, 1956,

ORDERED that Plenary Retail Consumption License C-81, issued by the Board of Commissioners of the City of Union City to Stephen Kebalo, 608 Paterson Plank Road, Union City, be and the same is hereby suspended for a period of twenty (20) days, commencing at 3:00 a.m. April 13, 1956, and terminating at 3:00 a.m. May 3, 1956.

WILLIAM HOWE DAVIS
Director.

7. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATE OF SUSPENSION POSTPONED.

In the Matter of Disciplinary Proceedings against

COPA CLUB, INC.
145-147 Front Street
Secaucus, N.J.,

ON PETITION
O R D E R

Holder of Plenary Retail Consumption License C-33, issued by the Town Council of the Town of Secaucus.

Copa Club, Inc., Petitioner, by Michael Warianka, Jr., President.

An order having been entered herein by the Director on April 6, 1956, suspending defendant's license for a period of forty days commencing at 2:00 a.m. April 13, 1956, and terminating at 2:00 a.m. May 23, 1956, and

It appearing from a petition filed herein that, prior to the entry of said order, defendant-petitioner had entered into contracts with entertainers and musicians for the week of April 13, 1956, in reliance upon its request made when entering plea herein that "any penalty imposed in this matter commence not later than April 22, 1956", and sufficient cause thus appearing,

It is, on this 10th day of April, 1956,

ORDERED that the suspension of forty days heretofore imposed, instead of commencing at 2:00 a.m. April 13, 1956, shall, in lieu thereof, commence at 2:00 a.m. April 23, 1956, and terminate at 2:00 a.m. June 2, 1956.

WILLIAM HOWE DAVIS
Director.

By: Edward J. Dorton
Deputy Director.

8. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF LARGE QUANTITY OF TAXPAID ALCOHOLIC BEVERAGES WITHOUT TRANSPORTATION LICENSE OR PERMIT - ALCOHOLIC BEVERAGES ORDERED FORFEITED BECAUSE IMPORTATION AND PLACE OF DELIVERY PROHIBITED - MOTOR VEHICLE RETURNED TO OWNER WHO UNKNOWINGLY VIOLATED THE LAW.

In the Matter of the Seizure on) Case No. 9070
December 10, 1955 of a quantity)
of whiskey and a Chevrolet sedan)
on the northbound lane, at Mile) ON HEARING
Post 75N of the New Jersey Turnpike,) CONCLUSIONS AND ORDER
in South Brunswick Township, County)
of Middlesex and State of New Jersey.)

William C. Raines, Esq., Attorney for George Howard Allen and
Czolgus L. Coleman.
I. Edward Amada, Esq., appearing for 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 64 - four-fifth quart bottles, 22 one-half gallon bottles, and eight quart bottles of various brands of taxpaid whiskey, and a Chevrolet sedan, described in a schedule attached hereto, seized on December 10, 1955, on the New Jersey Turnpike in South Brunswick Township, New Jersey, constitute unlawful property and should be forfeited.

A New Jersey State Trooper halted the motor vehicle on the above date and location while on routine patrol of traffic on the highway. He ascertained that the driver of the motor vehicle was Czolgus L. Coleman, the registered owner thereof, with George H. Allen, a passenger therein. When the trooper discovered the large quantity of alcoholic beverages in the trunk of the car, he detained the two men, the car, and the alcoholic beverages, pending investigation as to whether such alcoholic beverages were being legally transported in this state. Thereafter the alcoholic beverages and motor vehicle were turned over to ABC agents.

It appears that both Allen and Coleman are residents of this state, and were transporting the alcoholic beverages purchased by them in Washington, D. C. to their homes located in Englewood, New Jersey.

Such quantity of alcoholic beverages could not lawfully be transported without a license or permit issued by this Division, even if intended for personal consumption. Although Allen and Coleman had in their possession bills for the alcoholic beverages from a retail liquor dealer in Washington, such documents cannot serve in lieu of such license or permit, since the alcoholic beverages were not being transported through this state, but were to be delivered in New Jersey. R. S. 33:1-2, State Regulations No. 18, Rules 2 and 4.

Neither George Howard Allen nor Czoligus L. Coleman had a license or permit to transport such alcoholic beverages. Hence, the alcoholic beverages are illicit, constitute unlawful property and, together with the motor vehicle in which they were transported and found, are subject to forfeiture. R.S. 33:1-1(i) and (y), R.S. 33:1-66.

When the matter came on for hearing pursuant to R. S. 33:1-66, Czoligus L. Coleman appeared and sought return of the Chevrolet sedan and such alcoholic beverages as were owned by him, and George Howard Allen appeared and sought return of the balance of the alcoholic beverages.

They urge that they are honest, law-abiding persons, legitimately employed, and had purchased the alcoholic beverages partly for themselves, and partly as an accommodation for other persons, some residing in New Jersey and others in New York, since the price was lower in Washington than locally.

Since all of the alcoholic beverages intended for ultimate delivery in New York for personal consumption by persons other than Allen or Coleman cannot be legally imported into New York, such alcoholic beverages must be forfeited. Seizure Case No. 8806, Bulletin 1066, Item 6. Concerning the other alcoholic beverages, even if the explanation is accepted that such beverages were intended for delivery in New Jersey to persons for whom they were purchased as an accommodation, it would not appear to be in the interest of proper liquor control to permit persons to purchase alcoholic beverages out of state for other residents of this state and transport such beverages for delivery in this state on the wholesale scale as appears in the instant case. Loss of the comparatively minor quantity of alcoholic beverages claimed to be intended for personal consumption by Allen and Coleman may serve to deter them from any similar venture. Consequently, all of the alcoholic beverages will be forfeited.

However, while it may not be an excuse in criminal proceedings in the case that Allen and Coleman unknowingly violated the law, in forfeiture proceedings I have the discretionary authority to return the motor vehicle on that ground. R. S. 33:1-66(e).

Evidence was presented that Allen and Coleman are of previous good repute, Allen gainfully employed for the past 11 years by a clothing manufacture and Coleman employed as a chauffeur and garage mechanic for the past 20 years by an affiliate of a national meat concern. There is no substantial evidence that either of them dabbled in unlawful alcoholic beverage activities, and the present instance appears to be one where they sought to take advantage of lower prices to supply their liquor needs and those of their acquaintances, ignorant of the fact that thereby they were violating the law of this state governing transportation of alcoholic beverages and, in

addition, creating a possible inference that they intended to make a profit from the transaction. I shall give Coleman the benefit of the doubt, and find that he unknowingly violated the law. Accordingly, the motor vehicle will be returned to him upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED, that if on or before the 16th day of April 1956, Czolgus L. Coleman pays the costs incurred in the seizure and storage of the Chevrolet sedan, described in Schedule "A", attached hereto, such motor vehicle will be returned to him; and it is further

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

WILLIAM HOWE DAVIS
Director.

Dated: April 5, 1956.

SCHEDULE "A"

- 64 - 4/5 quart bottles of alcoholic beverages
- 22 - one-half gallons of alcoholic beverages
- 8 - quart bottles of alcoholic beverages
- 1 - Chevrolet sedan, Serial No. C53T122867,
N. J. Registration RD-F34.

9. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ALCOHOLIC BEVERAGES THROUGH THIS STATE FOR IMPORTATION TO NEW YORK - ALCOHOLIC BEVERAGES FORFEITED BECAUSE SUCH IMPORTATION PROHIBITED BY NEW YORK LAW - MOTOR VEHICLE RETURNED TO OWNER VIOLATING LAW UNKNOWINGLY.

In the Matter of the Seizure on February 28, 1956, of a quantity of alcoholic beverages, other property and a G.M.C. truck, on the New Jersey Turnpike, located in Edison Township, County of Middlesex and State of New Jersey.)

Case No. 9128

ON HEARING
CONCLUSIONS AND ORDER

Mayo and Weiner, Esqs., by Benjamin Weiner, Esq., Attorneys for Argo Marine Supply Company, Inc.

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

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether 39 bottles of alcoholic beverages (cordials), four boxes of candy, three bottles of perfume, two pieces of cast iron machinery, and a G.M.C. truck, described in a schedule attached hereto, seized on February 28, 1956 on the New Jersey Turnpike, in Edison Township, New Jersey, constitute unlawful property and should be forfeited.

A New Jersey State Trooper halted the motor vehicle on the aforementioned date and location during his routine traffic patrol of the highway. He ascertained that the motor vehicle,

registered in the name of Argo Marine Supply Company, Inc., was being driven by Thomas Calicchio, President of such concern. When the trooper discovered the 39 bottles of cordials in the truck, for which Calicchio had neither waybill nor any transportation permit or license authorizing transportation of such alcoholic beverages in this state, he detained Calicchio, and the truck and its cargo pending investigation of the source and destination of such cordials. Such truck, cordials, and other property were later turned over to ABC agents.

When the matter came on for hearing pursuant to R. S. 33:1-66, Thomas Calicchio appeared and sought return of the truck and its cargo.

The 39 bottles of cordials are of foreign manufacture, approximately four-fifth quarts, and it is stipulated that they are alcoholic beverages. Transportation of such quantity of alcoholic beverages in this state, irrespective of whether for personal use or otherwise, without a permit or license issued by the Division, or without a waybill or other document in the possession of Calicchio stating the bona fide names and addresses of the consignee and consignor, the nature and quantity of alcoholic beverages being transported, and the place of origin and destination, is in violation of R. S. 33:1-2 and State Regulations No. 18, Rule 2. Such alcoholic beverages therefore constitute illicit alcoholic beverages and, together with the motor vehicle in which they were transported and found, constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(1) and (y), R.S. 33:1-2, R.S. 33:1-66.

Thomas Calicchio asserts that he was transporting the alcoholic beverages from a ship docked in Baltimore, Maryland, to New York City as an accommodation for another person or persons. Since the alcoholic beverages were not intended for Calicchio's personal consumption, they cannot be imported into New York. Therefore, since the cordials cannot lawfully be delivered in New York, they must be forfeited because they were transported in this state in violation of our law and regulations.

However, if Calicchio had no improper or illegal motive when transporting such alcoholic beverages and unknowingly violated the law of this state governing transportation of alcoholic beverages, it may not be an excuse in criminal proceedings, but in forfeiture proceedings I have the discretionary authority to return the motor vehicle. R. S. 33:1-66(e). See Seizure Case No. 8550, Bulletin 1029, Item 11.

Calicchio testified that his concern has been in the ship Chandler business for about four years, is located in New York City, has 14 employees, has a fleet of six motor vehicles and has a warehouse where it stores its inventory of merchandise having a value which varies from \$20,000.00 to \$40,000.00, and that he personally has never previously had any trouble with any law enforcement authority. Concerning the incident in question, he testified that while in Baltimore with the truck, servicing a steamship there, the cordials were removed from the ship and placed in the truck for transportation to New York. This source of the cordials appears to be confirmed by U. S. Customs receipts evidencing payment of import duty on alcoholic beverages contemporaneous with the transaction, although such receipts cover 46 bottles of alcoholic beverages, without definite identification with the seized cordials.

Calicchio offered two accounts as to the identity of the person whom he was accommodating. An ABC agent testified that, when questioned at the time of the seizure, Calicchio stated that the owner of the boat arrived by train at Baltimore and told Calicchio that the captain of the boat had obtained the cordials for the owner, who, having no car, could not transport them to New York and, hence, requested Calicchio to transport them to his home in New York. At hearings held at the Division, Calicchio testified that two crew members who intended to terminate their employment in the near future and come to New York to board a vessel to travel to their home overseas, had requested, as a convenience, that he transport the alcoholic beverages and keep them in his warehouse until they arrived in New York.

Either account would be acceptable as evidencing that Calicchio did not intend to participate in an illegal transaction. While he is to be criticised for giving contradictory stories, and normally it would lead to denial of any relief from forfeiture, in the instant case it appears likely that he mistakenly assumed that if he involved the owner of the ship, apparently an important customer, who more logically seems to be the owner of the expensive cordials, it would reflect upon such owner and jeopardize their business relations. It is a misguided selection of the lesser of two evils, which, while ethically wrong, nevertheless does not demonstrate any pattern of lawlessness or tendency to dabble in unlawful liquor activities. It is fair to assume that he unknowingly violated our law governing transportation of alcoholic beverages. I shall give him the benefit of the doubt and return the truck and its cargo to Argo Marine Supply Company, Inc. upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 16th day of April, 1956, Argo Marine Supply Company, Inc. pays the costs incurred in the seizure and storage of the G. M. C. truck, described in Schedule "A" attached hereto, such motor vehicle, candy, perfume and machinery will be returned to it; and it is further

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

WILLIAM HOWE DAVIS
Director.

Dated: April 5, 1956.

SCHEDULE "A"

- 39 - bottles of cordials
- 4 - boxes of candy
- 3 - bottles of perfume
- 2 - pieces of cast iron machinery
- 1 - G.M.C. truck, Serial No. P7327, Engine
No. C248194548, N. Y. Registration
399288.

10. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOHN ALEXANDER)
T/a BEVERLY PACKAGE STORE)
301 Broad Street)
Beverly, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Common Council of the City of Beverly.)
-----)

Samuel Moskowitz, Esq., Attorney for Defendant-licensee.
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 two minors, in violation of Rule 1 of State Regulations No. 20.

As a result of information received from the Edgewater Park Township Police, an ABC agent obtained sworn written statements from John J. ---, Jr., age 17, and John J. ---, age 20. In their statements, the minors say that on March 2, 1956, between 7:30 and 8:00 p.m., they entered defendant's licensed premises, a self-service store, and each picked up two six-can packs of beer, and each paid \$2.00 to Nellie Alexander, one of defendant's employees, for the beer.

Defendant has no prior adjudicated record. Until recently, the usual penalty imposed for sale of alcoholic beverages to two minors, one of whom was only seventeen years of age, was a suspension for fifteen days. Re Gelfand, Bulletin 1102, Item 10. On January 16, 1956, I announced that the penalty in such cases would be increased by five days. Re Increased Penalties, Bulletin 1095, Item 1. Since the violation herein occurred after that announcement, I shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 6th day of April, 1956,

ORDERED that Plenary Retail Distribution License D-1, issued by the Common Council of the City of Beverly to John Alexander, t/a Beverly Package Store, 301 Broad Street, Beverly, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 9:00 a.m. April 16, 1956, and terminating at 9:00 a.m. May 1, 1956.

WILLIAM HOWE DAVIS
Director.

11. STATE LICENSES - NEW APPLICATION FILED.

McFaddin Express, Inc.
 Magee Avenue
 Stamford, Conn.

Application filed May 11, 1956 for Transportation License.

WILLIAM HOWE DAVIS
 Director.

12. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

VERONICA SADA)
 218 Twelfth Avenue)
 Paterson 1, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-109, issued by the)
 Board of Alcoholic Beverage Control)
 for the City of Paterson.)

-----)
 Veronica Sada, Defendant-licensee, Pro se.
 Dora P. Rothschild, appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

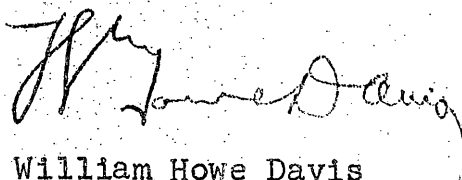
Defendant has pleaded non vult to a charge alleging that she sold an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that at about 1:10 a.m. Saturday, April 7, 1956, an ABC agent purchased from the bartender in defendant's licensed premises a pint bottle of whiskey which he took with him from the tavern. The agent returned with a fellow agent and both identified themselves to the bartender who verbally admitted the sale.

Defendant has no prior adjudicated record. I shall suspend her license for a period of fifteen days and remit five days for the plea entered herein, leaving a net suspension of ten days (Re Garcia, Bulletin 1102, Item 12).

Accordingly, it is, on this 26th day of April, 1956,

ORDERED that Plenary Retail Consumption License C-109, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Veronica Sada, for premises 218 Twelfth Avenue, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. May 7, 1956, and terminating at 3:00 a.m. May 17, 1956.



William Howe Davis
 Director.