

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

BULLETIN 1435

March 1, 1962

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

BULLETIN 1435

March 1, 1962

1. DISCIPLINARY PROCEEDINGS - GAMBLING - CONTRACEPTIVES - LICENSE
SUSPENDED FOR 45 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Moses & Albert Bacsko)
t/a Melody Bar)
106 French Street)
New Brunswick, N. J.,)

CONCLUSIONS

AND

-----)
Holders of Plenary Retail Consumption)
License C-23, issued by the Board of)
Commissioners of the City of New)
Brunswick.)

ORDER

Eber & Eber, Esqs., by Alex Eber, Esq., Attorneys for Defendant-
licensees
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control

BY THE DIRECTOR:

Defendants pleaded non vult to the following charges:

- "1. On November 17, 18, 20 and 21, 1961 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 Regulation No. 20.
- "2. On November 21, 1961, you possessed prophylactics against venereal disease and contraceptive and contraceptive devices in and upon your licensed premises; in violation of Rule 9 of State Regulation No. 20."

On the dates setforth in Charge 1 herein Albert Bacsko (one of the licensees) accepted horse race bets from patrons and ABC agents (working undercover) on the licensed premises. On November 21 aforesaid, at about 12:35 p.m., Bacsko, after accepting payment of a bet from an agent on the premises, went into a telephone booth to call in numerous bets he had recorded in a brown note book. As pre-arranged, local detectives, accompanied by a second ABC agent, then entered the licensed premises and found \$730.75, aforesaid note book listing numerous horse bets (including those made by the agents on November 20 and November 21 aforesaid) and three current daily scratch sheets in Bacsko's possession. In the cash register and other parts of the premises the agents also found numerous horse race betting slips, daily scratch sheets, racing forms and three additional note books which Bacsko stated he had used in recording numerous horse race bets.

The investigation further discloses that during the raid one of the detectives "had taken" numerous horse race bets over the telephone for Bacsko.

During the course of the inspection of the premises one of the agents found fifteen contraceptives in a cigar box under the bar. Bacsko claimed the contraceptives belonged to a patron.

In a signed, sworn statement dated November 21, 1961, Bacsko admits that for the past two or three months he has accepted horse race bets on the licensed premises and by telephone at the rate of about \$10 or \$12 a day.

By way of mitigation the attorneys for the defendants have sent me a letter, which I have carefully read together with Albert Bacsko's statement and the reports of the agents. However, I do not find any extenuating circumstances in this case so far as this violation is concerned. I have taken into consideration the fact that defendants have operated the licensed business since 1945.

Defendants have no prior adjudicated record. Because of the magnitude of the operation, I shall suspend their license for thirty-five days on Charge 1 (Re Guiseppi, Bulletin 1370, Item 8) and for the minimum period of ten days on Charge 2 (Re 284 Club, A Corp., Bulletin 1421, Item 4), 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.

Accordingly, it is on this 8th day of January 1962,

ORDERED that plenary retail consumption license C-23, issued by the Board of Commissioners of the City of New Brunswick to Moses & Albert Bacsko, t/a Melody Bar, for premises 106 French Street, New Brunswick, be and the same is hereby suspended for forty (40) days, commencing at 2 a.m. Wednesday, January 17, 1962, and terminating at 2 a.m. Monday, February 26, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA - EFFECTIVE DATES TO BE FIXED AFTER PREMISES HAVE REOPENED.

In the Matter of Disciplinary Proceedings against)

Ben M. Horwech)
701-703-705 Broadway)
Bayonne, New Jersey)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-108, issued by the Board of Commissioners of the City of Bayonne.)

ORDER

T. James Tumulty, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to six minors and permitted the consumption of such beverages by said minors in and upon his licensed premises, in violation of Rule 1 of State Regulation No. 20.

At 9:10 p.m., October 13, 1961, two ABC agents, while seated at the bar in defendant's licensed premises, observed two apparent minors drinking beer and a third apparent minor consuming

a mixed drink containing an alcoholic beverage. Thereafter, Harold Walsh, a bartender, served a glass of beer to each of the first two apparent minors. Three more apparent minors entered the premises and, after they took seats at the bar, John Driscoll, a bartender, served a shot of whiskey to one of them and a mixed drink containing whiskey to another. The three youths last mentioned then walked to the other side of the bar where Driscoll served the third minor a glass of beer. Thereafter, as Driscoll served beer to four of the youths, the agents identified themselves and ascertained that three were 17 years, two 18 years and one 19 years of age. Driscoll admitted serving the three 17-year-old minors, but Harold Walsh, the other bartender, could not recall serving the other minors.

Defendant's attorney has advised that on October 25, 1961, as a result of a tax lien against him by the federal authorities, defendant's place of business was compelled to cease operation. The attorney asks that any suspension to be imposed herein run concurrently with the time the defendant's business has been closed. Since there is no connection between the proceedings instituted by the federal authorities and the violation herein, I must deny such request.

Defendant has a prior adjudicated record. Under date of June 4, 1946, defendant was found guilty by the local issuing authority of employing an unqualified person, but his license was not suspended for said violation. Effective May 28, 1951, defendant's license was suspended for ten days for possession of alcoholic beverages in bottles bearing labels which did not truly describe their contents. Bulletin 908, Item 13. Inasmuch as the aforementioned dissimilar violations occurred more than five years ago, they will not be considered in fixing the penalty herein. The minimum suspension for sale of alcoholic beverages to a 17-year-old minor is twenty days. Re Greer, Bulletin 1370, Item 9. However, where, as in the instant case, there are six minors involved, three of whom were 17 years, two 18 years and the other 19 years of age, I shall suspend defendant's license for thirty-five days, less five days' remission for the plea entered herein, leaving a net suspension of thirty days. Cf. Re Landolfi, Bulletin 1165, Item 2.

Investigation discloses that defendant's premises are now closed. Thus, no effective penalty can be imposed at this time. The effective dates of the suspension, therefore, will be fixed by further order which will be entered by me after the premises shall be re-opened for business.

Accordingly, it is, on this 9th day of January 1962,

ORDERED that Plenary Retail Consumption License C-108 issued by the Board of Commissioners of the City of Bayonne to Ben M. Horwech, for premises 701-703-705 Broadway, Bayonne, be and the same is hereby suspended for thirty (30) days, the effective dates to be fixed by subsequent order, as aforesaid.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - GAMBLING (DART GAMES) - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Crescent Bar, Inc. 183 Smith Street Perth Amboy, N. J., Holder of Plenary Retail Consumption License C-101, issued by the Board of Commissioners of the City of Perth Amboy.

CONCLUSIONS

AND

ORDER

Edward A. Kopper, Esq., Attorney for Defendant-licensee Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that (1) it permitted and suffered gambling (dart games for stakes) in and upon its licensed premises, in violation of Rule 7 of State Regulation No. 20; and (2) it sold and delivered during prohibited hours alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

On Saturday, October 14, 1961, ABC agents entered defendant's licensed premises at about 9:50 p.m. and remained therein until 2 a.m. the following morning. During their stay they observed six patrons playing darts for money and saw Malcolm Silverman (president of the corporate licensee), who had been watching the players, accept some money from one of the losers. When the loser asked "Same bet?", Silverman replied "Yes" and, when the loser attempted to up the bet to "ten", Silverman said "No, five." Later, Silverman played several games with a customer who lost most of them and paid Silverman \$2 for each game lost. One of the agents asked the player how much he had lost and was informed that he had lost \$30 that night. At 11 p.m. a man entered the premises and took over as "banker" for the loser and paid to or accepted from Silverman the bets which had increased to \$4 per game. About 11:40 p.m. the agents observed a newly-arrived patron speak to Silverman and observed Silverman go behind the bar and place fourteen cans of beer in a paper bag and accept some money from the patron. When the patron left with the merchandise, the agents followed, made themselves known to him and had him return with them to the licensed premises where they identified themselves to Silverman and informed him of the violation. Silverman said "Yeah, we played a few games" and, referring to the after-hours sale, he said "Of course, I sold it. It's hard to deny. Whatever you say what time it was."

Defendant has no prior adjudicated record. I shall suspend its license for the minimum period of fifteen days on Charge 1, and for an additional fifteen days on Charge 2, making a total suspension of thirty days. Re Smith, Bulletin 1402, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 9th day of January 1962,

ORDERED that plenary retail consumption license C-101, issued by the Board of Commissioners of the City of Perth Amboy to Crescent Bar, Inc., for premises 183 Smith Street, Perth Amboy, be and the same is hereby suspended for twenty-five (25) days, commencing at 2 a.m. Monday, January 15, 1962, and terminating at 2 a.m. Friday, February 9, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary Proceedings against
Fountains of Long Branch Corp.
t/a Fountains of Long Branch Motel
160 Ocean Avenue
Long Branch, New Jersey,
Holder of Plenary Retail Consumption License C-66, issued by the Board of Commissioners of the City of Long Branch.

CONCLUSIONS

AND

ORDER

Green, Robinson & Deitz, Esqs., by Morton Deitz, Esq., Attorneys for Defendant-licensee
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On August 10, 1961, you possessed, had custody of and allowed, permitted and suffered in and upon your licensed premises, alcoholic beverages in bottles which bore labels which did not truly describe their contents, viz.,

Three 4/5-quart bottles labeled 'J. & B. Rare Blended Scotch Whisky, 86 Proof';

in violation of Rule 27 of State Regulation No. 20."

On August 10, 1961, an ABC agent tested defendant's open bottles of alcoholic beverages and seized three 4/5-quart bottles of "J. & B. Rare Blended Scotch Whisky, 86 Proof" for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of the seized bottles, when compared with the contents of a genuine bottle of the same brand, varied substantially in solids, acids and color.

Defendant has no prior adjudicated record. Defendant's attorney has advised me in writing that the licensed premises were operated under the control of a manager and that the offense could only have resulted by reason of the manager's failure adequately to supervise the operation of the licensed premises. Nevertheless, a licensee is responsible for any "refills" found upon the licensed premises. Cedar Restaurant & Cafe Co. v. Hock, 135 N.J.L. 156. I shall suspend defendant's license for twenty days, the minimum penalty imposed in "refill" cases involving three bottles. Re Giordano, Bulletin 1423, Item 7. Five days will be remitted for the

plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 10th day of January 1962,

ORDERED that plenary retail consumption license C-66, issued by the Board of Commissioners of the City of Long Branch to Fountains of Long Branch Corp., t/a Fountains of Long Branch Motel, for premises 160 Ocean Avenue, Long Branch, be and the same is hereby suspended for fifteen (15) days, commencing at 2 a.m. Monday, January 29, 1962, and terminating at 2 a.m. Tuesday, February 13, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

Note: By order dated January 23, 1962, the above order was amended to provide, in effect, that the suspension would be held in abeyance pending entry of a subsequent order. Said amended order was entered because investigation disclosed that the business was then being operated only on a limited basis.

5. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN HOME - APPLICATION OF CLAIMANT FOR RETURN OF CASH DENIED - APPLICATION OF CLAIMANT FOR RETURN OF REFRIGERATOR DENIED - ALCOHOLIC BEVERAGES AND OTHER PERSONAL PROPERTY SEIZED THEREIN ORDERED FORFEITED.

In the Matter of the Seizure) Case No. 10,646
on August 10, 1961 at 136)
Sheridan Avenue, in the Borough) On Hearing
of Seaside Heights, County of)
Ocean and State of New Jersey.) CONCLUSIONS AND ORDER

Charlie's Highway Store, by Catherine Allen, Office Manager.
Appliance Buyers Credit Corporation, by Richard Shrum.
Harry A. Duckworth, Esq., Attorney for Curllie Kaigler and Benjamin Howell.

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This matter came on for hearing pursuant to R.S. 33:1-66 and State Regulation No. 28, to determine whether a quantity of alcoholic beverages, an RCA refrigerator, other personal property and \$183.00 in cash, more particularly described in a schedule attached hereto and marked Schedule 'A', seized on August 10, 1961, at premises occupied by Curllie Kaigler located at 136 Sheridan Avenue, Borough of Seaside Heights, Ocean County, N. J., constitute unlawful property and should be forfeited.

"The seizure was made by ABC agents because of alleged unlawful sales of alcoholic beverages at the premises. When the matter came on for hearing pursuant to R.S. 33:1-66, Curllie Kaigler, represented by counsel, appeared at such hearing and sought return of the cash, as referred to hereinabove. The Appliance Buyers Credit Corporation entered an appearance, through its representative, and sought the return of the refrigerator. Forfeiture of the alcoholic beverages and the other personal property listed in the annexed schedule was not opposed.

"The file herein, which includes statements of ABC agents, a report of the analysis by the Division chemist of the seized al-

coholic beverages, and the affidavits of mailing and publication were admitted into evidence, with the consent of both claimants. This file was supplemented by the testimony of ABC agents, who were cross-examined on matters relating to the claim of Kaigler.

"From the file and the Division's witnesses, the following testimony was adduced: Acting upon a specific complaint that a speakeasy was being conducted and alcoholic beverages were being sold without a license at the hereinafter described premises, two ABC agents arrived in the vicinity of the said premises at about 1:45 A.M. on August 6, 1961. These premises consist of a three-story frame house with a white-painted front porch.

"Since the information disclosed to the agents that these alcoholic beverages were being sold after tavern closing hours, the agents stationed themselves at points of observation on this Sunday morning, and at 3:10 A.M. observed a male being admitted into the front door of said premises by some male person. Shortly thereafter another man pulled up in an automobile, rang the front doorbell and was forthwith admitted. This was immediately followed by the entry of two couples who each rang the front doorbell and were admitted by a man, subsequently identified as Curllie Kaigler, the proprietor of this speakeasy. Agent G followed these couples into the premises and entered a room adjacent to the front room, which contained a juke box and several tables at which some patrons were seated. Behind this room was a kitchen in which a female employee was preparing food.

"Agent G then sought to purchase some liquor and was refused by Kaigler who, apparently suspicious of him said 'I don't serve liquor in here'. In the meantime, Kaigler admitted additional patrons and quite obviously served alcoholic beverages on trays to these other patrons. Agent G, after purchasing some food, questioned Kaigler regarding the drinks which were served, and received the following reply, 'They're friends of mine. I give them the drinks. I don't charge them.' Agent G thereupon left the premises and re-joined Agent S.

"At 12:45 A.M. on August 10, 1961 Agents B, G, S and SP met outside the premises and Agent B had in his possession a five-dollar bill and five one-dollar bills, the serial numbers of which had been previously recorded. At 1:35 A.M. Agent B, in the company of a female companion, proceeded to the front door of the said premises, where they were admitted by Kaigler, who escorted them to a table. Agent B ordered two drinks of Seagram's VO whiskey, which he paid for with the aforementioned five-dollar bill. Kaigler took the money and proceeded to an adjoining bedroom, from which he shortly returned with two dollar bills in change. The agent ordered two more drinks of alcoholic beverages which were served to him by Kaigler, and which were paid with several of the bills given to this agent in change. He then ordered three additional drinks which he paid for with the marked dollar bills.

"Shortly after 2:00 A.M., he noted that two unidentified males entered the premises and were, in turn, served with bottles of beer. At about 2:10 A.M. Agents G, S, and SP who had, in the meantime, notified local police, entered the said premises, followed simultaneously by two local police officers who entered via the rear door. They questioned Kaigler who insisted that everyone present was a friend of his and that he served drinks without charge. At this point Agent B identified himself and directed Kaigler to produce the money in his possession. Upon his refusal, the ABC agents entered said bedroom and found \$183.00 in cash (including the marked five-dollar bill) in the pocket of a man's suit. The three marked dollar bills given to Kaigler earlier, were not located, apparently having been used by Kaigler as change for some of the other patrons.

"Kaigler was thereupon taken to the Seaside Heights headquarters where he verbally admitted selling alcoholic beverages to Agent B and his companion, but he refused to sign a written statement. He was charged with sale of alcoholic beverages without a license and possession of alcoholic beverages with intent to sell in violation of R.S. 33:1-2 and R.S. 33:1-50 (a & b). Upon arraignment in the Municipal Court of Seaside Heights, he was held in bail for action by the Ocean County Grand Jury.

"Analysis of seven specimens of alcoholic beverages were made by the Division chemist. It is sufficient to note that the contents of one of the glasses purchased by Agent B, when analyzed by the said Division chemist, proved that it was an alcoholic beverage containing whiskey and water, fit for beverage purposes, with an alcoholic content by volume of 8.5 per cent.

"The records of this Division disclose that no license was issued to Kaigler or the premises hereinabove described, for the sale of alcoholic beverages. Thus, the said alcoholic beverages and personal property and the cash constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y); R.S. 33:1-2; R.S. 33:1-66.

"In support of the claim by Kaigler for the cash which was seized on the day herein, Benjamin Howell testified that he was a friend of Kaigler and visited him about 3:00 P.M. on the day prior to the raid. He rented a room for the night from Kaigler for which he paid him \$10.00. He further testified that at 11:00 P.M. of the evening before the raid, he returned after drinking almost steadily at a bar between 3:00 P.M. and 11:00 P.M. and then turned the money over to Kaigler. Upon cross-examination Howell admitted that he did not count the money and that he wasn't entirely sure of what happened at 11:00 P.M. because he had been drinking steadily up to the time that he decided to give him the money for safe-keeping.

"Kaigler testified as follows in support of his claim: On August 10, 1961 at 2:00 A.M. Agent B accompanied by a young woman, awakened him and asked for a room. After some discussion the agent requested change which he used to play the juke box. Kaigler entered a bedroom for this accommodation, and returned with the said change. During the raid agents entered the same bedroom and took \$230.00 from his coat which was hanging on the wall of the said bedroom. This money represented the sum which was entrusted to him by his friend, Howell, and he was certain of the amount although no receipt was given therefor. He stated that he had received this money from Howell at about 3 or 3:30 P.M. on the previous afternoon. He denied that he put any money in the coat heretofore referred to, at any time after the agents entered his premises, or that the money was counted in his presence. Upon cross-examination, Kaigler admitted that he had two prior convictions for operating a speakeasy and selling alcoholic beverages without a license; that he has recently been indicted for a similar offense which occurred in July 1960, on which he is now awaiting trial in the Ocean County Court. He admitted that he was serving drinks on this occasion but alleged that he did not charge any money for the said drinks. He denied that he went into the bedroom to take any change. He further denied that the money was counted in his presence and that he opened a cabinet with a key, which cabinet was located in the bedroom and contained between \$40.00 and \$50.00 in silver coins.

"Upon further questioning, Kaigler admitted that at no time did he tell any of the ABC agents that the money found in his clothing in the bedroom belonged to Howell, but stated that he did mention that fact to one of the police officers.

"The Division called as its witnesses Agents S, SP, B and G. Their testimony can be briefly summarized as follows: Immediately after the agents identified themselves, Kaigler was directed to return the five-dollar marked bill. This he refused to do and Agent B, thereupon, went into the bedroom to search for it. The reason for this was that during the course of the evening Kaigler had been observed to enter that room on a number of occasions for the purpose of making change and depositing monies which he received. Agent B testified that he found \$183.00 in a jacket pocket hanging on the left wall of said bedroom, which included the five-dollar marked bill. During this search he was accompanied by Agent G, while Agent SP observed the proceedings in the doorway. No money was taken from the person of Kaigler. The money taken from the bedroom was counted by Agent S and Sergeant Polehumus of the local police department in the presence of the ABC agents, police officers and Kaigler.

"A complete inventory was made of this money which said inventory was admitted into evidence. This inventory list includes the five-dollar bill containing the same serial number as that reflected on the list in the possession of the ABC agents.

"The testimony of the other ABC agents substantially corroborated in every particular the testimony of Agent B and of Agent S with respect to the seizure. After a consideration of all of the testimony and exhibits herein I am persuaded that the version of what transpired on these premises on this date as given by the Division's agents was a convincing and credible portrayal of what transpired on this date. I do not believe that these agents were in a conspiracy against this claimant, and their narrative is both believable and realistic.

"I do not believe Howell's testimony with respect to his alleged depository of monies with Kaigler. I think it is significant that Howell testified that he had been drinking so heavily that he didn't really remember what happened that evening. It strains credulity to suggest that on this occasion, and for the very first time, Howell would turn over an uncounted and undetermined sum of money to Kaigler without even receiving a receipt therefor. Such behavior would be inconsistent with human experience and would, in my opinion, be highly incredible. Howell certainly did not know where his money was being placed by Kaigler and since there were other persons in the household at the time, with free access to the entire premises, there is no basis for assuming that his money was in safe-keeping and protected from such other persons.

"Kaigler's testimony is entirely unworthy of belief. His previous convictions of crime, in my judgment, affected his credibility as a witness and the apparent contradictions in his testimony sustain such judgment. These convictions all tend to support a common scheme of Kaigler, in operating a speakeasy, where he sold alcoholic beverages. I do not believe his testimony that he did not charge for drinks to all of the patrons on this evening; that he did not enter the bedroom at any time; that the marked five-dollar bill was not found among the other monies; that the money was not counted in his presence. Such testimony was directly contrary to the testimony of all of the Division's witnesses and was not fortified either with logic, understandable human behavior or credibility.

"The contention therefore that this money was improperly seized is without merit because I have concluded that this money belonged in fact to this claimant and was seized as part of the property in the premises. Re Seizure Case No. 10,203, Bulletin 1401, Item 4; Seizure Case No. 10,500, Bulletin 1411, Item 6. This

money was clearly commingled with the marked money and is subject to forfeiture. Seizure Case No. 10,349, Bulletin 1366, Item 2; Seizure Case No. 9382, Bulletin 1179, Item 5.

"I therefore recommend that the claim of Curllie Kaigler for the return of the monies in question be denied and that an Order be entered forfeiting same. Seizure Case No. 9653, Bulletin 1231, Item 8; R.S. 33:1-1(y); R.S. 33:1-2; R.S. 33:1-66.

"The Appliance Buyers Credit Corporation produced two witnesses in support of its claim to an RCA refrigerator which was seized on the premises on the above date. It appears that this refrigerator was purchased from Charlie's Highway Store and at the time of the signing of the contract a credit application was submitted by Charlie's to the said claimant. The claimant rejected the credit application of Kaigler because it had ascertained through its investigation that Kaigler was going to lose his winter job with the Pennsylvania Railroad, due to a policy cut in personnel. Thereafter it purchased the contract upon the assumption by the retailer of full recourse liability in case of default by the purchaser. The credit investigation disclosed that Kaigler operated a rooming house in the summer time, but there was no information made available to them with respect to his prior liquor law violations. Richard Shrum, the representative of the claimant, was then asked on cross-examination the following:

'Q Are you here, Mr. Shrum, to present a claim for return of the refrigerator?

A As far as ABCC knows he is making his payments and wants to keep the refrigerator.

Q What is the purpose that you are here?

A I am supposed to state that we know nothing about this other business that he was in. We checked out and find out what is on the credit application.

Q So you are not sent here to claim the return of the refrigerator?

A No.'

"In view of this testimony, which clearly indicates that, of the date of this hearing, this claimant has made no valid claim, nor indeed, is it entitled to claim the said personal property, it is recommended that its claim be disallowed. I therefore recommend that all of the personal property, including the alcoholic beverages and cash, as set forth in Schedule 'A', annexed hereto, be forfeited, and that an Order be accordingly entered forfeiting all of the seized property."

No exceptions were taken to the Hearer's Report within the time limited by Rule 4 of State Regulation No. 28.

After carefully considering the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and I adopt them as my conclusions herein.

Accordingly, it is on this 5th day of January, 1962,

DETERMINED and ORDERED that the seized property, including the \$183.00 in cash, more fully described in Schedule "A" attached hereto, constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66 or retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS
DIRECTOR

SCHEDULE "A"

5 - bottles of whiskey
1 - bottle of gin
4 - nips of beer
1 - RCA refrigerator
1 - A.M.I. juke box
1 - electric fan
28 - chairs
5 - tables
\$183.00 in cash

6. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION INTO NEW JERSEY OF ALCOHOLIC BEVERAGES - MOTOR VEHICLE RETURNED TO INNOCENT OWNER UPON APPLICATION IN ADVANCE OF STATUTORY HEARING.

In the Matter of the Seizure)	Case No. 10,735
on December 22, 1961 of a quantity)	
of taxpaid alcoholic beverages and)	APPLICATION FOR RETURN
an Oldsmobile sedan at 88 So. Myrtle)	OF SEIZED PROPERTY IN
Street, in the City of Vineland,)	ADVANCE OF STATUTORY
County of Cumberland and State of)	HEARING
New Jersey.)	
-----)	CONCLUSIONS AND ORDER

Silvio Mazzochi, Pro Se.
Gerard Nesi, Pro Se.

BY THE DIRECTOR:

Application has been made pursuant to Rule 1 of State Regulation No. 28 for the return of property seized in the case in advance of statutory hearing.

It appears that on the above date and location two ABC agents observed Silvio Mazzochi drive the motor vehicle in question into the driveway of premises 88 South Myrtle Street, Vineland. The agents found 61 bottles of taxpaid whiskey in rear of the car and in the trunk of the same. The car bore New Jersey license plates CJO-847 registered in the name of Gerard Nesi of Vineland.

Upon questioning Mr. Mazzochi, the agents learned that he had transported the alcoholic beverages from Washington, D.C. and that Mazzochi did not have a New Jersey license or permit to transport the alcoholic beverages into this State. The agents thereupon took possession of the alcoholic beverages and the motor vehicle.

At the hearing held herein Mazzochi testified that for the past seven years he has been employed as a typesetter by the United States Government in Washington, D.C. that he has, on occasion, transported one or two bottles of whiskey for his personal use from Washington; that on Sunday, December 17, 1961, prior to leaving his home for Washington, he had been requested to purchase alcoholic beverages in Washington where the prices are lower by Emilie Davis, his sister, Caesar Mazzochi and Harry Mazzochi, his brothers and

Catherine Mazzochi, his mother; that exclusive of the alcoholic beverages which he had purchased for himself and his mother the seized whiskey belonged to the aforementioned relatives who had paid for the same; that the seized alcoholic beverages were purchased for the personal use of the aforementioned and for distribution as Christmas gifts.

In support of his contentions, Silvio Mazzochi produced five separate invoices from which it appears that he had purchased the seized alcoholic beverages from a retail licensee in Washington.

Mazzochi further testified that he is the owner of an automobile which was in disrepair on December 17th aforesaid; that he borrowed the seized automobile from his half brother, Gerard Nesi; that Nesi did not know nor did he tell him that he intended to use the automobile to transport alcoholic beverages from Washington; that at the time of his departure on December 17th he had no intention of using the car for that purpose; that the reason he borrowed the car was to avoid heavy holiday train traffic; that he had never purchased any whiskey for Nesi and that he had never been involved in any illicit liquor traffic prior to the time in question.

Gerard Nesi testified that he is 50 years of age; that for the past 46 years he had resided in Vineland; that he is married and lives with his wife and two children; that for the past 30 years he has been regularly employed as a clothing presser; that he has never been involved in any illicit liquor traffic; that upon advice of his doctor he has been prohibited from drinking any alcoholic beverages; that prior to the time in question he has never loaned his car to Silvio Mazzochi to travel to Washington; that he did not know that Mazzochi intended to use the car for the purpose of transporting alcoholic beverages; that he knows it is unlawful to transport alcoholic beverages in an automobile without a license and that if he had any suspicion that Mazzochi intended to use the car to transport alcoholic beverages he would not have permitted him to use the same.

I am satisfied that Gerard Nesi acted in good faith and did not know or have any reason to suspect that Silvio Mazzochi would use the car to transport alcoholic beverages in violation of the law. The Oldsmobile will therefore be returned to Gerard Nesi upon the payment of the costs of its seizure and storage.

So far as the alcoholic beverages are concerned, opportunity will be afforded the various individual claimants to obtain, pursuant to R.S. 33:1-2 and following payment of the State taxes required under the Alcoholic Beverage Tax Act, the necessary special permits at the statutory fee of \$5.00 each to cover the importation of such beverages for the personal use of the individual claimants. In addition, Silvio Mazzochi will be required to apply for and obtain a special permit to validate his unauthorized transportation of these alcoholic beverages on behalf of the individual claimants, the fee for which shall be \$25.00. The aforesaid permit applications and fees, and the payment of State taxes shall be made within 30 days from the date hereof, moreover that the alcoholic beverages shall not thereafter be released to the claimants until such time as the Prosecutor of Cumberland County may notify me that the alcoholic beverages are no longer needed for evidential purposes and the then payment of the costs of seizure and storage of such alcoholic beverages.

Accordingly, it is DETERMINED and ORDERED that if on or before the 12th day of January, 1962 Gerard Nesi pays the costs incurred in the seizure and storage of the Oldsmobile sedan described in Schedule "A" attached hereto, such motor vehicle will be returned to him.

Dated: January 11, 1962

WILLIAM HOWE DAVIS
DIRECTOR

SCHEDULE "A"

1 - Oldsmobile sedan, Serial No. 09944, New Jersey Registration CJO-847.

7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
Nan-Max Co., Inc.
202 Perry Street
Trenton 8, N. J.
Holder of Plenary Retail Consumption License C-257, issued by the Board of Commissioners of the City of Trenton.

CONCLUSIONS
AND
ORDER

Emanuel Kaplan, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On Saturday, October 14, 1961 at about 11:06 P.M., you allowed, permitted and suffered the removal from your licensed premises of an alcoholic beverage in an opened container, viz., an alcoholic beverage in an opened pint bottle labeled Four Roses Blended Whiskey; in violation of Rule 1 of State Regulation No. 38."

On the evening of Saturday, October 14, 1961, an ABC agent entered defendant's premises. At about 11:05 p.m., the agent asked one of the bartenders (Ben Moskowitz, holder of 50% of defendant's stock) for "a pint of Roses to go". Moskowitz took a \$5 bill from the agent, gave him some silver in change and requested the agent to let him know when he was ready to leave. The agent engaged in a short conversation with another bartender (Thomas Rowley) who took a pint bottle of Four Roses Whiskey from the back bar, broke the seal on the bottle and accompanied the agent to the front entrance, where he handed the bottle to the agent as he left the premises. The agent then met another ABC agent, who had remained outside. Both agents entered the premises and identified themselves to the two bartenders, who verbally admitted the sale.

Defendant has no prior record. I shall suspend defendant's license for the minimum period of fifteen days. Re Harris, Bulletin 1418, Item 5. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 8th day of January 1962,

ORDERED that Plenary Retail Consumption License C-257, issued by the Board of Commissioners of the City of Trenton to Nan-Max Co., Inc., for premises 202 Perry Street, Trenton, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, January 15, 1962 and terminating at 2:00 a.m., Thursday, January 25, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Alphonso Colucci)
t/a Donato Colucci & Sons)
31 Joseph Street)
Newark 5, New Jersey)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-498, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

ORDER

Defendant-licensee, Pro se.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he possessed on his licensed premises alcoholic beverages in bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

On November 27, 1961, an ABC agent tested defendant's open bottles of alcoholic beverages and seized a 4/5 quart bottle of "Seagram's Seven Crown American Blended Whiskey, 86 Proof" and a quart bottle of "Schenley Reserve Blended Whiskey, 86 Proof" for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of both of the seized bottles, when compared with the contents of genuine bottles of the respective brands, varied substantially in solids and the contents of the Schenley whiskey also varied in color.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days, the minimum penalty imposed in "refill" cases involving two bottles. Re Rost, Bulletin 1420, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is on this 4th day of January 1962,

ORDERED that Plenary Retail Consumption License C-498, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Alphonso Colucci, t/a Donato Colucci & Sons, for premises 31 Joseph Street, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m., Monday, January 15, 1962 and terminating at 2:00 a.m., Thursday, January 25, 1962.

WILLIAM HOWE DAVIS
DIRECTOR

9. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS - SECOND SIMILAR VIOLATION DURING 5 YEARS - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Mary H. Lynch)
t/a Lynch's Cafe)
938 N. 3rd Street)
Camden 2, N. J.,)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption License C-196, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.)

ORDER

Cahill, Wilinski, Uliase & Mohrfeld, Esqs., by Robert Wilinski, Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that she sold, served and delivered and suffered and permitted the sale, service and delivery of alcoholic beverages during prohibited hours, in violation of the provisions of a local ordinance.

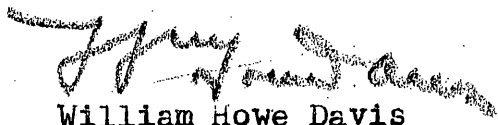
Section 5 of an ordinance adopted by the Board of Commissioners of the City of Camden on December 27, 1934, prohibits the sale, service and delivery of alcoholic beverages between 2 a.m. and 7 a.m. on weekdays.

Two ABC agents were in defendant's premises on the early morning of Saturday, December 16, 1961. At about 2 a.m. the licensee extinguished all lights in the barroom but did not extinguish the light in the kitchen. At 2:15 a.m. the two agents, who had been permitted to remain in the licensed premises, each purchased from the licensee a glass of beer. Five minutes later two other ABC agents entered, and all agents identified themselves to the licensee and informed her of the violation.

Defendant has a prior record. Effective March 10, 1958, her license was suspended by the Director for fifteen days, less five for the plea, for selling alcoholic beverages during prohibited hours, in violation of Rule 1 of State Regulation No. 38. Bulletin 1220, Item 8. In attempted mitigation the attorney for defendant alleges that she thought her clock was set far enough ahead to permit her to make the sales before the closing hour. This could scarcely be accepted as an excuse in any case and particularly in this case where it appears that she extinguished the lights in the barroom at 2 a.m. The minimum suspension for sale during prohibited hours is fifteen days. Since this is a second similar violation within the past five years, I shall suspend defendant's license for thirty days. Re Corris & Riccardi, Bulletin 1407, Item 8. Five days will be remitted for the plea, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 15th day of January 1962,

ORDERED that plenary retail consumption license C-196, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Mary H. Lynch, t/a Lynch's Cafe, for premises 938 N. 3rd Street, Camden, be and the same is hereby suspended for twenty-five (25) days, commencing at 7 a.m. Monday, January 22, 1962, and terminating at 7 a.m. Friday, February 16, 1962.



William Howe Davis
Director