

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

BULLETIN 1233

JULY 22, 1958.

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MEMORANDUM FOR THE RECORD
SUBJECT: [Illegible]

1. [Illegible]

[The remainder of the page contains several paragraphs of extremely faint, illegible text, likely representing the main body of a memorandum or report.]

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

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JULY 22, 1958.

1. APPELLATE DECISIONS - ABRAHAM ET ALS. v. CAMDEN AND WALDORF LIQUOR COMPANY.

HOWARD, INC. v. CAMDEN AND WALDORF LIQUOR COMPANY.

VIOLA ABRAHAM, CHARLES J. ABRAHAM,)
JENNIE VICKERS, WILLIAM VICKERS,)
LAURA CLARK, MAGGIE PETERSON, MILA)
PHIFER, JERRY PHIFER, ROBERT HAINES,)
HILDA ZILCH, PETER STAHL and MARION)
BARTLETT, WILLIAM KINTZEL and BETTY)
SMITH and ELLA R. HOSKINS,)
Appellants,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE)
CONTROL OF THE CITY OF CAMDEN, and)
WALDORF LIQUOR COMPANY,)
Respondents.)

CONCLUSIONS
AND
ORDER

HOWARD, INC., trading as MODERN LIQUOR,)
Appellant,)

-vs-

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE)
CONTROL OF THE CITY OF CAMDEN, and)
WALDORF LIQUOR COMPANY,)
Respondents.)

Carlton W. Rowand, Esq., Attorney for the Appellants Viola
Abraham et als.
Mark Marritz, Esq., Attorney for the Appellant Howard, Inc.
Norman Heine, Esq., City Counsel, by Louis L. Goldman, Esq.,
Assistant City Counsel, Attorney for the Respondent
Municipal Board of Alcoholic Beverage Control of the City
of Camden.
Anthony M. Lario, Esq., Attorney for the Respondent Waldorf
Liquor Company.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Both of the above appeals, consolidated for hearing and determination, are taken from the action of respondent Board on January 7, 1958 whereby, by unanimous vote of the two members present, it granted an application filed by respondent Waldorf Liquor Company for transfer of its plenary retail consumption license from premises 1921 South 4th Street to 4100 Federal Street, Camden.

"Although none of the objectors appeared at the hearing on the application before the local Board, the appeal was heard de novo, pursuant to Rule 6 of State Regulation No. 15, and the facts presented at such appeal hearing are controlling.

Haines v. Pemberton Township, Bulletin 869, Item 12; Watson et al. v. Camden and Valentine, Bulletin 1010, Item 1; Market Street Merchants Association v. Passaic and Kuter, Bulletin 1144, Item 2.

"The substance of the allegations in each petition of appeal is that the prior location of the license was in a mixed industrial and residential neighborhood, whereas the proposed location is in a sparsely settled entirely residential area which is presently adequately served by eight retail licensees within a radius of six squares, and, additionally, its location there would create or increase a traffic hazard.

"Respondent licensee in its answer alleged that the respondent Board did not abuse its discretion and was legally justified in granting the application.

"The block wherein the proposed licensed premises is to be situated is irregular in shape, bounded on the north by Federal Street, on the west by 41st Street, on the east by Crescent Boulevard, also known as Route 130, and on the south by Myrtle Avenue. In this block there is an apartment house, a White Tower restaurant, a diner, a paint shop and a few homes. The proposed licensed premises are about 150' from Crescent Boulevard which is a main, heavily traveled highway. Federal Street is also a main artery.

"Thirty-sixth Street forms the base of an area in Camden somewhat in the shape of a peninsula, bounded by Federal Street, Crescent Boulevard and Myrtle Avenue. The center line of Federal Street on the north and the south line of Myrtle Avenue on the south in this area are the boundary lines between Camden and the adjoining township of Pennsauken. A tavern is located on Federal Street near the corner of 27th Street, Camden. There are no other licensed retail liquor establishments in Camden along Federal Street from this point to Crescent Boulevard.

"Evidence has been presented that Federal Street from 27th Street to 34th Street, Camden, is mostly residential; and that from 34th Street to 36th Street there are mostly stores. From 36th Street to Crescent Boulevard on the Pennsauken side of Federal Street there is a cafe, empty lot, empty building, row of houses, empty lot, cafe on 39th Street, armory, auto accessory store and the Penn-Fruit Super Market, which includes a package liquor store, a hardware store, tailor shop and bootblack. On the south side of Federal Street there is a high school located between 31st and 32nd Streets; thence, continuing along the south side of Federal Street there is a roofing establishment, barber shop, motor repair shop, confectionery store and an old Civil War cemetery from 38th Street to the vicinity of 41st Street. A triangular area of considerable size located in Camden, extending from 27th to 41st Streets south of Federal Street and bounded on the south by Myrtle Avenue and Highland Avenue, appears to be mainly residential.

"Despite the fact that the nearest licensed tavern in Camden in this area is located at 27th Street, appellants urge that there are sufficient licenses located nearby in Pennsauken to provide for the liquor needs of the residents in the Camden area and that this fact should be taken into consideration.

"These licensed premises, said to be seven in number, consist of the tavern on 36th and Federal Streets; the tavern on 39th and Federal Streets; and the package store at the intersection of Federal Street and Crescent Boulevard and 42nd

Street; a tavern on Crescent Boulevard approximately two blocks north of Federal Street; a tavern corner of 42nd Street and Crescent Boulevard about a block and a half from Federal Street; a package store on Maple Avenue (the extension of Federal Street in the adjoining municipality of Merchantville) three or four blocks distant from the proposed licensed premises; and a package store on Crescent Boulevard below 34th Street.

"Seven persons, two of whom reside in the apartment house on Federal Street and the others reside in the immediate vicinity in Camden, testified in objection to the transfer of the license. All of these witnesses testified in substance that they were of the opinion that the aforementioned liquor establishments in Pennsauken were sufficient for the needs of the community and, further, that there is a traffic congestion in the area of Federal Street and Crescent Boulevard without sufficient parking area at the proposed new premises and, therefore, its location there would create or increase the traffic hazard. It was stipulated that eight other objectors present, who reside in the immediate vicinity in Camden, if called upon would testify to the same effect as the other objectors. In addition, the Clerk of the Township of Pennsauken presented in evidence a copy of a formal resolution of the Township Committee which, at the suggestion of the attorney for appellant, Howard, Inc., was formally adopted objecting to such transfer for the stated reason that its licensed premises on Federal Street and Crescent Boulevard (the package store distant approximately 75 feet; the tavern distant approximately 475 feet; the other tavern distant approximately 1400 feet; and another tavern on Crescent Boulevard approximately 450 feet from the proposed licensed premises) were sufficient to serve the area.

"A member of the respondent Board testified in substance that he inspected the proposed location and considered Federal Street a business or commercial area with a residential area to the south, the only one in Camden with room for development; that he came to the conclusion that a need and necessity existed for a license in that location, because of the homes located in that area and the possible transient business represented by traffic; that in his opinion the location of the licensed premises at that point would not add to the traffic congestion; and that he was aware of the presence of the licenses in the vicinity on Federal Street in Pennsauken but did not know the type of clientele they had and was in the main concerned with the needs of the residents of the area of Camden in the immediate vicinity.

"Assuming that the presence of the above mentioned licensed premises in Pennsauken are to be considered in evaluating whether such licenses are sufficient to meet the liquor requirements of the residents of the Camden area, it is appropriate to compare the transfer of a plenary retail consumption license, affirmed on appeal, Prior & Kesse v. Clifton & Guilliano, Bulletin 1072, Item 2. In that case it was alleged that the needs of the public and neighborhood were amply provided for by twelve plenary retail consumption taverns on the street to which the license was transferred, all within approximately one-half mile therefrom. There were no licensed premises within 1000 feet of the proposed premises.

"It was held in the cited case:

'The decision as to whether or not a transfer will be granted rests within the sound discretion of the local issuing authority in the first instance. Tolen v. Kearny et al., Bulletin 880, Item 1; Nichols et al. v. Mantua et al., Bulletin 852, Item 2; Byrne v. Belleville et al., Bulletin 851, Item 4.

'The question as to whether licensed premises should be permitted in a section of a mixed residential and business character, as this appears to be, is primarily to be determined in the sound discretion of the local issuing authority. So also is this true of the question of the number of licensed premises which should be permitted in such a section. Londa v. Elizabeth et al., Bulletin 901, Item 1.'

"From the evidence presented in the instant case, there is no indication that the action of the respondent Board was improper, arbitrary, or so unreasonable as to amount to an abuse of discretion warranting the reversal of its action.

"In view of my opinion that the evidence establishes that the respondent Board was justified to conclude that there would not be an undue concentration of licensed premises by the location of a new license at the premises in question, it is not necessary to determine whether, as quoted in Duffy and Collins v. Mount Laurel Township and Sclaroff, Bulletin 969, Item 1, objections coming from or in behalf of another municipality may well be considered as a matter of comity or neighborliness but have no mandatory extra-territorial effect, or whether the principle of zoning cases, as recently stated in Cresskill v. Dumont, 15 N. J. 238 is applicable. In that case the Supreme Court said at page 247:

'...At the very least Dumont owes a duty to hear any residents and taxpayers of adjoining municipalities who may be adversely affected by proposed zoning changes and to give as much consideration to their rights as they would to those of residents and taxpayers of Dumont. To do less would be to make a fetish out of invisible municipal boundary lines and a mockery of the principles of zoning.'

"The likelihood of an increased traffic hazard in the vicinity of the proposed premises, if the license is located there, is not established by convincing evidence, especially since various parking facilities are available at other places of business in the vicinity as well as some parking facilities at the new licensed premises.

"The burden of establishing that the respondent's action was erroneous and should be reversed rests with the appellant. Rule 6 of State Regulation No. 15. Under all the facts and circumstances in this case, I am of the opinion that appellants have failed to sustain this burden. I therefore recommend that an order be entered affirming its action and dismissing the appeals."

Written exceptions to the Hearer's Report and written argument with respect thereto were filed with me by the attorney for appellant Howard, Inc., pursuant to Rule 14 of State Regulation No. 15.

I have carefully considered such exceptions in the light of the entire record herein, including the transcript of the

testimony and the Hearer's Report, particularly wherein it is stated in such exceptions that the Hearer refused "to consider the expression of the governing officials of the Township of Pennsauken". The contrary would appear to be true from a careful reading of the report; furthermore, it would appear from the testimony of the Clerk of Pennsauken that the resolution of the governing body (referred to in Page 4 of the Hearer's Report) was passed as the result of a written request from a licensee of the municipality, and did not represent any particular expression of opinion of other residents of the community.

I agree with the Hearer in his findings of fact with respect to the action of respondent Board, and affirm their action as recommended in the Hearer's Report.

Accordingly, it is, on this 10th day of June, 1958,

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control of the City of Camden be and the same is hereby affirmed and that the appeals herein be and the same are hereby dismissed.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - CONTRACEPTIVES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
MARTIN GERTMAN
t/a MARTIN'S TAVERN
107-109 Brunswick Avenue
Trenton 8, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-10, issued by the Board of Commissioners of the City of Trenton.

-----)
Levy, Levy and Albert, Esqs., by I. Herbert Levy, Esq.,
Attorneys for Defendant-licensee.
David S. Piltzer, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. On May 3, 1958, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Joseph ---, age 19, and Charlotte ---, age 20, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.

"2. On May 3, 1958, you possessed and allowed, permitted and suffered prophylactics against venereal disease and contraceptives and contraceptive devices in and upon your licensed premises; in violation of Rule 9 of State Regulation No. 20."

The file herein discloses that during the evening of May 3, 1958, an ABC agent observed a bartender employed by defendant serve a bottle of beer apiece to a female and to a male patron who appeared to be minors. The agent left the premises but returned shortly thereafter with another agent and both identified themselves to the minors and to the bartender who had made the service of the beer. The agents questioned the female and male patrons in question and ascertained that the girl was 20 and the boy was 19 years old.

During the course of the investigation of the back bar of defendant's premises, the agents found a cardboard box containing 20 packages (three to a package) of contraceptive devices.

I have examined the statement of defendant's attorneys with reference to Charge 1 but there appears to be no extenuating circumstances set forth therein which would impel me to lessen the established minimum penalty for such violation.

Defendant has no prior adjudicated record. I shall suspend defendant's license on Charge 1 for sale and service of alcoholic beverages to two minors of the ages of those now under consideration for fifteen days (Re Monterey Enterprises, Inc., Bulletin 1188, Item 8) and for an additional ten days on Charge 2 (Re Rigoletti, Bulletin 1157, Item 11), making a total suspension of twenty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 29th day of May, 1958,

ORDERED that Plenary Retail Consumption License C-10, issued by the Board of Commissioners of the City of Trenton to Martin Gertman, t/a Martin's Tavern, for premises 107-109 Brunswick Avenue, Trenton, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. June 6, 1958, and terminating at 2:00 a.m. June 26, 1958.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 25 DAYS.

In the Matter of Disciplinary Proceedings against)

BARNELL CORP.)
t/a BARNELL LOUNGE)
267 Oak Street)
Passaic, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-151, issued by the Board of Commissioners of the City of Passaic.)

Defendant-licensee, by Carrie Barber, President.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to a charge alleging that it sold, served and delivered alcoholic beverages to three minors, and permitted the consumption of such beverages by such minors in and upon its licensed premises, in violation of Rule 1 of State Regulation No. 20.

"At the hearing herein the Division presented the testimony on its behalf of Gloria ---, age 17, Dolores ---, age 17, Peter ---, age 19, Frederick ---, an adult, and that of an ABC agent.

"Gloria testified in substance that between 12:30 and 1:00 a.m. on Saturday morning, January 11, 1958, she, Dolores, Peter and Frederick arrived at defendant's licensed premises in a motor vehicle; that Peter and Frederick said they were going to park the car and the girls entered the premises; that they took seats at a table but soon joined two men at the bar who asked them if they wanted a drink; that at the bar the girls were each served by a male bartender with a drink of Seagram's whiskey and Seven-Up, which they drank; that she is not sure whether they had a second drink; that about one-half hour later Peter and Frederick entered and the girls joined them at a table and Gloria consumed another drink of Seagram's whiskey and Seven-Up and a bottle of beer; that she thinks that Dolores was served with similar alcoholic beverages; that she does not remember what Peter drank; that the drinks of alcoholic beverages were placed on the table while she was dancing; that she does not remember what the bartender looked like; that the bartender did not ask her age or request her to sign any written representation thereof; and that they remained in the premises until about 2:45 a.m.

"Dolores testified substantially to the same effect and added that she and Gloria had two rounds of alcoholic beverages at the bar; that Peter was served with beer; that the bartender brought the alcoholic beverages to them at the table; and that she thinks that John Barber was the bartender.

"Peter testified that he and Frederick brought the girls to defendant's licensed premises on the morning in question, drove away to keep an appointment, returned and entered such premises at about 1:30 a.m. and took seats with the girls at

a table. Further, that he was served with and drank two bottles of beer, Gloria had a drink of Seagram's and Seven-Up and a bottle of beer and Dolores and Frederick each had two bottles of beer; that such beverages were brought to the table by the bartender, who did not ask any of the group their age, request identification or signatures to any written representation as to age, and that he could not identify the bartender.

"It was stipulated that, if called, Frederick would testify on direct to substantially the same effect. On cross-examination, he identified John Barber as the bartender who served the drinks.

"An ABC agent testified that he accompanied Gloria and Dolores on January 14, 1958 to defendant's licensed premises which the girls identified as the place where they had been served alcoholic beverages on January 11, 1958 but they could not identify John Barber as the bartender who had served such drinks; that on January 15, 1958 he accompanied Peter to such premises which Peter likewise identified as the place where the group had been served alcoholic beverages, but he could not identify John Barber as the bartender, and accompanied Frederick on January 22, 1958 who likewise identified the premises and, in addition, identified John Barber as the bartender who had served alcoholic beverages to him and Gloria, Dolores and Peter on January 11, 1958.

"John Barber, Carrie Barber and Margaret Johnson, Carrie's cousin, who is a part-time helper at the licensed premises, each testified that the licensed premises were closed at about 1:15 a.m. on Saturday morning, January 11, and Sunday morning, January 12, 1958, and that they had never seen Gloria, Dolores, Peter or Frederick at such premises. John Barber was vague in his testimony at first fixing the date of closing as Saturday night-- Sunday morning, then changing his account and stating that the premises were closed at 1:15 a.m. on Friday night--Saturday morning and also on Saturday night--Sunday morning. Carrie mentioned two girls being there on the night in question although similarly maintaining that the premises were closed at 1:15 a.m., while Margaret testified that she was at the premises Friday night from 9:00 p.m. until 1:15 a.m. Saturday morning and that there were no customers there.

"Considering all the facts and circumstances, I do not believe that the categorical denial of the licensee's witnesses that the three minors and adult in question were there and the claimed closing of the licensed premises at 1:15 a.m. should be accepted in the face of the clear and positive testimony of the three minors and the adult, all of whom it is admitted had no apparent reason to accuse the licensee unjustly. The failure of the minors to identify the bartender is not fatal. Re Hilliard, Bulletin 1206, Item 2.

"In my opinion the Division has established the guilt of the defendant by a preponderance of the believable evidence.

"The defendant has no prior adjudicated record. I recommend that the defendant be found guilty and that an order be entered suspending its license for the period of twenty days for sale to a 17-year-old minor, Re Mitchell, Bulletin 1214, Item 3, to which five days should be added because three minors were involved, Re Belann Tavern, Inc., Bulletin 1211, Item 8,

making a total suspension of twenty-five days."

No exceptions were taken to the Hearer's Report within the time limited by Rule 6 of State Regulation No. 16.

After carefully considering the facts and circumstances herein, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 2nd day of June, 1958,

ORDERED that Plenary Retail Consumption License C-151, issued by the Board of Commissioners of the City of Passaic to Barnell Corp., t/a Barnell Lounge, for premises 267 Oak Street, Passaic, be and the same is hereby suspended for the balance of its term, effective 3:00 a.m. June 9, 1958, and it is further

ORDERED that any renewal for the 1958-59 licensing year or transfer of said license shall be and remain under suspension until 3:00 a.m. July 4, 1958.

WILLIAM HOWE DAVIS
Director.

- 4. DISCIPLINARY PROCEEDINGS - FALSE ANSWERS IN APPLICATION - FAILURE TO NOTIFY ISSUING AUTHORITY OF CHANGE IN APPLICATION - AIDING AND ABETTING NON-LICENSEE TO EXERCISE PRIVILEGES OF LICENSE - ILLEGAL SITUATION CORRECTED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

ORDINE FIGLI DI AGIRA MUTUO SOCCORSO)
103 Fourteenth Avenue)
Newark 3, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Club License CB-21, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

Philip Insabella, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging in substance that: (1) it falsified its license application dated May 21, 1957 by failing to disclose the interest of one Luca Spampinato in the license sought by said application; (2) it falsely denied an agreement to permit Luca Spampinato to retain all the profits from the licensed business after payment to it of a fixed monthly fee, each in violation of R. S. 33:1-25; (3) it failed to notify the Municipal Board of Alcoholic Beverage Control of the City of Newark that about June 1957 it agreed to permit Epifanio (or Frank) Ruisi, instead of Luca Spampinato, to retain all of the profits of the licensed business after payment to it of a fixed monthly fee, in violation of R. S. 33:1-34, and (4) during June 1957 and for several years prior thereto and until October 13, 1957, it aided and abetted Luca Spampinato and Epifanio (or Frank) Ruisi, successively, to exercise the rights of its club license, in violation of R. S. 33:1-52.

The facts disclosed by the file herein establish that, in effect, the license was first "farmed out" to Luca Spampinato and then to Epifanio (or Frank) Ruisi. The details as appear from a signed, sworn statement of the recording secretary of the club, made in the presence of its president and treasurer and countersigned by them, are as follows:

For the past five or six years and until June 1957, Luca Spampinato, one of its members, was operating the bar for which he paid the club \$30.00 a month, reduced in April 1957 to \$25.00. Spampinato gave the club money to pay the liquor and beer bills and the club paid such bills from its checking account. Any profits from the conduct of the business were retained by Spampinato as compensation for his efforts. Spampinato died in June 1957 and a similar arrangement was made with Epifanio (or Frank) Ruisi, who is also a member of the club. However, in October 1957 (after the conduct of the licensed business was under investigation by ABC agents), a resolution was adopted by the club changing the method of operation of the bar. Since October 13, 1957 the club paid Ruisi \$60.00 a week as a salary and the club receives and keeps a record of the income of the bar and the payment of the bills incurred in the conduct of the licensed business. The previously monthly payment of \$25.00 was discontinued. Arrangements for the payment by the club to Ruisi for the stock of alcoholic beverages on hand when the new arrangement was entered into had not been completed at the time this statement was obtained. Epifanio (or Frank) Ruisi verbally confirmed the account given by the club officers as to the arrangements under which he operated the bar.

It appears from reports of ABC agents that the club has been incorporated since 1904 and has held a club license continuously since 1935; that most of its members are elderly males and it is represented that they were of the impression that the operation of the bar in the aforesaid manner was lawful; that it formerly maintained a separate checking account for the purpose of paying the bills of liquor and beer and deposit of the money which it received for that purpose from Spampinato and later Ruisi.

The licensee is warned that in the future proper books and records concerning the licensed business must be maintained by it, and the operation of such business must be under proper supervision and definitely conducted by and on behalf of the club and no one else.

Defendant has no prior adjudicated record. I shall accept the representation that the illegal situation has been corrected and shall suspend defendant's license for a period of twenty days on the charges, all of which are related. Re Morganville Independent Club, Bulletin 1199, Item 1. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 28th day of May, 1958,

ORDERED that Club License CB-21, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Ordine Figli Di Agira Mutuo Soccorso, for premises 103 Fourteenth Avenue, Newark, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. June 4, 1958, and terminating at 2:00 a.m. June 19, 1958.

WILLIAM HOWE DAVIS
Director.

5. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1957 THROUGH JUNE 30, 1958

	1st Quarter			2d Quarter			3d Quarter			4th Quarter			Total
	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	
ARRESTS:													
Total number of persons arrested	79			62			56			73			270
Licensees and employees	28			21			23			46			118
Bootleggers	51			41			30			26			148
ABC agent impersonator	-			-			3			1			4
SEIZURES:													
Motor vehicles - cars	8			6			5			2			21
- trucks	-			-			1			1			2
Stills - over 50 gallons	4			2			3			3			12
- 50 gallons or under	3			2			3			3			11
Alcohol - gallons	-			-			-			135.00			135.00
Mash - gallons	1,627.50			445.00			167.59			425.00			2,665.09
Distilled alcoholic beverages - gallons	241.02			259.26			123.55			380.75			1,004.58
Wine - gallons	6.62			5.90			158.30			10.72			161.54
Brewed malt alcoholic beverages - gallons	50.87			35.89			9.00			33.16			128.92
RETAIL LICENSEES:													
Premises inspected	1,506			1,856			2,223			2,558			8,143
Premises where alcoholic beverages were gauged	1,412			1,747			1,604			1,655			6,418
Bottles gauged	22,900			26,779			26,589			26,777			103,045
Premises where violations were found	171			219			249			274			1,033
Violations found	257			322			324			343			1,226
Type of violations found:													
Unqualified employees	102			116			69			77			364
Application copy not available	38			57			69			82			246
Reg. #38 sign not posted	30			53			55			53			191
Prohibited signs	17			34			34			52			137
Improper beer taps	4			10			33			5			52
Disposal permit necessary	3			10			15			11			39
Other mercantile business	3			9			8			18			38
Gambling devices	1			-			-			-			1
Probable fronts	-			1			-			-			1
Other violations	39			32			41			45			157
STATE LICENSEES:													
Premises inspected	110			70			97			70			347
License applications investigated	33			26			12			69			140
COMPLAINTS:													
Complaints assigned for investigation	1,304			1,140			1,214			1,282			4,940
Investigations completed	1,245			1,033			1,093			1,173			4,554
Investigations pending	(149)			(146)			(484)			135			135
LABORATORY:													
Analyses made	519			526			435			485			1,965
Refills from licensed premises - bottles	2			8			14			29			53
Bottles from unlicensed premises	105			119			105			69			398
IDENTIFICATION BUREAU:													
Criminal fingerprints identifications made	121			36			37			48			242
Persons fingerprinted for non-criminal purposes	819			442			560			742			2,563
Ident. contacts w/other enforcement agencies	661			350			454			568			2,033
Motor vehicle ident. via N.J. State Police	15			23			11			9			58
DISCIPLINARY PROCEEDINGS:													
Cases transmitted to municipalities	38			43			47			47			175
Violations involved	45			53			59			51			208
Sale during prohibited hours	25			25			34			35			119
Sale to minors	12			11			9			11			43
Failure to close prem. during prohibited hours	3			4			8			1			16
Sale to non-members by club	-			3			2			2			7
Sale to intoxicated persons	1			3			1			-			5
Failure to afford view into premises during prohibited hours	-			1			3			-			4
Service to women at a bar (local reg.)	1			1			-			1			2
Permitting brawl on premises	1			-			1			-			3
Permitting hostesses on premises	1			-			-			-			1
Permitting foul language on premises	1			-			-			-			1
Sale outside scope of license	-			1			-			-			1
Employing female bartender (local reg.)	-			1			-			-			1
Conducting business as a nuisance	-			1			-			-			1
Permitting lottery activity on premises	-			1			-			-			1
Possessing chilled beer (DL licensee)	-			1			-			-			1
Permitting music during prohibited hours (local reg.)	-			-			1			-			1
Permitting gambling on premises	-			-			-			1			1
Cases instituted at Division	90			73			87			90*			340
Violations involved	117			111			120			146			494
Sale to minors	36			17			28			29			110
Sale during prohibited hours	33			17			25			22			97
Sale below minimum resale price	10			10			10			4			34
Permitting immoral activity on premises	7			7			3			3			20
Fraud and front	1			6			4			5			16
Permitting lottery activity on premises	1			5			3			7			16
Sale to intoxicated persons	1			2			8			4			15
Possessing illicit liquor	1			4			1			9			15

*Includes 2 cancellation proceedings - engaging in conduct unbecoming a solicitor.

1st Quarter 2d Quarter 3d Quarter 4th Quarter
 July Aug.-Sept. Oct.-Nov.-Dec. Jan.-Feb.-Mar. Apr.-May June Total

DISCIPLINARY PROCEEDINGS (Cont.)

	1st Quarter July Aug.-Sept.	2d Quarter Oct.-Nov.-Dec.	3d Quarter Jan.-Feb.-Mar.	4th Quarter Apr.-May June	Total
Cases instituted at Division (Cont.)					
Violations involved:					
Hindering investigation	2	3	3	6	14
Conducting business as a nuisance	1	4	3	5	13
Employee w/o requisite ident. card (local reg.)	2	1	2	5	10
Failure to have copy of application on prem.	-	-	2	8	10
Permitting bookmaking on premises	2	1	3	3	9
Permitting foul language on premises	1	4	1	2	8
Employing unqualified persons	-	3	2	3	8
Mislabeled beer taps	2	-	4	1	7
Possessing indecent matter	-	3	2	2	7
Permitting hostesses on premises	1	1	3	2	7
Failure to close prem. during prohibited hours	-	2	2	3	7
Delivery w/o bona fide invoice	2	3	1	-	6
Unauthorized transportation	1	4	-	1	6
Permitting gambling on premises	2	-	1	3	6
Failure to file notice of change in application	-	2	1	3	6
Sale outside scope of license	3	1	1	-	5
Permittee engaging in conduct prohibited to employer	1	-	2	2	5
Sale to non-members by club	-	2	1	1	4
Solicitor employed by retailer	1	-	2	-	3
Furnishing unlawful inducements to retailer	1	-	-	2	3
Unlicensed sale by solicitor	-	1	-	2	3
Service to women at a bar (local reg.)	-	1	-	3	4
Permitting brawl on premises	1	1	-	-	2
Retailer to retailer sales	-	2	-	-	2
Aiding and abetting unauthorized sale	-	1	1	-	2
Purchase from improper source	-	-	-	2	2
Possessing contraceptives on premises	-	-	1	1	2
Employing female bartender (local reg.)	1	-	-	-	1
Failure to afford view into prem. during pro. hrs	1	-	-	-	1
Rebottling by retailer	1	-	-	-	1
Solicitor violating terms of permit	1	-	-	-	1
Storage off licensed premises	-	1	-	-	1
Aiding and abetting unauthorized transportation	-	1	-	-	1
Licensee convicted of crime involving moral turpitude after issuance of license	-	1	-	-	1
Filing false tax reports	-	-	-	1	1
Failure to file notice of default	-	-	-	1	1
Opened containers on distribution lic. premises	-	-	-	1	1
Sale during license suspension	-	-	-	1	1
Cases brought by municipalities on own initiative and reported to Division					
Violations involved	36	43	45	57	181
Sale to minors	12	18	19	36	85
Permitting brawl on premises	7	10	10	12	39
Sale during prohibited hours	7	11	5	8	31
Permitting bookmaking on premises	3	3	4	-	10
Conducting business as a nuisance	5	1	-	-	6
Failure to afford view into prem. during pro. hrs	1	2	1	1	5
Permitting gambling on premises	1	1	1	2	5
Sale to intoxicated persons	1	-	2	2	5
Hindering investigation	2	2	-	-	4
Failure to close prem. during prohibited hours	-	2	1	1	4
Employing unqualified persons	-	1	-	-	1
Permitting lottery activity on premises	-	1	-	2	3
Permitting minors to loiter on premises (local reg.)	-	-	-	3	3
Permitting immoral activity on premises	-	-	2	-	2
Failure to provide constable to maintain law and order	-	-	2	-	2
Sale on election day	1	-	-	-	1
Licensee working while intoxicated	1	-	-	-	1
Employee working while intoxicated	1	-	-	-	1
Permitting female impersonators on premises	1	-	-	-	1
Employing police officer	-	1	-	-	1
Sale to non-members by club	-	1	-	-	1
Fraud in application	-	1	-	-	1
Permitting dancing during pro. hrs (local reg.)	-	-	1	-	1
Permitting prostitute on premises	-	-	1	-	1
Permitting persons of ill repute on premises	-	-	-	1	1
Act or happening	-	-	-	1	1
Failure to file notice of change in application	-	-	-	1	1
Permitting foul language on premises	1	-	-	-	1
HEARINGS HELD AT DIVISION:					
Total number of hearings held	135	136	133	127	531
Appeals	23	18	11	16	68
Disciplinary proceedings	79	80	92	79	330
Eligibility	17	13	17	15	62
Seizures	9	13	5	4	31
Tax revocations	6	7	5	7	25
Hearing on petition	1	-	1	-	2
Applications for license	-	5	2	6	13
STATE LICENSES AND PERMITS ISSUED:					
Total number issued	5,199	4,021	2,863	21,496	33,579
Licenses	950	3	6	4	963
Employment permits	788	397	385	2,397	3,967
Solicitors'	133	136	206	2,866	3,361
Disposal "	254	222	220	207	903
Social affair "	1,391	1,048	941	1,256	4,636
Wine "	2	1,043	4	-	1,049
Miscellaneous	617	482	320	717	2,166
Transit insignia	857	600	642	12,497	14,586
Transit certificates	127	130	139	1,612	2,008

Dated: July 15, 1958.

WILLIAM HOWE DAVIS
 Director.

6. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - MOTOR VEHICLE RETURNED TO INNOCENT LIENOR - ALCOHOL ORDERED FORFEITED.

In the Matter of the Seizure on)
 March 11, 1958 of a quantity of)
 alcohol and an Oldsmobile coupe)
 on the northbound lane of the New)
 Jersey Turnpike, at the 40 Mile)
 Post, in the Township of Mount)
 Laurel, County of Burlington and)
 State of New Jersey.)
 -----)

Case No. 9568

ON HEARING
 CONCLUSIONS AND ORDER

Riker, Emery & Danzig, Esqs., by Alvin Weiss, Esq., Attorneys
 for Atlantic Discount Corporation.

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 36 two-quart "Mason" jars of alcohol, and an Oldsmobile coupe, described in a schedule attached hereto, seized on March 11, 1958 on the northbound lane of the New Jersey Turnpike, at the 40 Mile Post, Mount Laurel, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R. S. 33:1-66, an appearance was entered on behalf of Atlantic Discount Corporation, which sought recognition of its alleged lien on the motor vehicle. Walter Frizzel, the registered owner of such vehicle, did not appear, and no one opposed forfeiture of the alcohol.

Reports of ABC agents and other documents in the file, presented in evidence with consent of counsel for the finance company, disclose the following facts:

A New Jersey State Trooper halted the Oldsmobile coupe on the above date and location during his routine patrol of traffic on the highway. The trooper ascertained that the motor vehicle was being operated by Eddie Little, and that Walter Frizzel was a passenger therein. When the trooper discovered in the trunk of the car the 36 jars of alcohol, without a label or stamp on any of the jars evidencing payment of tax on alcoholic beverages, he took into custody the alcohol and motor vehicle, and arrested Little and Frizzel. Later the alcohol and motor vehicle were turned over to ABC agents.

A sample of the contents of one of the jars was analyzed by the Division chemist who reports it is alcohol and water, fit for beverage purposes, with an alcoholic content by volume of 51.6 per cent.

Walter Frizzel, in a signed sworn statement, relates that he is a resident of Greenville, North Carolina; that he and his friend, Little, left Greenville on March 10th on a visit to New York City; that, en route, in Baltimore, he met a former friend who told Frizzel he had some corn whiskey on hand which Frizzel could sell in New York and Frizzel purchased the whiskey for \$45.00.

The seized alcohol is illicit not only because of the absence of a tax stamp or label on any of the jars (R.S. 33:1-1(1)),

R.S. 33:1-88), but also because it is clear that it is bootleg liquor. Such illicit alcohol, and the Oldsmobile coupe in which it was transported and found constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R. S. 33:1-2, R.S. 33:1-66.

The Atlantic Discount Corporation of Elizabeth City, North Carolina presented in evidence a conditional sales contract dated January 16, 1957, which the finance company holds by assignment, signed by Walter Frizzel, and evidencing the conditional sale to him of the Oldsmobile coupe in question, with an unpaid balance of \$3613.80. The present balance due on the contract, after rebate for prepayment, is \$1981.03.

Before accepting the contract and extending credit to Walter Frizzel the finance company received information that he was 49 years of age, single, resided at an address in Greenville, North Carolina, was self-employed as the owner of the "Tropicana Club" for three years, with a weekly income of \$100.00; and had previously been employed for one year by a dry cleaning concern; and was furnished with the name and address of his landlord, that of his nearest relative, the name and address of the bank where he had an account, and a number of personal and business references.

The witness for the finance company testified that he was the person who checked the information and approved the loan; that he checked with a finance company which had opened an account with Frizzel in 1954 and 1955 and was informed that they considered him a good account; that he called Frizzel's bank and was told that he was considered a good risk; that he contacted the person in charge of Alcoholic Beverage Control in Greenville, North Carolina (because he assumed that Frizzel had a beer license at the club), who reported that he had no record against Frizzel. Actually, Frizzel's fingerprint record discloses that he was convicted in 1938 for illegal sale of liquor and received a three-month jail sentence. However, it (erroneously) appears from two letters signed by Ruel W. Tyson, Sheriff of the county wherein Greenville is located, dated after the seizure, that Frizzel had no record or reputation for dealing in illegal whiskey previous to January 16, 1957. A recent check by the witness with the Greenville Police Department discloses that there is such record.

I am satisfied from the evidence presented that the Atlantic Discount Corporation acted in good faith, made a reasonably adequate independent investigation of the character and background of Walter Frizzel, and had no reason therefrom to suspect that the Oldsmobile coupe would be used to transport illicit alcohol. I shall therefore recognize its lien against such motor vehicle to the extent of \$1981.03.

It appears that the appraised retail value of the Oldsmobile coupe does not exceed the amount of the lien claim and the costs of its seizure and storage. Such motor vehicle will therefore be returned to the Atlantic Discount Corporation upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 9th day of June, 1958, the Atlantic Discount Corporation pays the costs incurred in the seizure and storage of the Oldsmobile coupe, described in Schedule "A" attached hereto, such motor vehicle will be returned to it; 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 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: May 28, 1958.

SCHEDULE "A"

- 36 - two-quart "Mason" jars of alcohol
- 1 - Oldsmobile coupe, Serial No. 578L02544, North Carolina Registration BX781.

7. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PERMITTING OPEN CONTAINERS ON PREMISES OPERATED BY HOLDERS OF A PLENARY RETAIL DISTRIBUTION LICENSE - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 JOHN A. PARACHINI & ANTHONY P. PARACHINI
 320 Anderson Avenue
 Fairview, N. J.,
 Holders of Plenary Retail Distribution License D-4, issued by the Borough Council of the Borough of Fairview.

CONCLUSIONS
AND ORDER

Samuel Moskowitz, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The defendants have pleaded non vult to the following charges:

"1. On April 3, 1958, you possessed, had custody of, and allowed, permitted and suffered in and upon your licensed premises an alcoholic beverage in a bottle which did not bear any label describing its contents, viz., wine in a pint bottle (full) not having any label describing its contents; in violation of Rule 27 of State Regulation No. 20.

"2. On April 3, 1958, you possessed and allowed, permitted and suffered in and upon your licensed premises open containers of alcoholic beverages, viz.,

One 4/5 quart bottle, containing approximately 4 1/2 ounces of vermouth and gin, labeled 'Hiram Walker's 66 Proof Dry Martini Cocktail',

One pint bottle (full) of sloe gin labeled 'Mouquin 65 Proof Sloe Gin',

One pint bottle (full) of sloe gin labeled 'Sloe Gin Bardinet 65 Proof', and

One 4/5 pint bottle, containing approximately 2 1/2 ounces of wine labeled 'Franzia Vino Russo da Famiglia Red Grape Wine';

in violation of Rule 14 of State Regulation No. 20."

The file herein discloses that on April 3, 1958, during the course of an inspection of defendants' licensed premises by an

ABC agent, he discovered in a rear store room of such premises four old and dusty bottles of alcoholic beverages, to wit, one bottle of wine referred to in Charge 1 and the first three bottles of other alcoholic beverages specifically described in Charge 2. The bottle of wine was sealed but bore no label; the seals on two of the other bottles were broken and the strip stamp on the other bottle was broken although otherwise sealed. One of such bottles was only partly full. The agent also discovered on a counter in defendants' office the bottle of wine partially full specifically described as the fourth bottle in Charge 2.

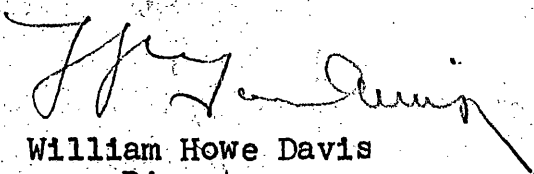
John A. Parachini, one of the licensees, gave the agent a signed sworn statement wherein he asserts that the alcoholic beverages found in the store room had been left about nine years previously by a former owner of the establishment and the bottle of wine found in the office was a sample left by a solicitor on March 28, 1958, which the licensees had partially consumed to determine whether they should place an order for wine of that brand.

Defendant has no prior adjudicated record. It is urged in mitigation that the unlabeled bottle of wine was set aside as unsaleable, and one of the other bottles of alcoholic beverages was returned by a customer, which bottle the licensees intended to return to a wholesaler; and that all of the bottles except the sample bottle of wine were set aside as unsaleable merchandise to be returned. Whatever the reason for the licensees' possession of these bottles of alcoholic beverages, it is the plain intent of the regulation in question to require that a retail distribution licensee's stock of bottles of alcoholic beverages must at all times be properly labeled, sealed and with full content.

Since there is no evidence that any of the bottles were refilled, I shall suspend the defendants' license for a period of ten days on Charge 1 and I shall suspend the defendants' license for an additional period of ten days on Charge 2 (cf. Re Silence, Bulletin 1170, Item 8), making a total suspension of twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 29th day of May, 1958,

ORDERED that Plenary Retail Distribution License D-4, issued by the Borough Council of the Borough of Fairview to John A. Parachini & Anthony P. Parachini, for premises 320 Anderson Avenue, Fairview, be and the same is hereby suspended for fifteen (15) days, commencing at 9:00 a.m. June 9, 1958, and terminating at 9:00 a.m. June 24, 1958.


William Howe Davis
Director.