

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

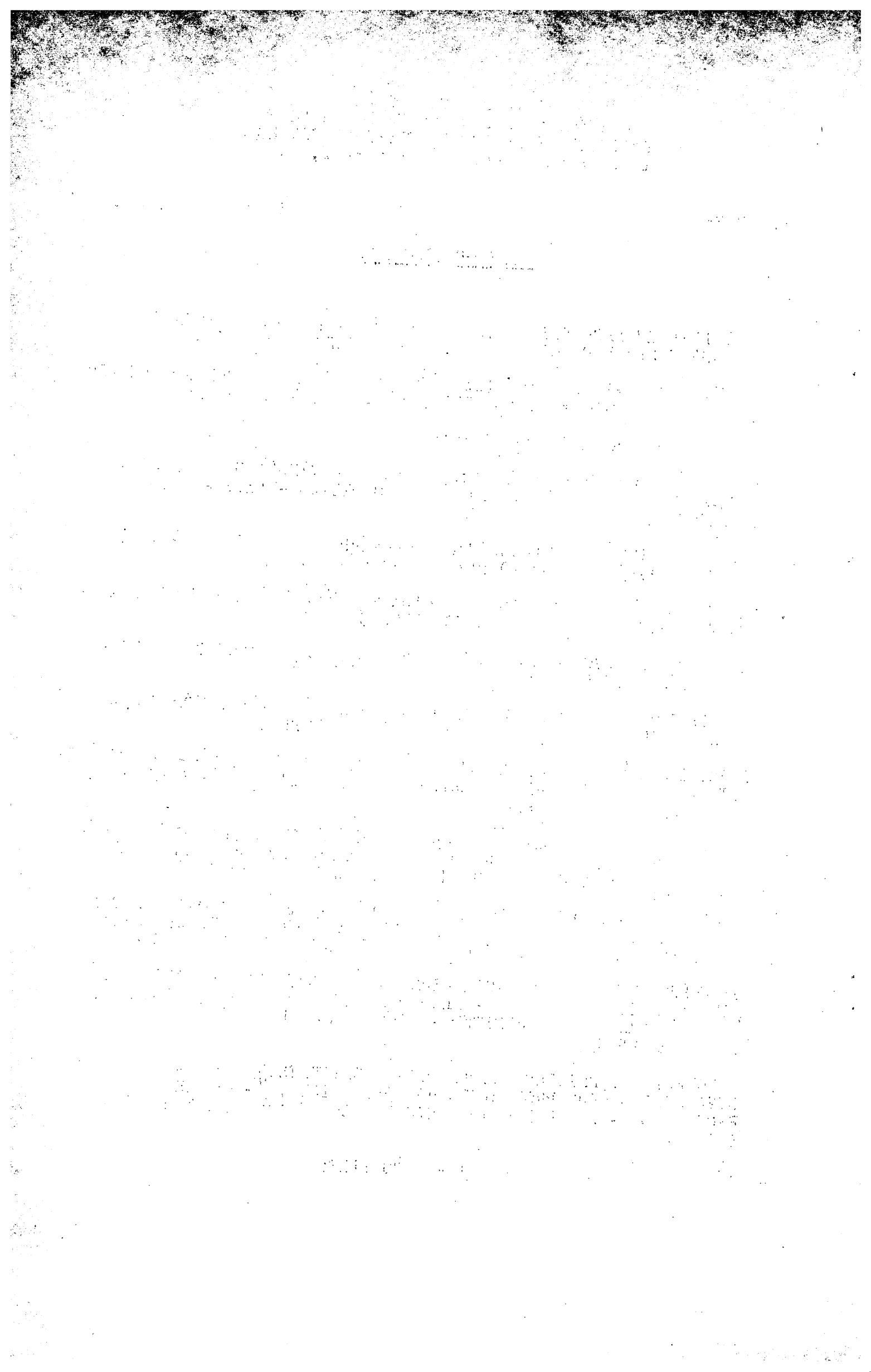
BULLETIN 853

SEPTEMBER 19, 1949.

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

BULLETIN 853

September 19, 1949.

1. DISCIPLINARY PROCEEDINGS - PIN BALL MACHINES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

VERSAILLES ENTERPRISES, INC.)
T/a HOTEL VERSAILLES)
412 Ocean Avenue)
Long Branch, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Seasonal Retail Consumption License CS-10, issued by the Board of Commissioners of the City of Long Branch.)

-----)
Harkavy and Lieb, Esqs., Attorneys for Defendant-licensees.)
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.)

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it possessed on its licensed premises two "bagatelle or pin ball" machines, in violation of Rule 7 of State Regulations No. 20.

The file discloses that, on August 3, 1949, an ABC agent, during the course of a routine inspection, observed two pin ball machines in the lobby near the entrance to the barroom. I have been advised by the attorney for defendant that the machines have been removed from the licensed premises.

Defendant has no previous adjudicated record. I shall suspend its license for ten days, less five days for the plea entered herein, leaving a net suspension of five days. Cf. Re Gartenberg & Schechter, Bulletin 794, Item 7.

Accordingly, it is, on this 6th day of September, 1949,

ORDERED that Seasonal Retail Consumption License CS-10, issued by the Board of Commissioners of the City of Long Branch to Versailles Enterprises, Inc., t/a Hotel Versailles, for premises 412 Ocean Avenue, Long Branch, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. September 12, 1949, and terminating at 3:00 a.m. September 17, 1949.

ERWIN B. HOCK
Director.

2. DISCIPLINARY PROCEEDINGS - AMENDED ORDER - PERIOD OF SUSPENSION TO BE FIXED AFTER LICENSEE RESUMES BUSINESS.

In the Matter of Disciplinary Proceedings against)

VERSAILLES ENTERPRISES, INC.)
T/a HOTEL VERSAILLES)
412 Ocean Avenue)
Long Branch, N. J.,)

AMENDED ORDER

Holder of Seasonal Retail Consumption License CS-10, issued by the Board of Commissioners of the City of Long Branch.)
- - - - -)

BY THE DIRECTOR:

An order having been entered herein on the 6th day of September, 1949, suspending the license held by defendant herein for a period of five days, commencing at 3:00 a.m. September 12, 1949, and terminating at 3:00 a.m. September 17, 1949; and

Prior to the date in said order when the suspension was to be effective, this Division was advised that defendant's premises are now closed and will remain closed until some time in the Spring of next year. Thus, no effective suspension can be imposed at the present time. The effective date of the suspension herein will therefore be postponed until my further order, after the licensed premises shall have reopened for business in the Spring of 1950.

Accordingly, it is, on this 14th day of September, 1949,

ORDERED that the order heretofore entered herein be amended to read as follows:

ORDERED, that Seasonal Retail Consumption License CS-10, issued by the Board of Commissioners of the City of Long Branch to Versailles Enterprises, Inc., t/a Hotel Versailles, 412 Ocean Avenue, Long Branch, be and the same is hereby suspended for five (5) days, the time to be fixed by subsequent order as aforesaid.

ERWIN B. HOCK
Director.

September 1, 1949

3. ACTIVITY REPORT FOR AUGUST 1949

ARRESTS:

Total number of persons arrested	28
Licenses and employees	5
Bottleleggers	22
ABC agent impersonator	1

SEIZURES:

Motor vehicles - cars	4
Stills - 50 gallons or under	1
Mash - gallons	700.00
Distilled alcoholic beverages - gallons	10.42
Wine - gallons	4.42
Brewed malt alcoholic beverages - gallons	248.18

RETAIL LICENSEES:

Premises inspected	855
Premises where alcoholic beverages were gauged	647
Bottles gauged	12,451
Premises where violations were found	48
Violations found	59
Type of violations found:	
Unqualified employees	33
Reg. #38 sign not posted	6
Probable front	3
Other mercantile business	3
Gambling devices	2
Prohibited signs	2
Disposal permit necessary	2
Improper beer taps	1
Other violations	7

STATE LICENSEES:

Premises inspected	32
License applications investigated	11

COMPLAINTS:

Complaints assigned for investigation	402
Investigations completed	461
Investigations pending	133

LABORATORY:

Analyses made	101
"Shake-up" cases (alcohol, water and artificial color) - bottles	8
Liquor found to be not genuine as labeled - bottles	7

IDENTIFICATION BUREAU:

Criminal fingerprint identifications made	8
Persons fingerprinted for non-criminal purposes	265
Identification contacts made with other enforcement agencies	205
Motor vehicle identifications via N. J. State Police Teletype	6

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	4
Violations involved:	
Permitting bookmaking on premises	1
Permitting hostesses on premises	1
Permitting slot machines on premises	1
Sale to minors	1
Unqualified employees	1
Cases instituted at Division	16
Violations involved:	
Possessing illicit liquor	3
Sale to minors	3
Mislabeling beer taps	3
Sale during prohibited hours	3
Fraud and front	2
Permitting pin ball machines on premises	2
Delivery without bona fide invoices	1
Permitting hostesses on premises	1
Purchase from improper source	1
Cases brought by municipalities on own initiative and reported to Division	7
Violations involved:	
Permitting brawls on premises	3
Sale during prohibited hours	2
Sale to minors	2
Permitting prostitutes on premises	1

HEARINGS HELD AT DIVISION:

Total number of hearings held	34
Appeals	4
Disciplinary proceedings	46
Eligibility	9
Seizures	5

PERMITS ISSUED:

Total number of permits issued	1,124
Employment	289
Solicitors	124
Disposal of alcoholic beverages	105
Social affairs	447
Special wine	33
Miscellaneous	126

ERWIN B. HOCK, DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING - DELIMITING LICENSED PREMISES AFTER VIOLATION COMMITTED - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against)

MAX'S INC.)
T/a MAX'S)
Ocean Ave. & Boardwalk opp.)
Chelsea Ave.)
Long Branch, N. J.,)

Holder of Plenary Retail Consumption License C-23 issued for the 1948-49 fiscal year by the Board of Commissioners of the City of Long Branch and now held by)

MAX ALTMAN, INC.)

for the same premises.)

-----)
A. Henry Giordano, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to charges alleging that it permitted gambling and the conduct of a lottery on its licensed premises by reason of the operation of a wheel of chance on which cigarettes were awarded as prizes to the players, in violation of Rules 6 and 7 of State Regulations No. 20.

There appears to be no dispute that a wheel of chance was operated nor does there appear to be any dispute that such operation constituted a lottery and gambling within the meaning of Rules 6 and 7 of State Regulations No. 20. Defendant contends, however, that it is not guilty because the portion of the building in which the gambling wheel was located had, prior to the date of the offense charged, been physically separated from its licensed premises.

In its application for its 1948-49 license, by its answers to Questions 5, 6 and 7 thereof, defendant described the licensed premises as the entire wooden frame building on Ocean Avenue Boardwalk opposite Chelsea Avenue in Long Branch. In answer to Question 8, it claimed to have leased the premises from the City of Long Branch. Testimony developed that the premises thus described comprised a building approximately 30 x 40 feet as used for many years past by defendant as a licensed bar and restaurant. However, on or about July 19, 1948, a space approximately 10 x 10 feet in the northwest corner of the building was partitioned off from the remainder of the building and set up for the operation of the gambling wheel. The alleged violation here in issue occurred on July 22, 1948, on which date the participating ABC agents identified themselves and directed the attention of Max Altman, president of the licensee corporation, to the apparent violation. On the next day (July 23, 1948), defendant notified the Long Branch Board of Commissioners (the license issuing authority) that it had leased the northwest corner of its premises to one Harry Talmadge and, with such notification, filed an amended application for license indicating that the space in question was to be excluded from the licensed premises.

R. S. 33:1-34 prescribes a ten-day period within which written notice must be given to the issuing authority as to any change in the facts set forth in the application for license. But the notification

CONCLUSIONS
AND
ORDER

on July 23, 1948 of the physical separation did not legally result in a reduction of the licensed premises. Reduction of licensed premises may be effected only pursuant to long established procedure first enunciated by the late Commissioner Burnett in Re Daly, Bulletin 171, Item 3:

"As the license you now hold was issued by the New Brunswick Board of Commissioners, you should address to that Board a petition requesting that your application for license be amended to describe your licensed premises as the first floor of 51 Codwise Avenue and that the second floor heretofore included, be stricken out. On receipt of the petition, it thereupon will become the duty of the Board to determine whether or not the premises as so reduced is suitable to be licensed. If the Board finds that the premises as so reduced or constricted is not suitable, the petition should be denied. If, on the contrary, the reduced premises is acceptable, the petition should be granted and the Clerk directed to amend the application in accordance therewith."

At the hearing an effort was made to establish that the gambling wheel space was subleased to Talmadge by Charles Altman who held an alleged verbal lease for the entire premises from the City of Long Branch, and that defendant was likewise the sub-lessee of Charles Altman rather than the lessee of the city. However, this testimony is immaterial because, as indicated above, defendant's license still covered the entire building when the gambling wheel was found in operation on July 22, 1948.

No extensive discussion is needed in demonstration of the unconscionable result if a physical reduction followed by timely notice of the change (under R.S. 33:1-34) were to be deemed to effect an automatic reduction of the licensed premises ab initio and the licensee held blameless for any conduct occurring upon the excluded portion from and after the time of its physical exclusion. Then the licensee could in every case escape responsibility for violation of any law or regulation keyed to licensed premises by notifying the issuing authority that on the day prior to the violation he had excluded from the licensed premises the portion upon which the violation occurred. To state the proposition is to indicate its absurdity.

On the entire record it is obvious that the notification of July 23, 1948 (a belated request for reduction of the licensed premises) was an attempted defense of no merit and, as hereinabove stated, that the violation occurred, as alleged, on defendant's licensed premises.

I find the defendant guilty as charged. A ten-day suspension will be imposed.

Although these proceedings were instituted during the 1948-49 licensing year, they do not abate but remain fully effective against a 1948-49 transferee and a renewal license for 1949-50. State Regulations No. 16. (1948-49 License C-23 was transferred on June 29, 1949, to Max Altman, Inc., and renewed to the transferee for 1949-50.)

Accordingly, it is, on this 6th day of September, 1949,

ORDERED that Plenary Retail Consumption License C-23, issued by the Board of Commissioners of the City of Long Branch to Max Altman, Inc. for premises at Ocean Avenue and Boardwalk, opposite Chelsea Avenue, Long Branch, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. September 12, 1949, and terminating at 2:00 a.m. September 22, 1949.

ERWIN B. HOCK
Director.

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

In the Matter of Disciplinary Proceedings against

JOHN E. LIVINGSTON
T/a CHATTERBOX
205 Boardwalk
Seaside Heights, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Seaside Heights.

Leo J. Berg, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that he sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to three minors and allowed, permitted and suffered said minors to consume said alcoholic beverages upon his licensed premises, in violation of R. S. 33:1-77 and Rule 1 of State Regulations No. 20.

The three minors -- two boys (enlisted personnel of the U.S. Navy, aged respectively 18 and 19) and one girl, age 20 -- were served several glasses of beer, an alcoholic beverage, and consumed the same on defendant's licensed premises on July 21, 1949.

Defendant has a prior record of similar violations -- one for a violation occurring in July 1942, resulting in a suspension of his license by the local issuing authority for five days; the second for a violation occurring in July 1944, resulting in a six-day suspension by the same authority. The minimum suspension for unaggravated violations involving illegal sale to minors is ten days. Re Modrowski, Bulletin 582, Item 1. Although the prior violations occurred five or more years ago, the fact that they were similar to the violations in the instant case constitutes aggravation. I shall suspend the license in the instant case for twenty days, and remit five days for the plea, leaving a net suspension of fifteen days.

Accordingly, it is, on this 6th day of September, 1949,

ORDERED that Plenary Retail Consumption License C-7, issued by the Mayor and Council of the Borough of Seaside Heights to John E. Livingston, t/a Chatterbox, for premises 205 Boardwalk, Seaside Heights, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a.m. September 12, 1949, and terminating at 2:00 a.m. September 27, 1949.

ERWIN B. HOCK
Director.

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

In the Matter of Disciplinary Proceedings against)

PINE HILL LODGE, INC.)
T/a PINE HILL LODGE)
Brookside Road)
Randolph Township)
P.O. Mt. Freedom, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-16, issued by the Township Committee of Randolph Township.)

Pine Hill Lodge, Inc., by Frances Gargle, Secretary-Treasurer.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it possessed illicit alcoholic beverages at its licensed premises, in violation of Rule 28 of State Regulations No. 20.

On July 20, 1949, an agent of the State Division of Alcoholic Beverage Control seized on defendant's licensed premises two 4/5 quart bottles labeled "Canadian Club Blended Canadian Whisky", when his field test indicated that the contents of said bottles were not as described on the labels. Analysis of the contents of said bottles by the Division Chemist discloses that the labels on said bottles do not truly describe the contents thereof.

Defendant pleads that its officers had no knowledge of the refilling, claiming that any tampering with its stock must have been by an employee. Regardless of who is responsible for the tampering, defendant is responsible for the bona fides of its liquor stock. Re Kurian, Bulletin 517, Item 2; Cedar Restaurant & Cafe Co. v. Hock, 135 N.J.L. 156.

Defendant has no prior adjudicated record. I shall suspend its license for fifteen days (the minimum period in such cases). Re Rudolph, Bulletin 680, Item 1. Remitting five days for the plea will leave a net suspension of ten days.

Accordingly, it is, on this 8th day of September, 1949,

ORDERED that Plenary Retail Consumption License C-16, issued by the Township Committee of Randolph Township to Pine Hill Lodge, Inc., t/a Pine Hill Lodge, for premises on Brookside Road, Randolph Township, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. September 19, 1949, and terminating at 2:00 a.m. September 29, 1949.

ERWIN B. HOCK
Director.

7. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 JOHN J. ZAGURSKY)
 T/a NEMO'S BAR & GRILL)
 Southerly side of Old Mt. Pleasant Ave., about 300' N. Westerly of Thomas St.)
 Hanover Township)
 P.O. Whippany, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-18 issued by the Township Committee of the Township of Hanover.)
)

John J. Zagursky, Defendant-licensee, Pro Se.)
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.)

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that he (1) sold alcoholic beverages to a minor, in violation of R. S. 33:1-77, and (2) sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to said minor, and permitted said minor to consume the same, in violation of Rule 1 of State Regulations No. 20.

On July 14, 1949, defendant and, later, one of his bartenders, served one Violet ---, then about nineteen years of age, three "Tom Collinses", an alcoholic beverage. These drinks were consumed by the said minor.

Defendant has no prior adjudicated record. Considering the violation as without aggravation, I shall suspend the license for ten days (the minimum period in such cases). Re Modrowski, Bulletin 582, Item 1. Remitting five days because of the plea will leave a net suspension of five days.

Accordingly, it is, on this 8th day of September, 1949,

ORDERED that Plenary Retail Consumption License C-18, issued by the Township Committee of the Township of Hanover to John J. Zagurski, t/a Nemo's Bar & Grill, for premises on the Southerly side of Old Mt. Pleasant Avenue, about 300' N. Westerly of Thomas Street, Hanover Township, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. September 19, 1949, and terminating at 2:00 a.m. September 24, 1949.

ERWIN B. HOCK
 Director.

8. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JACKY HEATON & ERNEST HEATON)
T/a J & K COTTAGE INN)
Route 6, opposite New Dutch Lane)
Caldwell Township, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-14, issued by the Township Committee of the Township of Caldwell.)

-----)
Jacky Heaton & Ernest Heaton, Defendant-licensees, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to charges alleging that they (1) sold alcoholic beverages to a minor, in violation of R. S. 33:1-77, and (2) sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages to said minor and permitted said minor to consume the same, in violation of Rule 1 of State Regulations No. 20.

On July 14, 1949, Jacky Heaton, one of defendant-licensees, served one Violet ---, then about nineteen years of age, three "Tom Collinses", an alcoholic beverage. These drinks were consumed by the said minor.

Defendants have no prior adjudicated record. Considering the violation as without aggravation, I shall suspend the license for ten days, the minimum period in such cases. Re Modrowski, Bulletin 582, Item 1. Remitting five days because of the plea will leave a net suspension of five days.

Accordingly, it is, on this 8th day of September, 1949,

ORDERED that Plenary Retail Consumption License C-14, issued by the Township Committee of the Township of Caldwell to Jacky Heaton & Ernest Heaton, t/a J & K Cottage Inn, Route 6, opposite New Dutch Lane, Caldwell Township, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. September 19, 1949, and terminating at 2:00 a.m. September 24, 1949.

ERWIN B. HOCK
Director.

9. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD NOT CONSIDERED BECAUSE OF LAPSE OF TIME - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

CHRISTOPHER MECCIA
461 N. J. Railroad Avenue
Newark 5, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-39, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

-----)
Christopher Meccia, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

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

On August 24, 1949, an ABC agent tested thirty-five opened bottles of alcoholic beverages on defendant's premises and seized a 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky" when his field test indicated that the contents of said bottle were not genuine as labeled. Subsequent analysis by the Division's Chemist of the contents of the seized bottle clearly indicated that the label on said bottle did not truly describe its contents.

Defendant has a prior record. On July 16, 1938, the Commissioner suspended his license for a period of five days after finding him guilty of a charge of selling alcoholic beverages during prohibited hours. See Bulletin 262, Item 3. Because the aforesaid violation was dissimilar and occurred more than eleven years ago, I shall not consider the prior record in fixing the period of suspension in this case. I shall, therefore, suspend the license for the minimum period of fifteen days, less five days for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 12th day of September, 1949,

ORDERED that Plenary Retail Consumption License C-39, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Christopher Meccia, for premises 461 N. J. Railroad Avenue, Newark, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. September 19, 1949, and terminating at 2:00 a.m. September 29, 1949.

ERWIN B. HOCK
Director.

10. DISCIPLINARY PROCEEDINGS - CHARGE OF POSSESSING ILLICIT LIQUOR DISMISSED BECAUSE IT APPEARS THAT DIFFERENCE IN PROOF MAY BE RESULT OF NATURAL CAUSES.

In the Matter of Disciplinary Proceedings against ORIGINAL CEDAR BAR & LODGE, INC. T/a RUSTIC LODGE Highway 25, North Brunswick Twp. P.O. Box 301 Milltown, N. J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-16, issued by the Township Committee of the Township of North Brunswick.

William Green, Esq., Treasurer of the licensee corporation, Pro Se. William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Charge was served upon defendant-licensee alleging that it possessed, in violation of Rule 28 of State Regulations No. 20, an alcoholic beverage in a bottle which bore a label which did not truly describe its contents.

The bottle in question (a 4/5 quart bottle labeled "XXX Old Bushmills Irish Whiskey A Blend"), allegedly purchased in or about 1946 or 1947, was picked up by a Division agent when his preliminary field test indicated that the liquor in the bottle was low in proof. Analysis by the Division Chemist disclosed that the proof of the liquor was in fact three points less than the proof stated on the label and also that the solids and acids were considerably lower than the range in solids and acids found in genuine samples of the same brand tested by the chemist in 1946 and prior thereto.

On the basis of these discrepancies in proof, solids and acids, the Division preferred the instant charge. However, subsequent analyses of additional sealed bottles of this brand of liquor and information received from the distiller indicate that Old Bushmills whiskey bottled currently may have solids and acids as low as those found in the suspected bottle.

Although possession of a bottle of an alcoholic beverage having an actual proof different from the labeled proof, as here, constitutes a violation of the above Rule, where the difference is slight and might well be the result of natural causes such as evaporation, charges are not usually preferred. Instead, the contents of the bottle are destroyed and the licensee is warned of the dangers of overlong retention of opened bottles.

Under the circumstances, common fairness dictates that the charge already preferred in this case be withdrawn. Cf. Re Mitchell, Bulletin 712, Item 13.

Accordingly, it is, on this 12th day of September, 1949,

ORDERED that the charge in the above cause be and the same is hereby nolle prossed.

ERWIN B. HOCK Director.

11. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 30 DAYS - SUBSEQUENT ORDER TO BE ENTERED FIXING EFFECTIVE DATE OF SUSPENSION WHEN SEASONAL LICENSE RENEWED.

In the Matter of Disciplinary Proceedings against POWELL T. LINDGREN T/a PARKER HOUSE S/E Corner Beacon Blvd. & First Ave. Sea Girt, N. J., Holder of Seasonal Retail Consumption License CS-171, issued by the Director of the Division of Alcoholic Beverage Control.

CONCLUSIONS AND ORDER

No appearance on behalf of defendant-licensee. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant was served with charges alleging:

"1. On Friday, August 19, 1949, you sold alcoholic beverages to Richard ---, Martin ---, James ---, William --- and Robert ---, minors; in violation of R. S. 33:1-77.

"2. On Friday, August 19, 1949, you sold, served and delivered and allowed, permitted and suffered the service and delivery of alcoholic beverages directly or indirectly, at your licensed premises, to Richard ---, Martin ---, James ---, William --- and Robert ---, persons under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

An attorney-at-law of this state appeared at the hearing scheduled on said charges and was permitted at his request to withdraw as counsel for defendant, and was allowed to withdraw a plea of not guilty heretofore entered by him upon his allegation that he appeared by mail without authority and that he did not represent the defendant-licensee.

The defendant being called, and, no one appearing for him, a plea of not guilty was entered and the Division proceeded to present its evidence.

Five boys, two aged 19, two aged 18, and one aged 15, testified under oath that, on August 19, 1949, they had been served alcoholic beverages, i.e., beer, on the licensed premises of the defendant by defendant's employees.

At the conclusion of the State's case, the defendant was again called, but no one appeared.

I find defendant guilty.

Defendant has no prior adjudicated record. I must note the large number of minors sold and the extreme youth of one of them. Considering all the circumstances, I shall suspend the license for thirty days. Cf. Re Folejewski, Bulletin 790, Item 9.

Defendant holds a seasonal retail consumption license, the term of which will expire on November 1, 1949. I am advised that he has

closed his licensed premises and that they will not reopen prior to the termination of his license. Thus, no effective penalty can be imposed at the present time. Cf. Re Solomon, Bulletin 586, Item 2.

Accordingly, it is, on this 14th day of September, 1949,

ORDERED that Seasonal Retail Consumption License CS-171, issued by the Director of the Division of Alcoholic Beverage Control to Powell T. Lindgren, t/a Parker House, for premises S/E Corner Beacon Blvd. & First Ave., Sea Girt, or any license issued in renewal thereof, be and the same is hereby suspended for a period of thirty (30) days. Further order fixing the period of suspension will be entered if and when the defendant, or any other person, obtains a renewal of the seasonal retail consumption license for the period commencing May 1, 1950.

ERWIN B. HOCK
Director.

12. SEIZURE - FORFEITURE PROCEEDINGS - UNLAWFUL SALE OF ALCOHOLIC BEVERAGES IN RESTAURANT - ALCOHOLIC BEVERAGES AND RESTAURANT EQUIPMENT ORDERED FORFEITED - VENDING MACHINES RETURNED TO INNOCENT OWNERS.

In the Matter of the Seizure on) Case No. 7468
June 23, 1949, of a quantity of)
wine and various fixtures, fur-)
nishings and miscellaneous)
restaurant equipment at 46 Crane) ON HEARING
Street in the City of Newark,) CONCLUSIONS AND ORDER
County of Essex and State of New)
Jersey.)
- - - - -)

Fox & Schackner, Esqs., Attorneys for Michael Bruno.
Mills Automatic Merchandising Corp., by Harold Mason.
Dierickx Vending Co., by Ray Keyes, Sales Manager.
Harry Castelbaum, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes of New Jersey, to determine whether a quantity of wine and various fixtures, furnishings and miscellaneous restaurant equipment, itemized in a schedule attached hereto, seized on June 23, 1949 at Michael Bruno's restaurant located at 46 Crane Street, Newark, New Jersey, constitute unlawful property and should be forfeited.

It appears that the seizure was made by ABC agents because of alleged unlawful sales of wine in Bruno's restaurant, which was not licensed for the sale of alcoholic beverages.

When the matter came on for hearing pursuant to R.S. 33:1-66, Michael Bruno appeared and sought return of all of the seized property on claim that there had not been any sale of wine at his restaurant. An appearance was also entered on behalf of Mills Automatic Merchandising Corp., which sought return of a gum vending machine, and Dierickx Vending Co., which sought return of a cigarette vending machine.

The gist of the testimony of ABC agents is that on June 22nd and June 23, 1949, Yolanda Sierchio, Michael Bruno's niece who was a waitress at the restaurant, there sold drinks of wine to them in the presence of Michael Bruno, to whom the girl gave the money she

received from the agents in payment of food and drinks of wine served to them. The agents seized a quantity of wine and the merchandise, equipment, and furnishings of the restaurant.

Michael Bruno seeks to claim that he told his niece to serve wine to the agents without charge. His niece seeks to claim that she served these drinks without charge. Even if I were to accept this story, it nevertheless constitutes a sale of alcoholic beverages. R. S. 33:1-1(w). Re Amato, Bulletin 726, Item 8. However, I am satisfied from the evidence that the wine was sold by the waitress.

It should be noted that there have been two previous seizures and arrests at Bruno's restaurant arising out of unlawful sales of wine there. Yolanda Sierchio was the waitress in one of these cases. At the instant hearing, she testified that in the previous case she had also served the wine without charge, but admitted that such was not the actual fact when confronted with her signed statement in that case in which she acknowledged that she had sold wine in the restaurant at the direction of her uncle.

It is clear that the wine seized in Bruno's restaurant on June 23, 1949 was intended for unlawful sale. Hence, such wine is illicit, and with the other property seized, is subject to forfeiture. R. S. 33:1-1(i) and (y), R.S. 33:1-2, R.S. 33:1-66.

It appears from the evidence presented by the claimants to the vending machines that both machines were placed in Bruno's establishment in 1948. The place was actually a restaurant and the vending machines seem to have been placed there in the regular course of business. Bruno has no record of conviction in criminal proceedings for violation of the Alcoholic Beverage Law and the forfeiture proceedings involving the last previous seizure at the restaurant were terminated some five years before the instant seizure. The claimants say that there were no alcoholic beverages visible in the place when they were there and I am satisfied there was nothing to indicate to them that Bruno was selling wine in his restaurant. Accordingly, I shall recognize their claim and return the machines to the claimants upon payment of the costs of their seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 26th day of September, 1949, Mills Automatic Merchandising Corp. and Dierickx Vending Co. pay the costs of the seizure and storage of the gum vending and cigarette vending machine respectively, the gum vending machine will be returned to Mills Automatic Merchandising Corp. and the cigarette vending machine will be returned to Dierickx Vending Co.; and it is further

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

ERWIN B. HOCK
Director.

Dated: September 14, 1949.

SCHEDULE "A"

- 1 - gallon jug of wine
- 1 - empty gallon jug
- 24 - bottles of soda

SCHEDULE "A" (Cont'd)

- 10 - cases of empty soda bottles
- 10 - tables
- 22 - chairs
- 1 - coat tree
- 1 - electric fan
- 1 - gum vending machine #7984 and currency therein
- 1 - cigarette vending machine #52999 and currency therein
- 1 - clock
- 1 - radio combination #10643-D
- 1 - wall mirror with hat rack
- 1 - Kelvinator refrigerator #1125732
- 1 - gas range
- 1 - fire extinguisher
- 33 - assorted drinking glasses
- 4 - Venetian blinds
- 2 - 3-bulb fluorescent lights
- 2 - electric irons
- 1 - fan
- 1 - gas heater
- Misc. articles of restaurant equipment, as itemized in an inventory thereof in file.

13. DISCIPLINARY PROCEEDINGS - HOSTESSES - SALE OF ALCOHOLIC BEVERAGES DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATION - PRIOR RECORD - LICENSE SUSPENDED FOR 70 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

VICTORIA BAR, INC.)
 T/a VICTORIA BAR)
 Route 6)
 Lodi, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-11, issued by the Mayor and Council of the Borough of Lodi.)

 William V. Breslin, Esq., Attorney for Defendant-licensee.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleads guilty to the following charges:

"1. On Saturday, August 20, 1949, you allowed, permitted and suffered females employed on your licensed premises to accept beverages at the expense of and as a gift from customers and patrons; in violation of Rule 22 of State Regulations No. 20.

"2. On the aforesaid date, between 3 A.M. and 3:45 A.M., you sold, served, delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, and suffered the consumption of such beverages on your licensed premises, and failed to keep your entire licensed premises closed, thereby violating Section 2 of an Ordinance concerning alcoholic beverages adopted by the Mayor and Council of the Borough of Lodi on September 27, 1948, as amended January 24, 1949, which prohibits such conduct on regular weekdays between the hours of 3 A.M. and 6 A.M."

Examination of the file in the instant case discloses that, on Saturday, August 20, 1949, between the hours of 3:00 a.m. and 3:45 a.m., ABC agents purchased drinks of alcoholic beverages on defendant's licensed premises. It appears that approximately sixty patrons were present on the licensed premises at the time. A local ordinance

in effect in the Borough of Lodi prohibits sale, service or delivery of alcoholic beverages on regular weekdays between the hours of 3:00 a.m. and 6:00 a.m. During the time aforesaid, the agents also purchased drinks for and at the request of several female entertainers who had performed in and were employed on the licensed premises.

Defendant has a prior adjudicated record. Effective April 19, 1949, defendant's license was suspended for a period of forty-five days on charges of (1) sale and service of alcoholic beverages during prohibited hours, (2) permitting lewdness and immoral activities upon the licensed premises, and (3) permitting female employees to accept beverages at the expense of and as a gift from patrons.

Under the circumstances in this case, and in view of the recent past record of the licensee, I shall suspend the license for a period of seventy days, less five days' remission for the plea entered herein, leaving a net suspension of sixty-five days.

Accordingly, it is, on this 15th day of September, 1949,

ORDERED that Plenary Retail Consumption License C-11, issued by the Mayor and Council of the Borough of Lodi to Victoria Bar, Inc., t/a Victoria Bar, for premises Route 6, Lodi, be and the same is hereby suspended for a period of sixty-five (65) days, commencing at 3:00 a.m. September 21, 1949, and terminating at 3:00 a.m. November 25, 1949.

ERWIN B. HOCK
Director.

14. STATE LICENSES - NEW APPLICATIONS FILED.

Moshassuck Transportation Company
Saylesville, Rhode Island.

Application for Transportation License filed August 29, 1949.

Gerald P. O'Driscoll
7205 - 72nd Court, Brooklyn, New York.
SS "Ace"

Application for Plenary Retail Transit License filed
September 1, 1949.

United Distillers of America, Inc.
350 Fifth Avenue, New York, New York.

Application for Warehouse Receipts License filed September 8, 1949.

Packman Brothers, Inc.
310 North Indiana Ave., Atlantic City, N.J.

Application to Transfer License from Samuel and Henrietta Packman
filed September 6, 1949.

*Samuel Billik, Max Holtz, Irving Rice, Joseph Kanengiser, Morris R. Sprung, Joseph Billik, t/a Popper Morson Company
48-52 Essex St., Jersey City, N. J.

* Application to Transfer Warehouse Receipts License from Popper
Morson Corp. filed September 13, 1949.

* Application to Transfer Plenary Wholesale License from Popper
Morson Corp. filed September 13, 1949.

Samuel Billik, Max Holtz, Irving Rice, Joseph Kanengiser, Morris R. Sprung, Joseph Billik, t/a Popper Morson Co. and as J & B Company, Edward Lawson Company, James Mason & Co., Richard Stewart Company and Donald Jones & Co.

48-52 Essex St., Jersey City, N.J.

Application to Transfer Rectifier and Blender License from Popper
Morson Corp. filed September 13, 1949.