

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

BULLETIN 1347

August 8, 1960

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - ELMWOOD BAR AND GRILL, INC. v. NORTH BERGEN.
2. DISCIPLINARY PROCEEDINGS (Woodbridge Township) - SALES TO MINORS - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS.
3. DISQUALIFICATION REMOVAL PROCEEDINGS - FIVE YEARS GOOD CONDUCT NOT SHOWN - APPLICATION DENIED.
4. SEIZURE - FORFEITURE PROCEEDINGS - STILL, MOTOR VEHICLE AND OTHER APPURTENANT PERSONAL PROPERTY ORDERED FORFEITED - PADLOCKING WAIVED.
5. ACTIVITY REPORT FOR JUNE 1960.
6. DISCIPLINARY PROCEEDINGS (Lakehurst) - SALES TO MINORS - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Jersey City) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Carlstadt) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.
9. STATE LICENSES - NEW APPLICATIONS.

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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August 8, 1960

1. APPELLATE DECISIONS - ELMWOOD BAR AND GRILL, INC. v. NORTH BERGEN.

ELMWOOD BAR AND GRILL, INC.,)
t/a ELMWOOD BAR & GRILL,)

Appellant,)

v.)

MUNICIPAL BOARD OF ALCOHOLIC)
BEVERAGE CONTROL OF THE TOWNSHIP)
OF NORTH BERGEN,)

Respondent.)

ON APPEAL
CONCLUSIONS
AND ORDER

Samuel Raffaello, Esq., Attorney for Appellant.
Nicholas S. Schloeder, Esq., by Robert W. Bazzani, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby on January 25, 1960, by resolution, it revoked appellant's plenary retail consumption license effective February 1, 1960, after finding appellant guilty on charges alleging the following:

'Sale, service and delivery and allowing, permitting and suffering the sale, service and delivery of alcoholic beverages, and allowing the consumption of alcoholic beverages on the licensed premises between the hours of 3:00 A.M. and 7:00 A.M. on Saturday, October 10, 1959; in violation of Section 9 of an ordinance adopted by the Board of Commissioners of the Township of North Bergen on December 4, 1940.

'Allowing, permitting and suffering in and upon the licensed premises, foul and filthy and obscene language and conduct, brawls, acts of violence, disturbances and unnecessary noise; and allowing, permitting and suffering the licensed place of business to be conducted in such manner as to become a nuisance; all in violation of State Regulation No. 20, Rule 5 of the Rules and Regulations of the State of New Jersey, Department of Law and Public Safety, Division of Alcoholic Beverage Control.'

"Appellant's premises are located at 704 - 74th Street, North Bergen.

"Upon the filing of the appeal, an order was entered by the Director on February 15, 1960, staying respondent's order of revocation until entry of a further order herein. R.S. 33:1-31.

"In its petition of appeal, as amended, appellant alleges in substance that respondent's action was erroneous in that it was against the weight of the evidence; that respondent abused its

discretion and that the penalty imposed 'is out of all proportion to the seriousness of the alleged violations charged.'

"Respondent in its answer denies appellant's allegations and avers in substance that its determination to revoke the license was predicated upon the factual evidence adduced before it.

"At the hearing herein the transcript of the proceedings before respondent Board was received in evidence pursuant to Rule 8 of State Regulation No. 15, and both sides rested.

"It appears from the transcript that the witnesses called by respondent to substantiate the first charge were Captain Kvilez, Lieutenant Eller and Detective Rosatelli of the North Bergen Police Department, and Mrs. Emma Dick, and that those called to substantiate the second charge were Mrs. Emma Dick, her mother Mrs. Emma Lang, Mrs. Anna Ranuro and Mrs. Ruth Strobel. Appellant's witness was its bartender (Louis Urcinole).

"Lieutenant Eller testified in substance that at 2:58 a.m. Saturday, October 10, 1959, he received a phone call at Police Headquarters that a man was being beaten in front of the Elmwood Tavern and dispatched Captain Kvilez, Detective Rosatelli and Officer Campbell to investigate; that at 3:35 a.m. he received another phone call and proceeded with Detective Rosatelli to the same premises where he saw Officer Campbell; that he and Officer Campbell entered the premises wherein he spoke to the bartender, 'I told him that I understand everybody was chased out of here at 3:00 o'clock, and he said "yes"' and that thereafter Detective Rosatelli, who had remained outside, showed him blood spots on the sidewalk.

"Captain Kvilez testified in substance that he arrived at the Elmwood Tavern at 3:00 o'clock, give a little one way or the other' and 'after we dispersed the few that congregated on the outside of the place, I came into headquarters.' On cross-examination he testified that the patrons cleared out at one minute to three and that, so far as he was concerned, 'there was no fight in the tavern.'

"Detective Rosatelli testified in substance that he arrived at the Elmwood Tavern at about 2:58 a.m. and found no one lying on the sidewalk; that, as he entered the tavern, the patrons were leaving; that he and Lieutenant Eller were dispatched to the tavern at 3:35 a.m.; that Lieutenant Eller went in and he remained outside and that, while he was waiting for Lieutenant Eller, no one entered the tavern.

"Mrs. Emma Dick testified in substance that she lives directly across the street from the Elmwood Tavern; that close to 3:00 o'clock October 10, 1959, she called the police about men beating a man in the street; that the police chased them; that about 3:30 a.m. a lot of men and women got out of a car and went back in the barroom; that she could hear the cash register going and glasses going and the juke box playing, and she again called the police and watched until everybody was out of the place. Respecting the alleged fight, she stated at first that she didn't know where the participants came from and, when her memory was refreshed by reference to a statement she gave to the police, she stated that they came out of the Elmwood Tavern and that the fight occurred after 3:00 o'clock. However, on cross-examination she testified that she saw only one of the men who engaged in the fight come out of the tavern. As to Charge 2, Mrs. Dick testified that on the early morning of October 10 there was a lot of noise outside the tavern; that men and women were using filthy

language; that at 3:03 and 3:30 a.m. she heard the juke box playing in the tavern, cars starting and stopping; that on October 9 she saw a man and a woman in a car parked on her property; that the man who had come from the tavern was partially undressed; that she called the police; that at about 1:00 a.m. October 9 she saw a woman sitting on the tavern steps with a highball in her hand singing at the top of her voice and hollering into the barroom, 'Boys, I'm the night show here;' that these things occurred two or three times a week after 3:00, 4:00, 5:00 and 6:00 o'clock and that she saw people going into the tavern at 7:00 a.m.

"Mrs. Emma Lang (mother of Mrs. Dick) testified that she lives directly across the street from the tavern; that on October 10, 1959, she saw a man lying on the sidewalk and being kicked by other men; that the police came and, after they left, people went into the tavern and stayed until after 5:00 or 6:00; that she heard women outside the tavern use filthy language and saw them 'take their underwear off and flash it around in the street, kicking their legs up', and that she saw a man come out of the tavern and throw into the street a fire cracker which exploded like dynamite.

"Anna Ranuro testified that she lives directly across the street from the Elmwood Tavern; that on October 10, between the hours of 3:30 and 4:00 a.m., she heard the juke box play in the tavern; that at 3:50 a.m. she saw two couples enter the tavern and that at 7:50 p.m. she saw a woman who used filthy language being pushed by a man into a station wagon; that on one occasion she heard an explosion and heard a motorcycle backfiring, and that on another occasion she requested the owner to quiet down the juke box.

"Mrs. Ruth Strobel testified that she lives directly across the street from the Elmwood Tavern; that between 3:30 a.m. and 4:00 a.m. October 10, 1959, she heard the juke box playing in appellant's tavern; that people were constantly going in and out of the premises; that on another occasion around midnight she saw a girl come out of the tavern with a glass in her hand and dance picking her dress up and down, and that occasionally she heard fire crackers exploding. On cross-examination she testified that on October 10 she did not see anything going on outside the tavern and that, on the occasion when she saw the girl dancing outside the tavern, she did not hear the girl use any foul language or make any statement whatsoever.

"Louis Urcinole testified that the tavern opens at 8:00 p.m.; that on October 10, when the Captain came in, 'Frank and myself were there alone and a few others were there helping me clean up;' that the helpers were committee members of a Columbus Day party held at the tavern that night; that no drinks were served after 3:00 a.m.; that he and his helpers were out of the premises at 3:45 a.m.; that during the evening two fellows had an argument and he told them to leave, which they did; that he knew nothing of any fight outside the premises and did not hear any offensive language being used.

"Section 9 of the ordinance in question prohibits the sale, service or delivery of alcoholic beverages between 3:00 a.m. and 7:00 a.m. on weekdays, and also provides that no licensee shall allow the consumption of any alcoholic beverages on licensed premises during said hours. Having carefully considered the evidence adduced before respondent Board, and particularly the testimony of the police officers, I find that there is no evidence to substantiate the charge that alcoholic beverages were served to or consumed by anyone

after 3:00 a.m. Respecting the nuisance charge, I find that credence cannot be given to the testimony of the women as to what allegedly occurred during the early hours of October 10. To do so would necessitate a finding that the alleged disturbances were committed in the presence of one or more of the police officers whose testimony is that they were in or near appellant's tavern from 2:58 to 3:45 a.m. Respecting the fight and the other alleged disturbances testified to by the women, it is evident that none of them occurred in and upon the licensed premises. To predicate guilt upon the evidence adduced herein and to revoke appellant's license as a result of such finding appears to me to be both arbitrary and capricious and an unreasonable exercise of discretionary power. Cf. Robinson v. Glassboro, Bulletin 829, Item 10.

"In view of the aforesaid, I conclude that the evidence fails to support a finding of appellant's guilt as to either charge, and I recommend, therefore, that an order be entered reversing respondent's action."

Pursuant to the provisions of Rule 14 of State Regulation No. 15, the attorney for respondent filed with me exceptions to the Hearer's Report and written argument thereto. After reviewing the file, I notified the attorneys for appellant and respondent that I desired to hear oral argument, and oral argument was heard by me on May 27, 1960.

I have carefully considered the evidence presented in the proceedings held by the Municipal Board, the briefs filed with the Hearer, the exceptions to the Hearer's Report and the oral argument. I disagree with the conclusions of the Hearer and shall not accept his recommendation of reversal, for the following reasons:

1. While the police officers testified that, when they first arrived at the premises shortly after 3 a.m., they understood that "everybody was chased out of here at 3:00 o'clock", nevertheless the women who reside across the street testified that a number of people entered the premises after the police left and one woman testified that she could then hear the cash register going and the juke box playing.
2. There is definite proof that there was a fresh pool of blood on the sidewalk in front of the premises when the police arrived shortly after 3 a.m. There is a clear inference that this resulted from a beating which a patron received from another patron directly outside the premises, after they had started an argument within the premises.
3. There is testimony by neighbors that on various occasions women sat on the steps of the licensed premises, drinking, singing loudly and making obscene remarks to those in the tavern and that on one occasion a woman was dancing around outside the premises without undergarments.
4. The bartender was the only witness for appellant, indicating a lack of interest on the part of the owners.
5. The manner of operation, including the lack of consideration for those residing in the neighborhood, the violation of closing hours and the conduct of the patrons outside the premises, establishes, in my opinion, the guilt of appellant as to the charges herein.

For the aforesaid reasons, I shall affirm the action of respondent whereby it found appellant guilty as charged and revoked its license. Revocation was not too severe a penalty in view of the

fact that, in a prior appeal, the action of respondent whereby it suspended appellant's license for permitting consumption during prohibited hours was affirmed. Elmwood Bar & Grill, Inc. v. North Bergen, Bulletin 1328, Item 2.

Accordingly, it is, on this 6th day of June 1960,

ORDERED that the action of respondent be and the same is hereby affirmed, and the order of revocation, stayed by my order dated February 15, 1960, is hereby restored to become effective immediately.

WILLIAM HOWE DAVIS
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against

MAJESTIC BOWLING ACADEMY, INC.
t/a MAJESTIC BOWLING ACADEMY
N. J. Highway No. 9 and Pennsylvania Ave.
Woodbridge Township
PO Box 999, Perth Amboy, N. J.

Holder of Plenary Retail Consumption License C-32, issued by the Township Committee of the Township of Woodbridge.

CONCLUSIONS
AND ORDER

William K. Miller, Esq., Attorney for Defendant-licensee.
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 the following charge:

'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., Frank ---, age 17 on November 3, 1959, Kenneth ---, age 16 on November 15, 1959 and Martin Kerchner, Jr., age 19 on November 20, 1959, and allowed, permitted and suffered the consumption of alcoholic beverages by said Kenneth --- and Martin Kerchner, Jr., in and upon your licensed premises on November 15 and 20, 1959, respectively; in violation of Rule 1 of State Regulation No. 20.'

"Frank ---, age 17, testified that he and John K visited defendant's licensed premises at 'about 8:00 o'clock' on the evening of November 3, 1959 where they remained for 'about an hour, hour and a half'; that just prior to leaving the place he went into the barroom where he purchased from bartender Hyman Shihar four bottles of beer (shorties or nips) which the bartender 'uncapped'; that after payment for the beer he (Frank) walked out

of the premises to the parking lot where he met John K and both consumed the beer; that before service of the beer, he was not questioned as to his age nor did he make any written representation thereof; that some time thereafter, ABC agents called at the school which he attended and, after he discussed the matter with them, they 'threatened to take my license (driver's) away' unless he gave them a statement; that in answer to a question as to his physical description, he stated that he was 'six feet tall', weighed 'approximately 175' pounds and shaved; that he told the agents the same story as to what occurred at the time in question as that which he testified to as a witness at the instant hearing.

"John K. testified that on November 3, 1959 he accompanied Frank to defendant's licensed premises, arriving there 'about 8:00 o'clock' in the evening; that they bowled for 'an hour or two' and, when leaving, he went toward the door and observed Frank 'near the bar when I last seen him'; that Frank then 'came from the direction of the bar' with 'three or four' bottles of beer and after they went to the parking lot, he and Frank drank the beer.

"Kenneth ---, age 16, testified that at about 1:00 p.m. on November 15, 1959, he and a companion (John K) went to defendant's premises for the purpose of bowling; that while there they met John T, who later accompanied him to the barroom; that when he ordered two glasses of beer, the bartender asked that he show proof as to his age and that he then produced a 'draft card' which had been issued to another person and disclosed that person's age to be 21 years; that John T could produce no proof of age and, as a result, the bartender served only one glass of beer and a 'coke'; that thereafter he and John T went into the part of the premises where the bowling alleys are located, at which place he handed the beer to John T who drank same; that during the day on three or four occasions, he purchased a glass of beer, respectively, and a 'coke', and each time after taking a sip of the beer handed it to John T; that just prior to leaving the establishment he purchased a bottle of beer for off-premises consumption from the bartender and when he reached the parking lot he gave it to John K; that he could not identify the bartender who served him on the day in question and, who, after the first purchase, did not question him as to his age.

"John K testified that he and Kenneth visited defendant's bowling establishment about 1:00 p.m. on November 15, 1959 and that they met John T; that Kenneth and John T went into the barroom and, when they came out 'Kenny was holding a coke and a beer'; that Kenneth took a sip of the beer and handed the glass to John T; that during their stay of 'about two hours' Kenneth made several trips to the barroom and returned each time with 'beer and coke' and each time gave the beer to John T; that at no time did he see Kenneth purchase beer at the bar.

"John T testified that on November 15, 1959 he met Kenneth and John K in defendant's bowling academy and that on one occasion he accompanied Kenneth to the barroom where 'Kenny immediately asked for beer'; that the bartender requested proof of age and 'Kenny showed proof, but I didn't have any proof', as a result of which Kenneth was served a glass of beer and 'I got a coke'; that when they returned to the bowling areas Kenneth gave the glass of beer to him which he consumed; that thereafter, Kenneth made 'three or four' trips to the barroom and returned each time with beer from which he took a sip and then gave the glass of beer to him; that when Kenneth came out of the premises he had a bottle of beer which he gave to John K.

"Martin Kerchner, Sr. testified that on the evening of November 20, 1959 he and his son (19 years of age and in military

uniform) visited defendant's licensed premises; that during the time the son went to the men's room he (the father) ordered two glasses of beer; that the bartender placed the glasses of beer on the bar and when the son came from the men's room he picked up one of the glasses of beer and took a 'sip' therefrom; that thereafter, he was present when the son was being questioned by ABC agents and that one of the agents, in endeavoring to obtain a statement from the son, threatened him with confinement to jail if he did not sign the statement.

"An ABC agent testified that on November 20, 1959 he was seated at the bar in defendant's licensed premises when two males (subsequently identified as father and son) entered and took seats at the bar across from him; that the bartender (subsequently identified as Hyman Shihar) placed a glass of beer on the bar in front of each of the males; that as the younger man took a sip of the beer his fellow agent approached the young man and questioning of him disclosed that he was 19 years of age; that the agents and the two men entered the manager's office and he (the agent) asked Hyman Shihar whether he served the youth and his father, to which Shihar answered, 'Yes, sir, two beers and I took 30 cents in payment from the father.'

"Morris Shihar, secretary of defendant corporate-licensee, testified that he was present on November 20, 1959 when Martin Kerchner, Sr. was served beer and that he did not see Kerchner's son until the agent 'dragged him into the office'; that he was present when the agent interrogated the son and heard the agent request the son to sign the statement and, when he refused, the agent 'told him if he didn't sign it he would have to lock him up and he would not be able to get back to camp and he would report him to his superior officer; then he took him out of the place and took him down to police headquarters.'

"Hyman Shihar testified that he sold beer to Kenneth on the Sunday afternoon (November 15, 1959) after Kenneth showed him a 'G.I. identification card' which disclosed the age to be 21 years; that he refused to sell beer to John T when he could not show any identification; that on November 20, 1959 he sold beer to Martin Kerchner, Sr. but not to his son; that he did not know Frank, who never ordered beer or anything to drink from him.

"Inasmuch as the charge preferred in this matter contains allegations of alleged sale of alcoholic beverages to three different minors on three different dates, I shall discuss the evidence presented herein somewhat in detail.

"There appears to be no dispute that on November 15, 1959 on three or four occasions beer was sold to Kenneth by bartender Hyman Shihar after Kenneth displayed a 'draft card' which had been issued to another person and upon which the age appeared to be 21 years. R.S. 33:1-77 provides that:

'Anyone who sells any alcoholic beverage to a minor shall be guilty of a misdemeanor; provided, however, that the establishment of all of the following facts by a person making any such sale shall constitute a defense to any prosecution therefor: (a) that the minor falsely represented in writing that he or she was twenty-one (21) years of age or over, and (b) that the appearance of the minor was such that an ordinary prudent person would believe him or her to be twenty-one (21) years of age or over, and (c) that the sale was made in good faith relying upon such written representation and appearance

and in the reasonable belief that the minor was actually twenty-one (21) years of age or over.'

"The defense outlined in the aforesaid statute has been ruled to be effective in disciplinary proceedings as well as in criminal proceedings. Cf. Caruso v. Jersey City, Bulletin 694, Item 1.

"Although a Selective Service Card belonging to another person was presented by the minor whereon it appeared that the said person was twenty-one years of age, it is not a representation in writing within the meaning of R.S. 33:1-77. This evidence might well be considered merely as a mitigating circumstance in this case. Cf. Re Roey, Bulletin 747, Item 3.

"Frank testified on the evening of November 3, 1959, without being questioned as to his age, he purchased from bartender Hyman Shihar four bottles of beer which the bartender 'uncapped' and that he brought the said bottles of beer outside of the premises to the parking lot where it was consumed by him and John K. The latter's testimony disclosed that Frank came from the direction of the bar with the beer and corroborated the testimony of Frank that both he and John K consumed the same.

"Hyman Shihar testified that he did not know Frank and never sold him beer at the time in question.

"Martin Kerchner, Sr. testified that on November 20, 1959 he ordered and was served two glasses of beer by the bartender and, upon his son's return from the men's room, the son took a sip of the beer that he (the father) had purchased for him. The ABC agent's testimony corroborates that of Martin Kerchner, Sr. about the son taking a sip of the beer but the agent contends that the son was seated alongside of his father at the bar when the two glasses of beer were served.

"There was testimony that the agent made threats in order to obtain a statement from Martin, Jr. and Frank. This was categorically denied by the agent. Whether or not this was so has no bearing on the case now under consideration as I shall be guided solely by the evidence presented at the instant hearing and my recommendations shall be made accordingly.

"After consideration of the evidence produced herein, I am satisfied that on November 3, 1959 Hyman Shihar sold four bottles of beer to Frank, who then left defendant's premises with the beer; that on the evening of November 15, 1959 Kenneth purchased several glasses of beer from bartender Hyman Shihar and consumed a portion thereof on the licensed premises, and that he purchased a bottle of beer which he took from the premises and gave to one of his companions and also that Martin, Jr. consumed a portion of the beer that was purchased for him by his father.

"I realize that a heavy burden is placed upon licensees where bowling alleys comprise part of the licensed premises because of its attraction for young people. However, the law makes no distinction with reference to licensed premises and, consequently, the defendant and its employees must be constantly on the alert to see that the Alcoholic Beverage Law is scrupulously obeyed. Ordinarily, where three minors of the ages of 16, 17 and 19 are involved and have been sold or permitted to consume alcoholic beverages on licensed premises, a thirty-day penalty is warranted. Cf. Re Connelly and Kunisch, Bulletin 1328, Item 5. However, in this case the evidence shows that the bartender, before service

of beer to Kenneth, requested proof of age and was shown a draft card which had been issued to another person who was 21 years of age. Also, there is no dispute that Martin Kerchner, Sr. ordered two glasses of beer and that his son merely took a sip of beer before being confronted by ABC agents. In view of this, it is my recommendation that some mitigating circumstances appear in this case which would warrant a lesser than the usual penalty. I recommend after consideration of all the evidence adduced herein that defendant's license be suspended for a period of twenty days."

Written exceptions to the Hearer's Report and written argument in substantiation thereof were filed with me by the Attorney for the defendant, pursuant to Rule 6 of State Regulation No. 16.

After carefully considering the entire record in this case, including the transcript of testimony, the Hearer's Report, the exceptions and written argument filed herein, I concur in the Hearer's findings and adopt his recommendation.

Accordingly, it is, on this 8th day of June 1960,

ORDERED that Plenary Retail Consumption License C-32, issued by the Township Committee of the Township of Woodbridge to Majestic Bowling Academy, Inc., t/a Majestic Bowling Academy, for premises on N. J. Highway No. 9 and Pennsylvania Ave., Woodbridge Township, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m., Monday, June 13, 1960; and it is further

ORDERED that any renewal for the 1960-61 licensing year or transfer of said license shall be and remain under suspension until 3:00 a.m., Sunday, July 3, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

3. DISQUALIFICATION REMOVAL PROCEEDINGS - FIVE YEARS GOOD CONDUCT NOT SHOWN - APPLICATION DENIED.

In the Matter of an Application)
to Remove Disqualification because)
of a Conviction, Pursuant to)
R.S. 33:1-31.2.)

CONCLUSIONS
AND ORDER

Case No. 1545

BY THE DIRECTOR:

Applicant's criminal record discloses that on August 22, 1941 he was placed on probation and ordered to make restitution in the sum of \$572 following two convictions of grand larceny; that on December 5, 1941 following two convictions of larceny, he was sentenced to serve three months on one charge and placed on probation on the second charge; that on February 5, 1945 following a conviction of non-support he was placed on probation and ordered to pay \$17 a week for 50 weeks; that on May 4, 1946 he was sentenced in a foreign jurisdiction to serve ten years in a state prison on an armed robbery conviction and was paroled on March 15, 1948; that on March 29, 1948 following a conviction of carrying a concealed weapon he was sentenced in a foreign jurisdiction to serve 90 days in a county jail; that on November 14, 1948 he was fined \$7 under a disorderly person's conviction; that on October 17, 1949 following

a conviction for assault and robbery he was sentenced to serve three to five years in N. J. State Prison, from which institution he was paroled on December 27, 1951; that on August 27, 1956 following a conviction in a magistrate's court under the Disorderly Person's Act (fighting), he was sentenced to serve six months in a county jail and on March 17, 1959 he was again sentenced to serve six months upon a conviction under the Disorderly Person's Act (drunk and destroying private property).

The crime of robbery, per se, involves the element of moral turpitude (Re Case No. 1061, Bulletin 981, Item 9). The applicant was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26. It is unnecessary, therefore, to determine whether or not the other crimes of which applicant was convicted involved that element.

At the hearing held herein, the applicant testified that since April 1, 1960 he has been unemployed; that since his parole on December 27, 1951 he has held various jobs, including that of a bus operator for a period of four years and that it is his intention, if relief is granted, to accept employment as a bartender.

The police department of the municipality wherein applicant resides reports there are no complaints or investigations presently pending against the applicant.

The applicant produced three character witnesses (a policeman, a truck driver and a public service employee) who testified that they have known the applicant for five years and, in their opinion, he is now an honest, law-abiding citizen with a good reputation.

After careful examination of the petitioner's record, particularly with reference to the fact that during the past five years he was twice adjudged a disorderly person (for fighting and for being drunk and destroying private property), I am not satisfied that he has sufficiently rehabilitated himself so that his association with the alcoholic beverage industry would not be detrimental to the public interest. In addition, the applicant has a most unenviable criminal record.

To afford petitioner the relief requested, it is necessary that I find that he has been conducting himself in a law-abiding manner for five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest. See R.S. 33:1-31.2. Although his above convictions in 1956 and 1959 as a disorderly person do not constitute convictions of "crimes" (Re Case No. 1277, Bulletin 1124, Item 7), they are pertinent circumstances in considering the question whether he has successfully rehabilitated himself and has been living in a "law-abiding" manner during the above requisite period. I cannot find under the facts in this case, that petitioner has been law-abiding for five years last past and, hence, I shall deny his petition.

Accordingly, it is, on this 17th day of June 1960,

ORDERED that the petition herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS
DIRECTOR

4. SEIZURE - FORFEITURE PROCEEDINGS - STILL, MOTOR VEHICLE AND OTHER APPURTENANT PERSONAL PROPERTY ORDERED FORFEITED - PADLOCKING WAIVED.

In the Matter of the Seizure on March 1, 1960 of a still, appurtenant equipment, a quantity of alcohol, a Packard sedan, and miscellaneous property at a dwelling occupied by Saint Norman, located at or near the intersection of Route 38 and Walton Road, Mt. Laurel Township, and in the vicinity of East Main Street and Pancoast Avenue, Moorestown, both in the County of Burlington and State of New Jersey.

Case No. 10,235

ON HEARING CONCLUSIONS AND ORDER

Elsie Collins, Pro se.

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, Chapters 1 and 2, Revised Statutes of New Jersey, to determine whether a still, appurtenant equipment, a quantity of alcohol, a Packard sedan, and miscellaneous property, described in a schedule attached hereto, seized on March 1, 1960 in a dwelling occupied by Saint Norman, located at or near the intersection of Route 38 and Walton Road, Mount Laurel Township, and in the vicinity of East Main Street and Pancoast Avenue, Moorestown, New Jersey, constitute unlawful property and should be forfeited, and further to determine whether the Mount Laurel premises should be padlocked.

When the matter came on for hearing pursuant to R.S. 33:1-66 and R.S. 33:2-5, an appearance was entered by Elsie Collins, the owner of the Mount Laurel premises, who seeks to avoid padlocking of the premises. Mrs. Collins did not claim ownership of any of the seized property, or seek return thereof, and no one else appeared to oppose forfeiture of such property.

According to the testimony of two ABC agents, they were informed by local police on March 1st that they had discovered an illicit still in the premises and had seized a motor vehicle in connection therewith. The agents then proceeded to the premises where they ascertained that the Packard sedan which was seized had been operated by James A. Farmer, and that the registered owner thereof was William W. Smith, whose address was given as Williams Avenue, Lawnside, New Jersey. The agents ascertained that there were several one-gallon glass jugs, one with a quantity of alcohol, in the car and that the still, partially dismantled, and several barrels of mash were in the cellar of the dwelling of the premises. The tenant of the premises was Saint Norman. The agents questioned James A. Farmer who told them that he had been operating the still in the cellar for the past six weeks and that he was employed by William Smith who permitted him to use the motor vehicle in question and that Smith paid Saint Norman for the use of his cellar.

The still was not registered with the Director of the Division of Alcoholic Beverage Control as required by R.S. 33:2-1. Such still and other property found therewith on the premises constitute unlawful property and are subject to forfeiture, and the premises are subject to padlocking. R.S. 33:2-2, R.S. 33:2-5. The Packard sedan was used or adaptable for use in connection with the operation of the illicit still and it therefore constitutes unlawful property and is subject to forfeiture under the provisions

of R.S. 33:2-2 and 5, and R.S. 33:1-1(y), R.S. 33:1-66. Forfeiture of such still, motor vehicle and other personal property follows as of course.

Elsie Collins testified that the dwelling where the still was found is one of a number of buildings on the farm of which she is the owner; that Saint Norman had been employed by her on the farm and that she rented the dwelling to him in the fall of 1958; that he paid his rent at the home she occupied on the farm, and she had no knowledge that he permitted a still to be installed in the cellar; that she has been the owner for the past 45 years; that this particular dwelling had heretofore been used to house workers on the farm and this was the first time she had rented the dwelling to anyone; that Saint Norman vacated the premises after the seizure and that padlocking of such dwelling will deprive her of its use by farm help.

I am satisfied that Elsie Collins, the owner of the premises, acted in good faith and did not know or have any reason to suspect the presence of an illicit still in the cellar of the dwelling. I shall therefore waive padlocking of such dwelling.

Accordingly, it is DETERMINED and ORDERED that the seized property, 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 and R.S. 33:2-5, and shall be sold at public sale for the use of the state in accordance with State Regulation No. 29 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

Dated: June 20, 1960

SCHEDULE "A"

AT WALTON AVENUE:

1 - 55 gal. steel preheater
1 - 275 gal. steel cooker
1 - 275 gal. steel cooler
1 - pump
1 - fan
35 - feet copper coil
8 - wooden barrels with mash
58 - empty bottles
2 - jugs alcohol
Miscellaneous personal property.

VICINITY OF EAST MAIN STREET & PANCOAST AVENUE:

1 - gal. jug with alcoholic beverages
1 - Packard sedan, New Jersey Registration AJF236
empty jugs.

5.

ACTIVITY REPORT FOR JUNE 1960

ARRESTS:		
Total number of persons arrested	-----	41
Licensees and employees	----- 19	
Bootleggers	----- 22	
SEIZURES:		
Motor vehicles - cars	-----	3
Stills - 50 gallons or under	-----	1
Mash - gallons	-----	330.00
Distilled alcoholic beverages - gallons	-----	11,983
Wine - gallons	-----	26.50
Brewed malt alcoholic beverages - gallons	-----	67.49
RETAIL LICENSEES:		
Premises inspected	-----	654
Premises where alcoholic beverages were gauged	-----	663
Bottles gauged	-----	10,912
Premises where violations were found	-----	46
Violations found	-----	64
Unqualified employees	----- 35	
Application copy not available	----- 20	Prohibited signs ----- 1
Reg. #38 sign not posted	----- 3	Disposal permit necessary ----- 1
Other mercantile business	----- 2	Other violations ----- 2
STATE LICENSEES:		
Premises inspected	-----	33
License applications investigated	-----	31
COMPLAINTS:		
Complaints assigned for investigation	-----	411
Investigations completed	-----	409
Investigations pending	-----	184
LABORATORY:		
Analyses made	-----	270
Refills from licensed premises - bottles	-----	30
Bottles from unlicensed premises	-----	63
IDENTIFICATION:		
Criminal fingerprint identifications made	-----	11
Persons fingerprinted for non-criminal purposes	-----	436
Identification contacts made with other enforcement agencies	-----	375
Motor vehicle identifications via N. J. State Police teletype	-----	2
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	11
Violations involved	-----	12
Sale to minors	----- 6	
Sale during prohibited hours	----- 3	
Sale on credit (local reg.)	----- 2	
Permitting females at bar (local reg.)	----- 1	
Cases instituted at Division	-----	15
Violations involved	-----	16
Sale during prohibited hours	----- 5	Permitting immoral activity on prem. - 1
Possessing liquor not truly labeled	----- 4	Permitting foul language on premises - 1
Permitting lottery activity (numbers)	----- 2	Permitting gambling (wagering, darts) - 1
Sale to minors	----- 1	Permitting bookmaking on premises - 1
Cases brought by municipalities on own initiative and reported to Division	-----	28
Violations involved	-----	29
Sale to minors	----- 13	Hindering investigation ----- 2
Conducting business as a nuisance	----- 7	Persons of ill repute on premises ----- 1
Permitting brawls on premises	----- 3	Permitting gambling (cards) ----- 1
Failure to close premises during prohibited hours	----- 2	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	46
Appeals	----- 7	Seizures ----- 2
Disciplinary proceedings	----- 28	Tax revocations ----- 2
Eligibility	----- 6	Applications for license ----- 1
STATE LICENSES AND PERMITS ISSUED:		
Total number issued	-----	4,308
Licenses	----- 3	Social affair permits ----- 450
Solicitors' permits	----- 2,735	Miscellaneous " ----- 185
Employment "	----- 472	Transit insignia ----- 329
Disposal "	----- 82	Transit certificates ----- 45

Dated: July 7, 1960

WILLIAM HOWE DAVIS, DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

STEPHEN SABO AND STEPHEN J. SABO t/a STEVE'S BAR Corner of Center and Pine Streets Lakehurst, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Lakehurst.)

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On May 21, 1960, 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., Margaret ---, age 18, Adrian ---, age 19, and William ---, age 19, and you 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."

On May 21, 1960, at about 10 p.m., ABC agents entered defendants' premises and observed Margaret --- and William --- seated at the bar and Adrian standing near a pooltable consuming a glass of beer. At that time William was also consuming a glass of beer but Margaret was not drinking. William left the bar and joined Adrian at the pooltable, where they and two adults played several games of pool. William and Adrian then went to the bar where each drank a glass of beer served by Mary Sirianna (the bartender) and then they returned to the pooltable. At this time Margaret, who remained at the bar, had nothing to drink. Some time later William called to Margaret to order two glasses of beer. Margaret gave the order and the bartender placed two glasses of beer on the bar. Margaret took a sip from one of the glasses and handed it to Adrian (her husband) as he came to the bar. William also came to the bar and partly consumed the other glass of beer. The agents identified themselves and learned that Margaret was 18 years of age; Adrian was 19 years of age, and William was 19 years of age. The bartender immediately contended that she had served only the male patrons and that she had never served any alcoholic beverages to Margaret or permitted her to consume any alcoholic beverages.

Defendants have no prior record. Ordinarily, the penalty for sales to three minors, all of whom are 18 years of age or over, is twenty days. Re Wolfe, Bulletin 1301, Item 4. However, under all the circumstances of this case, I shall suspend defendants' license for fifteen days. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 13th day of June 1960,

ORDERED that Plenary Retail Consumption License C-2, issued by the Borough Council of the Borough of Lakehurst to Stephen Sabo and Stephen J. Sabo, t/a Steve's Bar, for premises at Corner of Center and Pine Streets, Lakehurst, be and the same is hereby suspended for ten (10) days, commencing at 2.a.m. Thursday, June 30, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against SIGMUND KOZLOWSKI t/a ZIGGIE'S TAVERN 233 Palisade Avenue Jersey City 7, N. J.

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-329, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City.

Defendant-licensee, Pro se. William F. Wood, 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 an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

On April 27, 1960 an ABC agent tested defendant's open bottles of alcoholic beverages and seized a quart bottle of "Seagram's Seven Crown American Blended Whiskey 86 Proof" for further tests by the Division's chemist. Subsequent analysis by the chemist disclosed that the contents of the seized bottle were much higher in solids and acids when compared with an analysis of the genuine product.

Defendant has no prior adjudicated record. I shall suspend his license for ten days, the minimum period where one bottle is involved. Re Picklo, Bulletin 1338, Item 12. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 14th day of June, 1960,

ORDERED that Plenary Retail Consumption License C-329, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Sigmund Kozlowski, t/a Ziggle's Tavern, for premises 233 Palisade Avenue, Jersey City, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m., Monday, June 20, 1960, and terminating at 2:00 a.m., Saturday, June 25, 1960.

WILLIAM HOWE DAVIS
DIRECTOR

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

In the Matter of Disciplinary
 Proceedings against

BRUCKER'S CARLSTADT TAVERN &
 DINER, INC.
 Hoboken Road & 10th Street
 Carlstadt, N. J.

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption
 License C-11, issued by the Borough
 Council of the Borough of Carlstadt.

 Macy Davidson, Esq., Attorney for Defendant-licensee.
 William F. Wood, Esq., Appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it possessed on its 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 May 2, 1960, an ABC agent tested defendant's open stock of liquor and seized a number of bottles for further tests by the Division chemist. Subsequent analysis by the chemist disclosed that the contents of three of said bottles varied substantially from the contents of genuine bottles of the labeled brands.

Defendant has no prior adjudicated record. I shall suspend defendant's license for twenty days, the minimum penalty imposed in cases involving three bottles. Re S & S Bar & Grill, Inc., Bulletin 1339, Item 8. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 21st day of June 1960,

ORDERED that any renewal of Plenary Retail Consumption License C-11, issued by the Borough Council of the Borough of Carlstadt to Brucker's Carlstadt Tavern & Diner, Inc., for premises on Hoboken Road & 10th Street, Carlstadt, be and the same is hereby suspended for fifteen (15) days, commencing at 3:00 a.m., Tuesday, July 5, 1960 and terminating at 3:00 a.m. Wednesday, July 20, 1960.

9. STATE LICENSES - NEW APPLICATIONS FILED

Konrad Beer Distributor Inc.

Northeast corner White Horse Pike and Suburban Avenue
 Stratford, New Jersey

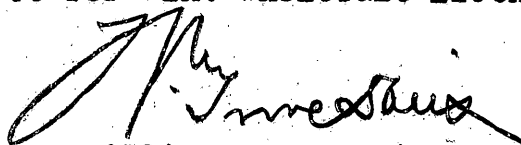
Application filed July 29, 1960 for person-to-person, place-to-place transfer of State Beverage Distributor's License SBD-223 from Waugh Beverage, Inc., West Side Delsea Drive at Hillside Avenue, Westville, New Jersey.

California Wine Association

350 Fifth Avenue

New York 1, New York

Application filed August 1, 1960 for Wine Wholesale License.



William Howe Davis
 Director