

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

BULLETIN 1060

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MAY 9, 1955

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Woodlawn Bar & Grill, Inc., Defendant-licensee, by Joseph T. Hynes, President.

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

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it conducted its licensed business in violation of a local ordinance which prohibits any such activities between the hours of 2 a.m. and 1 p.m. on Sundays.

The file herein discloses that between 2:10 and 2:35 a.m., Sunday, February 27, 1955, ABC agents who were in defendant's licensed premises purchased several glasses of beer from the bartender therein who, during the stated time, served a pitcher of beer to a party of twelve in the rear room and a highball and a glass of beer to two patrons at the bar. At 2:40 a.m. the agents identified themselves, seized the drinks served at the bar for evidential purposes and, upon the arrival of Joseph T. Hynes (president of defendant corporate licensee), told him of the violation.

On behalf of defendant, an attorney appeared before me on oral argument in mitigation of the penalty to be imposed herein and stated that a small party was being held in the rear room of the licensed premises at the time of the violation, and that the bartender had made every reasonable effort to disband the group before 2 a.m., but without success. The explanation cannot save defendant from the full impact of the merited penalty. Cf. Re Schumacher, Bulletin 901, Item 5. The licensee is fully accountable for all violations committed on the licensed premises.

Defendant has a prior adjudicated record. Effective November 9, 1953, its license was suspended for thirty-five days by the State Director for (1) violation of Rule 1 of State Regulations No. 38 and (2) gambling. Re Woodlawn Bar & Grill, Inc., Bulletin 990, Item 4. In that case the Director considered a previous local "hours" violation of defendant's predecessor in interest, Joseph T. Hynes. At the present time Joseph T. Hynes is president and principal stockholder (98%) of defendant corporate licensee. Hence the present violation must be considered as a third similar violation within a five-year period. I shall suspend defendant's license for a period of sixty days. Cf. Re Scarne Enterprises, Inc., Bulletin 998, Item 2. Five days will be remitted for the plea entered herein, leaving a net suspension of fifty-five days.

Accordingly, it is, on this 7th day of April 1955,

ORDERED that Plenary Retail Consumption License C-59, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Woodlawn Bar & Grill, Inc., 422 Ocean Avenue, Jersey City, be and the same is hereby suspended for fifty-five (55) days, commencing at 2 a.m., April 15, 1955, and terminating at 2 a.m., June 9, 1955.

WILLIAM HOWE DAVIS,  
Director.

3. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )  
 )  
 Arthur J. Salomon & David )  
 Paul Salomon, )  
 t/a Joe Salomon, )  
 133 Market Street, )  
 Passaic, New Jersey, )  
 )  
 Holders of Plenary Retail Consumption License C-104, issued by the )  
 Board of Commissioners of the City of Passaic. )

CONCLUSIONS  
 and  
 ORDER

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 Defendant-licensees, by Arthur J. Salomon.  
 William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that they sold alcoholic beverages at less than the price listed in the Minimum Resale Price List then in effect, in violation of Rule 5 of State Regulations No. 30.

The file herein discloses that on February 25, 1955, an ABC agent and a private investigator entered defendants' licensed premises and the investigator asked David Paul Salomon for a fifth of Schenley. The licensee placed a 4/5 quart bottle of Schenley Reserve Blended Whiskey on the counter and quoted \$4.49, the correct minimum consumer price. After the investigator said that she had previously purchased the item in defendants' premises for \$4.25, the licensee agreed to sell the bottle at that price. The licensee put the bottle of whiskey in a paper bag and rang up on the register \$4.25, giving the agent seventy-five cents change for a marked five-dollar bill. The agent then identified himself and seized the register tape showing the last sale to be \$4.25. The licensee admitted the violation but refused to give a signed statement.

Defendants have no prior adjudicated record. I shall suspend their license for ten days (the minimum period for an unaggravated offense of the kind charged). Re Locust Inn, Inc., Bulletin 1050, Item 10. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 7th day of April, 1955,

ORDERED that plenary retail consumption license C-104, issued by the Board of Commissioners of the City of Passaic to Arthur J. Salomon & David Paul Salomon, t/a Joe Salomon, for premises 133 Market Street, Passaic, be and the same is hereby suspended for five (5) days, commencing at 3 a.m. April 18, 1955, and terminating at 3 a.m. April 23, 1955.

WILLIAM HOWE DAVIS,  
 Director.

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

In the Matter of Disciplinary Proceedings against )

William J. and Dora Lapsansky, t/a Bill and Dora, 107 Paterson Street, Harrison, New Jersey, )

CONCLUSIONS and ORDER

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Holders of Plenary Retail Consumption License C-44, issued by the Town Council of the Town of Harrison.)

William J. Lapsansky and Dora Lapsansky, Defendant-licensees, Pro se.

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

BY THE DIRECTOR:

Defendants have pleaded guilty to a charge alleging that on Sunday, March 27, 1955, they sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that ABC agents entered defendants' premises on Saturday, March 26, 1955, at about 11:30 p.m. and remained there until the premises were closed at 2 a.m. Sunday, March 27. At about 1:45 a.m. on Sunday morning they overheard a conversation between a patron and William Lapsansky (one of the licensees), during the course of which the patron said that his father wanted a case of beer and that his father would pay for it tomorrow. The agents observed William Lapsansky carrying a case of Schaefer canned beer from the refrigerator to the barroom and thereafter they observed him place the case of beer on a landing in the rear part of the barroom. After the patron had left the premises one of the agents asked William Lapsansky for six cans of beer, but the licensee refused to make the sale. As indicated above, the agents left the premises at the closing hour but kept the premises under observation. At about 2:05 a.m. the patron returned to the licensed premises, entered the front door and, in a few seconds, came out carrying the case of beer which he placed in his automobile. The agents identified themselves to the patron, re-entered the licensed premises with the patron and identified themselves to the licensees. The agents seized the case of beer for evidential purposes.

Defendants have no prior adjudicated record. I shall suspend their license for fifteen days. Re Bohling, Bulletin 1036, Item 3. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 11th day of April, 1955,

ORDERED that plenary retail consumption license C-44, issued by the Town Council of the Town of Harrison to William J. and Dora Lapsansky, t/a Bill and Dora, for premises 107 Paterson Street, Harrison, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. April 18, 1955, and terminating at 2 a.m. April 28, 1955.

WILLIAM HOWE DAVIS,  
Director.

5. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

Peter Gambino, t/a Gambino's Grill, 271 Remsen Avenue, New Brunswick, New Jersey, )

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-47, issued by the Board of Commissioners of the City of New Brunswick. )

Peter Gambino, Defendant-licensee, Pro se. William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to charges alleging that (1) on Sunday, March 20, 1955, he sold an alcoholic beverage in its original container for off-premises consumption, in violation of Rule 1 of State Regulations No. 38; and (2) he sold an alcoholic beverage at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulations No. 30.

The file herein discloses that at 1:45 p.m., Sunday, March 20, 1955, an ABC agent entered defendant's licensed premises and purchased a pint of Schenley Reserve Blended Whiskey to take out. The bartender put the bottle of whiskey in a paper bag, accepted a ten-dollar bill, rang up \$2.80 on the register and handed the agent \$7.20. The then minimum consumer resale price was \$2.83. The agent left with the merchandise and shortly thereafter re-entered the premises accompanied by another agent. They identified themselves to the bartender and obtained from him a signed sworn statement in which he admits the sale of the article in question for off-premises consumption at the reduced price.

Defendant has no prior adjudicated record. I shall suspend his license for fifteen days on Charge (1), Re Pawlowski's Tavern, Inc., Bulletin 1055, Item 5; and an additional ten days on Charge (2), Re Weisbrot, Bulletin 1052, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 12th day of April 1955,

ORDERED that Plenary Retail Consumption License C-47, issued by the Board of Commissioners of the City of New Brunswick to Peter Gambino, t/a Gambino's Grill, 271 Remsen Avenue, New Brunswick, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m., April 20, 1955, and terminating at 2:00 a.m., May 10, 1955.

WILLIAM HOWE DAVIS, Director.

6. DISCIPLINARY PROCEEDINGS - SALE AT LESS THAN PRICE LISTED IN MINIMUM CONSUMER RESALE PRICE LIST - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Louis Fishman, 110 Market Street, Passaic, N. J., Holder of Plenary Retail Distribution License D-5, issued by the Board of Commissioners of the City of Passaic.

CONCLUSIONS and ORDER

Louis Fishman, 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 sold an alcoholic beverage at less than the price listed in the Minimum Consumer Resale Price List then in effect, in violation of Rule 5 of State Regulations No. 30.

The file herein discloses that on Friday, February 25, 1955, an ABC agent, accompanied by a private investigator, entered defendant's licensed premises. The investigator asked for a fifth of Schenley and the clerk, later identified as the licensee's wife, took a 4/5 quart bottle of Schenley Reserve Blended Whiskey from a shelf, on which was a tag marked \$4.49 (the then current minimum resale price of the product in question), put the bottle in a bag and placed it on the counter. The ABC agent gave a five-dollar bill to the clerk and she purportedly rang up the sale and gave change of three quarters to the investigator who turned it over to the ABC agent. Shortly thereafter the ABC agent identified himself to the clerk and the licensee and upon inspection of the cash register, to verify the price charged, found it was not in working order and had no tape in it.

Defendant has a prior adjudicated record. Effective October 6, 1952, his license was suspended for ten days, less five for a confessional plea, by the then Director, for a similar violation. Re Fishman, Bulletin 945, Item 9. Thereafter, on September 24, 1953, he received a warning letter from the Division respecting show-window advertising of alcoholic beverages below the minimum resale price and was advised that the warning would be considered in fixing the penalty for a future violation of like character. Technically, the violation herein is not of a like character. The minimum suspension for the violation set forth in the charge herein is ten days, Re Marsam Quality Food & Liquor Center, Inc., Bulletin 1054, Item 4; and where defendant has a prior record of a similar violation within a five-year period, the penalty is doubled, Re Golden Gate, A Corp., Bulletin 1052, Item 12. Considering all of the circumstances herein I shall suspend defendant's license for a period of twenty days, less five days for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 12th day of April 1955,

ORDERED that Plenary Retail Distribution License D-5, issued by the Board of Commissioners of the City of Passaic to

Louis Fishman, 110 Market Street, Passaic, be and the same is hereby suspended for fifteen (15) days, commencing at 9 a.m., April 19, 1955, and terminating at 9 a.m., May 4, 1955.

WILLIAM HOWE DAVIS,  
Director.

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

In the Matter of Disciplinary Proceedings against )

Peter DeLorenzo, t/a Lexington Tap Room, 549 West Side Avenue, Jersey City 4, New Jersey, )

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-363, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

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Peter DeLorenzo, Defendant-licensee, Pro se.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to a charge alleging that during prohibited hours he sold alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that between the hours of 11:55 p.m., Friday, March 25 and 12:10 a.m., Saturday March 26, 1955, ABC agents who were in defendant's licensed premises observed the bartender sell ten cans of beer to one patron and two cans of beer to another for off-premises consumption. At 1:05 a.m., Saturday, one agent purchased six cans of beer which he took with him when he left the premises. He returned immediately and both agents identified themselves to the bartender who verbally admitted the aforesaid sales.

Defendant has no prior adjudicated record. I shall suspend his license for the minimum period of fifteen days. Re Pawlowski's Tavern, Inc., Bulletin 1055, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days.

Accordingly, it is, on this 14th day of April 1955,

ORDERED that Plenary Retail Consumption License C-363, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Peter DeLorenzo, t/a Lexington Tap Room, 549 West Side Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m., April 25, 1955, and terminating at 2:00 a.m., May 5, 1955.

WILLIAM HOWE DAVIS,  
Director.

8. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

William Bogatin, t/a El Lidro, 102-104 South Main Street, Pleasantville, New Jersey, )

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-8, issued by the Common Council of the City of Pleasantville. )

Paul M. Salsburg, Esq., Attorney for Defendant-licensee. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No.20.

The file herein discloses that, on March 12, 1955, ABC agents obtained a signed sworn statement from Albert ---, age 15, stating that between January 1 and March 3, 1955, he made six or more visits to defendant's licensed premises, wherein, "I would usually order two quarts of beer and once in a while a pint of wine"; that he, with two 15-year-old companions who remained outside, consumed the beverages which he purchased on the premises; that on March 3, 1955, the day he was suspended from school, he purchased at noon in defendant's premises two quarts of beer; and that the bartender from whom he purchased the alcoholic beverages on each occasion at no time inquired as to his age. The ABC agents also obtained signed sworn statements from Benjamin ---, age 15, and Edward ---, age 15, wherein they say that they accompanied Albert to defendant's licensed premises on a number of occasions subsequent to January 1, 1955; that they would remain outside and that Albert would enter and come out with bottles of beer and sometimes wine.

After making his statement Albert accompanied the agents to defendant's tavern which he identified as the place where he had been served and, therein, pointed out the licensee as the person who had served him.

In alleged mitigation, defendant's attorney says that "these bad boys get a lot of good people in trouble and they are quite clever in their maneuvering." This cannot be accepted as any excuse for the violation. I believe the boys are telling the truth.

Defendant has no prior adjudicated record. The minimum penalty for a first offense of sale of alcoholic beverages to minors (unaggravated by their tender age or other circumstances) is a suspension of the license for ten days. However, the instant case is aggravated by the tender age (15) of the minor involved and the quantity of the alcoholic beverages dispensed

to him so frequently. Therefore, a penalty of ten days will be added because of the minor's age and an additional five days for the other circumstances, making a total suspension of twenty-five days, Cf. Re Tarsi, Bulletin 1058, Item 2, Re Eagle Package Liquor Co., Bulletin 1000, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 15th day of April 1955,

ORDERED that Plenary Retail Consumption License C-8, issued by the Common Council of the City of Pleasantville to William Bogatin, t/a El Lidro, 102-104 South Main Street, Pleasantville, be and the same is hereby suspended for twenty (20) days, commencing at 1:00 a.m. April 20, 1955, and terminating at 1:00 a.m. May 10, 1955.

WILLIAM HOWE DAVIS,  
Director.

9. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

Leo Burg, )  
t/a Burg's Liquor Store, )  
1512 Pacific Avenue, )  
Atlantic City, New Jersey, )

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Distribution License D-20, issued by the Board of Commissioners of the City of Atlantic City. )  
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Samuel Moskowitz, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that, on March 12, 1955, ABC agents obtained a signed sworn statement from Albert ---, age 15, in which he stated that on December 31, 1954, he purchased in defendant's licensed premises two quarts of beer and a pint bottle of blackberry brandy; that thereafter he was in defendant's licensed premises approximately six times and that, on March 4, 1955, he purchased therein six cans of beer and a pint of blackberry brandy; that on every visit except one he was served by an elderly man and that on the one visit he was served by a young man; that two 15-year-old companions always accompanied him on his visits and remained outside and later partook of the beverages; that the only time he was questioned as to his age was on his first visit when the elderly man asked him if he was sure he was 21 years old but never requested proof of his age. The ABC agents also obtained signed sworn statements from Benjamin ---, age 15, and Edward ---, age 15, wherein they substantially corroborated the statement of Albert --- that he had purchased alcoholic beverages in

defendant's premises on December 31, 1954. In Benjamin's statement he also said that Albert had entered defendant's licensed premises on February 25, 1955 and "when he came out he had some beer and a bottle of blackberry brandy."

After signing the statements, Albert and his two companions accompanied the agents to the licensed premises and identified it as the place where the alcoholic beverages were purchased and Albert pointed out therein the licensee and his son as the persons who made the sales.

Defendant has no prior adjudicated record. The minimum penalty for a first offense of sale of alcoholic beverages to minors (unaggravated by their tender age and other circumstances) is a suspension of the license for ten days. However, the instant case is aggravated by the age of the minor involved, the frequency of the sales and the amount and kind of alcoholic beverages dispensed. Ten days will be added because of the age of the minor and an additional five days for the other circumstances, making a total suspension of twenty-five days. Re Tarsi, Bulletin 1058, Item 2. Re Eagle Package Liquor Co., Bulletin 1000, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty days.

Accordingly, it is, on this 15th day of April 1955,

ORDERED that Plenary Retail Distribution License D-20, issued by the Board of Commissioners of the City of Atlantic City to Leo Burg, t/a Burg's Liquor Store, 1512 Pacific Avenue, Atlantic City, be and the same is hereby suspended for twenty (20) days, commencing at 9 a.m., April 20, 1955, and terminating at 9 a.m., May 10, 1955.

WILLIAM HOWE DAVIS,  
Director.

10. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE  
SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against )

Harry Burns, )  
t/a Lemke's Tavern, )  
247 Piaget Avenue, )  
Clifton, N. J., )

CONCLUSIONS  
and  
ORDER

Holder of Plenary Retail Consumption License C-127, issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton. )  
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William F. Hinchliffe, Esq., by Hugh C. Spernow, Esq., Attorney for Defendant-licensee.

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

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On Sunday, December 5, 1954, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to persons under the age of twenty-one (21) years of age, viz., Joseph J. ---, age 18 and Ronald P. ---, age 18, 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 Regulations No. 20."

The testimony of two 18-year-old minors and their adult companion was in agreement that at approximately 8:45 p.m., on Sunday evening, December 5, 1954, they visited defendant's licensed premises and that while they were there, each minor was served and permitted to consume beer. Neither the minors nor their adult companion could identify the bartender who made service thereof. Prior to making service, according to the testimony of the youths, the bartender requested some identification, and, in response thereto, each of the three patrons showed him a card containing information as to his age and other personal data. One of the minors displayed a Selective Service System Registration Certificate which disclosed his birth date as March 2, 1936. The other minor showed a similar type of certificate which disclosed the name of a person other than himself, indicating that the person referred to thereon was born January 19, 1932. The third patron produced a certificate disclosing that he was a member of the Armed Forces of the United States and that he was twenty-one years of age. The testimony of the three witnesses was in agreement that the bartender examined each card; that, pursuant to the order given by the youths, he made service of drinks to them and that each of the minors was served and permitted to consume a second glass of beer in defendant's premises that evening.

Two of three witnesses produced by the defendant testified that they saw an item in a newspaper published sometime after December 20, 1954 that a charge had been preferred against defendant for an alleged sale on December 5, 1954 of alcoholic beverages to minors. A third witness testified that he was on defendant's premises on December 7, 1954 during the course of the investigation when the ABC agents, a municipal detective, and three youths arrived there. The three witnesses testified that they recalled being in defendant's licensed premises on the evening of December 5, 1954 but none of them saw the minors or their adult companion in the tavern on that occasion. Harry Burns, Jr., son of the defendant, testified that he was on duty as bartender from 3 p.m. until 9 p.m. when his father, the defendant herein, relieved him. Both the licensee and his son testified that they did not see the two minors or their adult companion in the licensed premises at any time during the evening in question.

The attorney for the defendant contends that the testimony of one of the minors was vague and indefinite, especially with reference to his failure to recall whether or not there was a television in the premises; and that the testimony of the other minor should not merit consideration because of his involvement "in an accident which created a situation where the police wanted to find out where he had secured alcoholic beverages." With respect to the attorney's contention that the testimony of the minors is not worthy of belief, I cannot agree. The testimony

of the two minors and their adult companion is substantially in agreement that all were served and permitted to consume beer in defendant's licensed premises on the evening of December 5, 1954. Although, as contended by the attorney for the defendant, there may be slight variations in the testimony of the young men and perhaps an isolated lapse of memory on the part of one or more of them, I am satisfied that their testimony as to the material facts in the case is trustworthy and believable. Furthermore, their failure to identify the specific person who served them the beer is not fatal in disciplinary proceedings. Re LaCorte, Bulletin 469, Item 1; Re Dante, Bulletin 771, Item 9. I might add that I am not impressed with the testimony given by defendant or his witnesses. I conclude that the minors were present on defendant's licensed premises and that alcoholic beverages were sold and served to them and consumed by them at the time mentioned in the charge.

From all of the evidence, I find defendant guilty as charged.

Defendant has no prior adjudicated record. In view of the absence of aggravating circumstances, I shall suspend his license for the minimum period of ten days. Cf. Re Wagenti & Palermo, Bulletin 1047, Item 5.

Accordingly, it is, on this 15th day of April 1955,

ORDERED that Plenary Retail Consumption License C-127, issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton to Harry Burns, t/a Lemke's Tavern, 247 Piaget Avenue, Clifton, be and the same is hereby suspended for a period of ten (10) days, commencing at 3 a.m., April 25, 1955, and terminating at 3 a.m., May 5, 1955.

WILLIAM HOWE DAVIS,  
Director.

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

In the Matter of the Seizure on October 25, 1954 of 38 half-gallon "Mason" jars of alcohol and a Pontiac sedan, on the northbound lane of the New Jersey Turnpike in East Brunswick Township, County of Middlesex and State of New Jersey.	)	Case No. 8742
	)	On Hearing
	)	CONCLUSIONS and ORDER

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Irving I. Schwartz, Esq., Attorney for Nebraska Sanders.  
Chivian & Chivian, Esqs., by Louis Chivian, Esq., Attorney for  
General Motors Acceptance Corporation and Rawson Motors,  
Inc.

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

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether 38 half-gallon "Mason" jars of alcohol and

a Pontiac sedan, described in a schedule attached hereto, seized on October 25, 1954, on the northbound lane of the New Jersey Turnpike, in East Brunswick Township, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing, pursuant to R. S. 33:1-66, appearances were entered on behalf of General Motors Acceptance Corporation and Rawson Motors, Inc., which sought recognition of their respective alleged liens upon the Pontiac sedan, and an appearance was entered by Nebraska Sanders, the registered owner of such motor vehicle, who sought its return. Forfeiture of the alcohol was not opposed by any person.

The Hearer's Report setting forth the facts presented at the hearing in the case and his recommendation thereon was mailed to counsel for the above claimants. No objection or exception to such report was filed within the time limited therefor.

After careful consideration of the complete record in the case, and review of the Hearer's report, I find the following to be established by the evidence presented:

On October 25, 1954 a New Jersey State Trooper halted the Pontiac sedan while on traffic duty on the turnpike. The car was being driven by Nebraska Sanders. The trooper discovered 38 half-gallon jars of alcohol in the trunk of the car, and thereupon took possession of the alcohol and motor vehicle and placed Nebraska Sanders under arrest.

The Division of Alcoholic Beverage Control was notified, and the motor vehicle and alcohol were thereafter turned over to ABC agents. None of the jars bore any labels or stamps indicating the payment of tax on alcoholic beverages. The contents of one of the jars was analyzed by the Division chemist, who reports that it is alcohol and water fit for beverage purposes, with an alcoholic content by volume of 49.3 per cent.

Nebraska Sanders signed a statement wherein he claims that he purchased the alcohol from a person known to him only by the name "Pete" in front of a church located somewhere on the highway known as U.S. Route 301, between Smithfield and Raleigh, North Carolina.

It is clear that the alcohol in the half-gallon jars is illicit both because of the absence of any label or tax stamp on any of the jars and because of the manner of its purchase. R. S. 33:1-1(i), R. S. 33:1-88. Such illicit alcohol and the Pontiac sedan 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.

Nebraska Sanders admits that he knew that it was unlawful to purchase moonshine alcoholic beverages. He knew that beer, whiskey, or other liquor is to be purchased in a liquor store, and not elsewhere. His excuse for the instant purchase is that it is his understanding that it is customary to obtain and drink moonshine in North Carolina and that he did not know that there "was any law to drink". His counsel seeks to minimize the admitted unlawful conduct by his statement that Sanders is a normal colored boy, raised in North Carolina, where the moonshine flows and perhaps what is a serious violation here would appear to be a minor thing to him.

Return to the owner of property subject to forfeiture is governed by R.S. 33:1-66(e), which affords me discretionary authority to relieve a person from forfeiture if such person establishes to my satisfaction that he has acted in good faith, and unknowingly violated the law. The logical implication is that good faith means being engaged in a lawful transaction. The purchase of moonshine alcohol, irrespective of whether for personal use or for resale, is not a lawful transaction under any circumstances. By reason thereof, Sanders' request for return of the motor vehicle must be denied.

In arriving at this conclusion, I have not disregarded matters urged in mitigation, such as that Sanders has paid a fine of \$200.00 in the criminal proceedings in the case, has had the expense of hiring counsel, cost of a bail bond, and transportation to and from his place of employment; that forfeiture of the motor vehicle will inflict financial loss to him, and deprive him of a useful means of transportation; that he purchased moonshine only on one other occasion; that Sanders has a large family, is industrious, and otherwise of good character, and that there are times when the law must be "imposed" to the limit and times when some discretion must be shown. However, none of these facts have any pertinent bearing in view of the controlling provisions of the law above referred to. See Seizure Case No. 8514, Bulletin 1025, Item 10.

The General Motors Acceptance Corporation has presented in evidence a conditional sales contract dated November 25, 1952 signed by Nebraska Sanders covering the Pontiac sedan in question, securing an unpaid balance of \$2327.70. This contract was assigned to General Motors Acceptance Corporation, and the balance remaining due upon such contract is \$543.13.

Prior to accepting such contract, the finance company was furnished with information that Nebraska Sanders had resided at a Plainfield, New Jersey address for the past 12 years; was employed as a laborer by a nearby industrial concern, at wages of about \$83.00 a week; and that his wife was also employed by an industrial concern. It also received the names of various business and personal references. The finance company checked with a bank which had previously extended credit to Sanders, and with a local Credit Bureau, and did not receive any derogatory information.

I am satisfied that the finance company acted in good faith and did not know or have any reason to suspect that illicit alcoholic beverages would be transported in the motor vehicle. R. S. 33:1-66(f). I shall therefore recognize its lien to the extent of \$543.13.

The Director of the Division of Purchase & Property has advised that the State of New Jersey is not interested in retaining the Pontiac sedan for the use of any state agency upon payment of the lien claim. The retail value of such vehicle does not appear to exceed the amount of such lien and the costs of its seizure and storage.

The office manager of Rawson Motors, Inc., the dealer who sold the car to Sanders, presented four bills for the period July 19, 1954 to August 3, 1954, purportedly for repairs to the Sanders' Pontiac sedan, with a balance due thereon of \$118.15. No evidence was presented that it demanded payment from Sanders or notified him of its intention to detain the vehicle. The automobile concern applied for recognition of its alleged lien only because the car was seized.

Actually the sum of \$118.15 represents the balance due on a running account with Sanders since June 1951, for repairs and supplies, antedating the date on which the Pontiac sedan was sold to Sanders. There was a balance of \$30.09 due when Sanders purchased the vehicle. Large unexplained items which do not appear to be repairs or supplies to the Pontiac sedan appear in the account viz; Sept. 29, 1953-\$532.42, with a credit of \$482.42; Dec. 23, 1953-\$900.41, with a credit January 20, 1954 of \$842.53. The invoices originally presented as representing the current balance due total \$124.94, the ledger sheet shows payments on the account after July 19th which total \$75.00, leaving a balance of \$59.94, if those are the documents relied upon to establish the lien.

Since the motor vehicle is to be returned to General Motors Acceptance Corporation, Rawson Motors, Inc., will therefore have an opportunity to enforce any garage keeper's lien it may have by direct action at law in a court of competent jurisdiction, there seems to be no necessity for any decision on that score in these proceedings. It may be pointed out that seemingly it does not have a garage keeper's lien because of its failure to comply with R. S. 2:60-2, by making a demand for payment upon Nebraska Sanders and to notify him that it intended to detain the car. Ewart vs Willey, 104 N.J.L. 303 (E&A), Harris vs Walk, 106 N.J.L. 443 (E&A), Tommy Elm Supply Co. vs North Jersey Bus Company, 120 N.J.E. 465 (Chancery).

Accordingly, it is DETERMINED and ORDERED that if on or before the 21st day of April, 1955, General Motors Acceptance Corporation pays the costs incurred in the seizure and storage of the Pontiac sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to such finance company; and it is further

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

Dated: April 11, 1955.

WILLIAM HOWE DAVIS,  
Director.

SCHEDULE "A"

- 38 - one-half gallon "Mason" jars of alcohol
- 1 - Pontiac sedan, Serial No. L8WH21809,  
1954 N.J. Registration SS86E.

12. DISQUALIFICATION - PRIOR APPLICATION DENIED - FIVE YEARS GOOD CONDUCT - APPLICATION TO LIFT GRANTED.

In the Matter of an Application )  
to Remove Disqualification be- )  
cause of a Conviction, Pursuant )  
to R. S. 33:1-31.2. )  
Case No. 1216. )  
----- )

CONCLUSIONS  
and  
ORDER

BY THE DIRECTOR:

By Order dated January 21, 1953, petitioner was denied relief because the then Director was of the opinion "that the denial of such relief will promote the public interest and will also be in the best interest of the petitioner herein." Case No. 1023, Bulletin 956, Item 6. It appears that at the former hearing petitioner testified that he had been a heavy drinker of alcoholic beverages which accounted to a large degree for his past troubles.

Petitioner has now renewed his application for relief so that he might be eligible to be associated with the alcoholic beverage industry in this state.

In the instant hearing petitioner testified that he has not consumed any alcoholic beverages for the past two years and that he has not been involved in any trouble since the prior hearing at this Division. The records received at this Division substantiate the fact that petitioner has lived a law-abiding existence from 1945 when he was released from a county penitentiary where he was imprisoned as a result of being adjudged a disorderly person.

Petitioner further testified that, since he appeared at this Division on the previous occasion in 1952 he had been employed by a fire protection company until December 1954, when because of injuries sustained, he was compelled to discontinue said employment. He is now seeking relief because he has an opportunity to work as a bartender in a licensed premises in this state.

Petitioner produced three character witnesses (a municipal employee, a retired sales representative and a county employee) who testified that they have known petitioner twenty or more years and that he bears a good reputation for being a law-abiding person in the municipality in which he lives. All of the said character witnesses were in agreement that petitioner has completely rehabilitated himself. The Chief of Police of the municipality in which petitioner resides has advised that there are no investigations or complaints presently pending involving the petitioner.

After consideration of the evidence presented herein I conclude that petitioner has conducted himself in a law-abiding manner during the past five years and that his association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 13th day of April 1955,

ORDERED that petitioner's statutory disqualification because of his convictions of crime be and the same is hereby removed, in accordance with the provisions of R.S. 33:1-31.2.

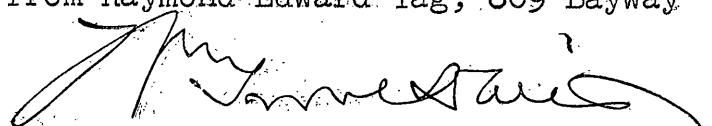
WILLIAM HOWE DAVIS  
Director.

13. STATE LICENSES - NEW APPLICATION FILED.

Ocean Beer Co.

113-115 - 5th Avenue, Seaside Park, N. J.

Application filed May 6, 1955 for transfer of State Beverage Distributor's License SBD-28 from Raymond Edward Tag, 809 Bayway Avenue, Elizabeth, N. J.



William Howe Davis  
Director.