STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 5, N. J.

BULLETIN 1135 OCTOBER 22, 1956.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark 5, N. J.

BULLETIN 1135 OCTOBER 22, 1956.

1. APPELLATE DECISIONS - DOWNIE v. SOMERDALE.

JOHN DOWNIE,)
Appellant,)
-vs-) ON APPEAL
) CONCLUSIONS AND ORDER
BOROUGH COUNCIL OF THE
BOROUGH OF SOMERDALE,)
Respondent.)

Leo J. Berg, Esq., Attorney for Appellant.
Charles L. Rudd, Esq., Attorney for Respondent.

BY THE DIRECTOR:

The Hearer who was assigned to hear the above appeal has filed a report containing the following recommended Conclusions and Order:

"This is an appeal from respondent's action denying renewal of appellant's plenary retail consumption license for premises at White Horse Pike and Berlin Road, Somerdale.

The petition of appeal alleges that said action was capricious, arbitrary and imposed upon appellant an unusual, cruel and unjust penalty. The answer alleges that renewal of the license would not be to the best interest of the citizens of the Borough or to the public welfare.

The parties to this appeal are the same as those in Downie v. Somerdale, Bulletin 1119, Item 1. It appears from the prior appeal that, by order dated April 14, 1956, respondent revoked the license which appellant then held after finding appellant guilty of selling alcoholic beverages to two minors (19 and 20 years of age). It also appears from the prior appeal that appellant had been convicted during the year 1954 of selling during prohibited hours and had then received a penalty of ten days' suspension of his license. After considering the facts set forth in the prior appeal, I modified the penalty of revocation to a suspension of the license for the balance of its term, effective at 3:00 a.m. May 28, 1956. If the penalty had not been modified, appellant would have been ineligible to continue to hold his other license in Pennsauken Township.

At the hearing herein appellant admitted his two suspensions and testified that he has been associated with the alcoholic beverage industry since Repeal. Respondent produced no evidence and the attorney for respondent announced that his client rested upon the record of appellant and the answer filed herein. Appellant further testified that he has made arrangements to sell his business to a corporation; that application for transfer (of the renewed license) has been advertised, and that the Borough Council arranged a special meeting for July 13 and postponed it until after this hearing.

In Re Marritz, Bulletin 61, Item 8, Commissioner Burnett said:

'Licenses are good, at the maximum, for the term of one year only. All rights conferred by the license cease

upon its termination. While a licensee who has lived up to the law and complied with all requirements ought, in fairness, to have first consideration when renewals are determined, nevertheless it is overstating the principle to conclude that he is therefore "entitled" to a renewal. No one has a vested right to a renewal. Whether a renewal should be granted or not is, like the original issuance of the license, a matter to be decided in the light of what is then determined as the best common interest of the public at large.'

Numerous cases have been decided where, although no disciplinary proceedings had been instituted against the licensee, renewals have been denied and upheld on appeal because of previous misconduct of the licensee. Malone v. Bordentown, Bulletin 129, Item 8; Wellens v. Passaic, Bulletin 134, Item 4; Girard v. Trenton, Bulletin 140, Item 2; Greenberg v. Caldwell, Bulletin 141, Item 7; Brown v. Newark, Bulletin 146, Item 9; Repici v. Hamilton, Bulletin 201, Item 8; Hagerty v. Cranbury, Bulletin 202, Item 2; Wilson v. Highlands, Bulletin 282, Item 8.

In other appeals the action of the local issuing authority in refusing to renew a license has been upheld where it appeared that the licensee had been found guilty in a disciplinary proceeding conducted during the licensing year immediately preceding the licensing year for which renewal was sought. Kaplan v. Newark and K & K Co., Inc. v. Newark, Bulletin 269, Item 6; Orsi v. Newark, Bulletin 352, Item 2; Haino v. Newark, Bulletin 352, Item 4; Umberger v. Andover, Bulletin 632, Item 8; Rosenberger v. Berlin, Bulletin 734, Item 7; Nakrosis v. Harrison, Bulletin 885, Item 3.

The facts in the present case are similar to those in Zicherman v. Newark, Bulletin 647, Item 5, and Conklin v. Bridgewater, Bulletin 821, Item 3, in both of which respondent refused to renew after a previous revocation had been reduced to a suspension. Upon an appeal to the then Supreme Court in the Zicherman case, the action of the Commissioner was upheld and the Court pointed out that no double penalty was involved. Zicherman v. Driscoll, 133 N.J.L. 586.

In effect, appellant is requesting me to reverse respondent's action and to order renewal of the license so that an application for transfer to another party may be considered. Were I to follow this procedure as a general practice, a desirable reduction in the number of licensed places would never be accomplished. In this case respondent might have renewed the license on condition that it be transferred to another person within a stated time. After the appeal was filed respondent might have indicated its consent to a reversal by me for such limited purpose. Instead, respondent chose to stand upon its answer and the record of the licensee. I find nothing unreasonable or unduly harsh in respondent's action. Hence, the action of respondent will be affirmed."

The attorney for appellant has filed exceptions to the Hearer's Report and a memorandum in support of said exceptions in which he contends that:

"An examination of the record herein discloses that the only reason advanced for the denial of the renewal of appellant's license as appears in the answer filed by the respondent is that such renewal 'would not be to the best interest of the citizens of the Borough of Somerdale or to the public welfare'.
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"Instead, the respondent attorney chose to rest his case upon the reason given in the answer. The answer of itself is not evidential nor is the reason given a proper ground for denial as aforementioned.

"Nevertheless, the hearer, overstepping the province of his function, volunteered the statement that the 'after-hours' violation in 1954 and the sales to minors violation in 1956 were the factual basis which influence the Board to deny renewal. The respondent's attorney, as appears by the record, merely answered in the affirmative. The hearer, however, in his report, considered those facts and only those facts in reaching his decision.

"It is fundamental that a statement of counsel or of the hearer not stipulated to by the adversary are not evidence in a proceeding. Moreover, there is nothing to indicate that the hearer or respondent's attorney had sufficient personal knowledge to attempt to speak for the Board as to what facts it relied on in arriving at its conclusion. In any event, verbal statements outside the pleadings by the hearer or attorney for respondent have no binding effect upon the parties to the cause.***"

I refer the attorney for appellant to the colloquy which took place between respondent's attorney, the hearer and himself with respect to the stipulation of facts entered into between the parties hereto in the prior proceedings (Bulletin 1119, Item 1) involving the same licensee:

"MR. BERG: Mr. Dorton, I would like to have it noted on the record that an answer or statement such as given by counsel does not give me the right to cross-examine or to produce the facts upon which that statement is made.

"MR. RUDD: It is based on the other case. There is nothing new.

"MR. BERG: Can we then incorporate -- I think the fair thing would be to incorporate merely the testimony of the prior case.

"THE HEARER: There was no testimony in the prior case. The prior case came in on a stipulation of facts.

"MR. BERG: We can stipulate that those were the facts upon which the application was denied.

"THE HEARER: That and the prior violation for hours?

"MR. BERG: Yes. But merely the statement to the effect that he is not the proper type of person --

"MR. RUDD: The Answer doesn't say that.

"MR. BERG: -- would not be to the best interests.

"THE HEARER: As I understand it, the municipality is standing upon the record of the licensee, and the record of the licensee is in this case. In other words, he has an hours violation and he also has a violation for selling to minors, which was the subject of a prior appeal."

I concur with the recommended conclusions in the Hearer's Report and adopt them as the conclusions in this case. Hence I shall affirm respondent's action.

Accordingly, it is, on this 17th day of September, 1956,

ORDERED that the action of respondent be and the same is hereby affirmed; and it is further

ORDERED that my order dated June 29, 1956, extending appellant's old license pending entry of a further order herein, be vacated effective at 3:00 a.m. September 22, 1956, at which time appellant shall cease operation of the licensed business.

WILLIAM HOWE DAVIS
Director.

2. APPELLATE DECISIONS - KOZLOW v. ORANGE.

DAVID KOZLOW, trading as DAVE'S GLASS BAR,
Appellant,
-vs-
MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF ORANGE,
Respondent.

ON APPEAL
CONCLUSIONS AND ORDER

Samuel E. Cooper, Esq., Attorney for Appellant.
Edmond J. Dwyer, Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellant appeals from respondent's action whereby it suspended his plenary retail consumption license for twenty days, effective April 20, 1956, after finding him guilty of a charge alleging that he allowed, permitted and suffered a brawl in and upon his licensed premises, in violation of Rule 5 of State Regulations No. 20.

Upon the filing of this appeal an order was entered on April 19, 1956, staying respondent's order of suspension until entry of a further order herein. R. S. 33:1-31.

The petition of appeal alleges that respondent's action was erroneous in that it was contrary to the weight of the evidence and that respondent failed to prove in law appellant's guilt of the charge.

The evidence adduced at the hearing herein clearly establishes that in the early morning of January 21, 1956, two patrons in appellant's licensed premises engaged in a wrangle concerning which there is conflicting testimony as to its incipience, intensity and duration. However, the concomitant factors testified to by all the witnesses suffice to characterize the incident as a brawl within the intendment of the Division's Rules and Regulations. The sole question, therefore, for my determination is whether or not appellant allowed, permitted and suffered such activity in and upon his licensed premises. To ascertain the answer I shall have to rely mainly upon the corroborated testimony of appellant's bartenders Harris and Toliver, since the testimony of respondent's witnesses who were in the licensed premises on the occasion is concerned chiefly with the happening of the incident and not with the means by which it was suppressed. Substantially, the bartenders' testimony is that a patron named Bondurant was using vile language in the licensed premises and was told by Toliver to "cut out the profane language or you have to go outside"; that later on Toliver, seeing Harris

vault the bar, 'phoned the police and went to his colleague's assistance; that Bondurant was trying to get at another patron named Cobb but was prevented by Harris and others who were between the two; that Bondurant and most of the other patrons were ushered out of the premises; that presently the police arrived; and that the incident and its related activities lasted from "three to five minutes." The evidence produced by respondent discloses that the disturbance had ended when the police officers arrived.

Having carefully considered the testimony herein, the partially contradictory prior statement of one of appellant's bartenders and the evasion and apparent lack of cooperation by some of respondent's witnesses, I find from all the circumstances that the incident in question was spontaneous and that appellant, by his agents and employees, expeditiously terminated it at its inception.

No exceptions were taken to the Hearer's Report within the time limited by Rule 14 of State Regulations No. 15.

I conclude that appellant is not guilty of the charge herein and, therefore, respondent's action will be reversed. Woodland Rod and Gun Club v. Belleville, Bulletin 569, Item 3; cf. Fuer v. Newark, Bulletin 1073, Item 3; Ferdinand v. Newark, Bulletin 1084, Item 3.

Accordingly, it is, on this 1st day of October, 1956,

ORDERED that the action of respondent herein be and the same is hereby reversed.

WILLIAM HOWE DAVIS
Director.

3. APPELLATE DECISIONS - BLACK v. CAMDEN.

GERTRUDE R. BLACK, trading as BERKLEY BAR,

Appellant,

-vs-

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF CAMDEN,

Respondent.

ON APPEAL
CONCLUSIONS AND ORDER

William T. Cahill, Esq., Attorney for Appellant.
Norman Heine, Esq., by Louis L. Goldman, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from respondent's action whereby it suspended appellant's license for thirty days effective at 7:00 a.m. May 14, 1956, after finding appellant guilty of the following charges:

"1. On Wednesday, February 29, 1956, at about 8:00 p.m., you allowed, permitted and suffered in or upon your licensed premises, a brawl, an act of violence, disturbance and unnecessary noise, in violation of Rule 5 of State Regulations No. 20.

"2. You allowed, permitted and suffered your licensed place of business to be conducted in such manner as to become a nuisance in violation of Rule 5 of State Regulations No. 20."

At the same time respondent suspended appellant's license for fifteen days effective at 7:00 a.m. June 13, 1956, but no appeal was filed from said action and that suspension has been served. Appellant's premises are located at 451 S. No. 3rd Street, Camden.

Upon the filing of the appeal herein, an order was entered staying respondent's order of suspension until the entry of a further order herein. R. S. 33:1-31.

At the hearing held herein Officers McDade and Hainsworth of the Camden Police Department testified in substance that on February 29, 1956, at about 8:00 p.m., they observed one Charles Davis coming out of the side door of appellant's premises with a towel around his neck. After Davis advised them that he had been cut in the licensed premises, the officers entered and placed under arrest one James Bennett who was being held by a county guard.

On behalf of appellant, Carl Gibson (a guard at the Camden County Jail) testified that he and Wade H. Drayton (who is similarly employed) were in appellant's premises on the evening of February 29, 1956, looking for a man who had escaped from jail but whom they did not find on appellant's premises. Mr. Gibson further testified that he and his companion were standing at the far end of the bar near the back room conversing with Richard Burgess at about 8:00 p.m. when Davis came from the back room; said, as he was passing them, that he had been cut, and went out the side door. Mr. Gibson further testified that he had heard no argument or unusual noises in the back room prior to the time Davis left the premises. Mr. Drayton substantially corroborated the testimony given by Mr. Gibson. Richard Burgess (who is employed as a bartender by appellant) testified that on February 29, 1956, he was tending bar until about 5:00 p.m., at which time he left the premises and returned about 8:00 p.m.; that shortly thereafter he was talking to the two guards at the end of the bar when Davis passed them, and that he had heard no arguments or unusual noise in the back room prior to that time. William Philips (who was then tending bar in appellant's premises) testified that Davis had entered three or four minutes before he was cut and had gone to the back room to make a telephone call; that he did not serve drinks to either Bennett or Davis, but that Davis, when he entered, had a bottle of whiskey which he had purchased elsewhere. He further testified that there had never been any arguments on the licensed premises between Bennett and Davis and that he heard no unusual noises in the back room where the cutting occurred.

After considering the evidence herein and the briefs submitted in this case, I conclude that the finding of guilt as to Charge 1 must be reversed. There is no question about the fact that one patron was cut by another patron in the back room of the licensed premises, but the cutting apparently occurred without warning and there is nothing in the record to indicate that anyone was drunk or had been drinking to excess. Under these circumstances, the evidence is insufficient to establish that the licensee or any of her agents allowed, permitted or suffered the violation to occur. Woodland Rod and Gun Club v. Belleville, Bulletin 569, Item 3; Zicherman v. Newark, Bulletin 613, Item 5; Re Burch, Bulletin 1022, Item 5; Ferdinand v. Newark, Bulletin 1084, Item 3.

The evidence produced by respondent in support of Charge 2 consisted of the evidence presented by respondent in support of Charge 1 and additional testimony presented by Sergeant Hooven and Officers McDade, Brown and Mason of the Camden Police Department. Their additional testimony indicates that between the period of July 1, 1955, and February 29, 1956, the Police Department received approximately ten telephone calls from appellant's premises. However, except as to a call on September 16, 1955, when the evidence indicates that four men were fighting as they were leaving the premises at closing time and as to a call on February 20, 1956, when a man on the street stated that he had been cut inside the licensed premises, there is no evidence concerning any disturbance either within or outside the licensed premises. The police officers testified that on the other eight occasions everything was quiet when they arrived; that they never saw a fight in appellant's premises or heard any arguments therein, and that no arrests were made upon the premises except the arrest on February 29, 1956. On behalf of appellant, Samuel A. Black (husband of the licensee) testified that he and appellant's bartenders have telephoned to the police on a number of occasions when there were arguments in the premises. He also testified that there is a public telephone in the rear room which has been used on occasions by persons other than patrons to summon the police whenever there is trouble in the neighborhood. No dates are specified in Charge 2. If the charge is based on the events which occurred on February 29, 1956, it must be dismissed for the reasons set forth in reversing the finding of guilt as to Charge 1. Zicherman v. Newark, supra. All the evidence presented on Charge 2 might well be material if this were a case involving the question as to whether or not the license should be renewed, but it is too vague and uncertain to sustain a charge that the licensed place of business was conducted in such a manner as to become a nuisance. Upon the evidence presented herein, I conclude that the action of respondent in finding appellant guilty as to Charge 2 must also be reversed. Appellant would be well advised to give closer supervision to the operation of her licensed premises.

No exceptions were taken to the Hearer's Report within the time limited by Rule 14 of State Regulations No. 15.

Accordingly, it is, on this 24th day of September, 1956,

ORDERED that the action of respondent herein be and the same is hereby reversed.

WILLIAM HOWE DAVIS
Director.

4. DISCIPLINARY PROCEEDINGS - MISLABELED AND UNLABELED BEER TAP - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against	)	
SAMUEL ZILBERBLAT T/a MONMOUTH TAVERN 70-72 Monmouth Street Red Bank, N. J.,	)	CONCLUSIONS AND ORDER
Holder of Plenary Retail Consumption License C-12, issued by the Borough Council of the Borough of Red Bank.	)	

Samuel Zilberblat, Defendant-licensee, Pro se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he allowed, permitted and suffered two mislabeled beer taps and an unlabeled beer tap on his licensed premises, in violation of Rule 26 of State Regulations No. 20.

The file herein discloses that on July 30, 1956, during the course of a retail inspection of defendant's licensed premises, an ABC agent found three barrels of Ballantine beer, one of them was connected to a tap which bore the brand name "Krueger", another was connected to a tap which bore the brand name "Rheingold", and the third was connected to an unlabeled tap.

Defendant has no prior adjudicated record. I shall suspend defendant's license for a period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Monahan, Bulletin 1097, Item 8.

Accordingly, it is, on this 6th day of September, 1956,

ORDERED that Plenary Retail Consumption License C-12, issued by the Borough Council of the Borough of Red Bank to Samuel Zilberblat, t/a Monmouth Tavern, 70-72 Monmouth Street, Red Bank, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a.m. September 17, 1956, and terminating at 2:00 a.m. September 22, 1956.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against WILLIAM J. ANDERS 1609 New York Avenue Union City, N. J., Holder of Plenary Retail Consumption License C-56, issued by the Board of Commissioners of the City of Union City.	CONCLUSIONS AND ORDER

William J. Anders, 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 on his licensed premises an alcoholic beverage in a bottle bearing a label which did not truly describe the contents therein, in violation of Rule 27 of State Regulations No. 20.

The file herein discloses that on July 20, 1956, an ABC agent making a routine inspection of defendant's licensed premises tested and gauged numerous open bottles of assorted brands of liquor, among which he found one 4/5 quart bottle of "Canadian Club Blended Canadian Whisky 90.4 Proof", the contents of which did not appear to be genuine as labeled. The agent seized the bottle and submitted it to the Division chemist for an analysis of its contents. The chemist's report shows the liquor to be too high in solids and too dark in color when compared with samples of the genuine product.

Defendant has no prior adjudicated record. In alleged mitigation, defendant says that the seized bottle was part of the stock of liquor on the premises when he recently obtained a transfer of the license. Nevertheless, defendant is liable for any "refills" found on the licensed premises. Cedar Restaurant and Cafe Co. v. Hock, 135 N. J. L. 156. I shall suspend his license for the minimum period of fifteen days and remit five days for the plea entered herein, leaving a net suspension of ten days. Re Klecha, Bulletin 1113, Item 3.

Accordingly, it is, on this 6th day of September, 1956,

ORDERED that Plenary Retail Consumption License C-56, issued by the Board of Commissioners of the City of Union City to William J. Anders, 1609 New York Avenue, Union City, be and the same is hereby suspended for a period of ten (10) days, commencing at 3:00 a.m. September 17, 1956, and terminating at 3:00 a.m. September 27, 1956.

WILLIAM HOWE DAVIS
Director.

6. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MARIE DAWSON READ
T/a RUSTIC GRILL
Tuckahoe Road, Marmora
Upper Township, N. J.,

Holder of Plenary Retail Consumption License C-4, issued by the Township Committee of Upper Township.

CONCLUSIONS AND ORDER

Marie Dawson Read, 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 she sold, served and delivered alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that ABC agents, acting upon information transmitted to this Division by the Magistrate of Ocean City, obtained a signed sworn statement from George ---, age 16, in which he states that at about 9:10 p.m., Monday, July 30, 1956, he entered defendant's licensed premises and purchased 12 cans and a quart bottle of beer from the licensee herein who made no inquiry as to his age. He stated further that he later directed the ABC agents to the licensed premises and pointed it out as the place wherein he purchased the aforesaid beverages and therein identified the licensee as the person who served him. The above facts were verified by one of George's companions who accompanied him to the licensed premises on the date alleged.

Defendant has a prior adjudicated record. Effective May 9, 1950, her license was suspended for ten days by the local issuing authority upon a finding of guilt on a similar charge. The minimum penalty heretofore imposed for an unaggravated sale of alcoholic beverages to a sixteen-year-old minor was twenty days. Re Mrozowicz, Bulletin 1085, Item 4. However, on January 16, 1956, I announced in Re Increased Penalties, Bulletin 1095, Item 1, that in such cases the penalty would be increased by five days. Since the prior similar violation occurred more than five years ago but within a ten-year period, I shall suspend defendant's license for a period of thirty days. Re Strickland, Bulletin 968, Item 6. Five days will be remitted for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 10th day of September, 1956,

ORDERED that Plenary Retail Consumption License C-4, issued by the Township Committee of Upper Township to Marie Dawson Read, t/a Rustic Grill, Tuckahoe Road, Marmora, Upper Township, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 3:00 a.m. September 17, 1956, and terminating at 3:00 a.m. October 12, 1956.

WILLIAM HOWE DAVIS
Director.

7. 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	)	
IRVING A. FRIEDMAN 414-416 Tenth Avenue Paterson 4, N. J.,	)	CONCLUSIONS AND ORDER
Holder of Plenary Retail Distribution License D-27, issued by the Board of Alcoholic Beverage Control for the City of Paterson.	)	

David C. Kurlantzick, Esq., Attorney for Defendant-licensee.
Dora P. Rothschild, appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he sold alcoholic beverages 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 between the hours of 9:00 and 10:00 p.m., Saturday, August 11, 1956, an ABC agent purchased from the clerk in defendant's licensed premises a case of Schenley whiskey (12 4/5 quarts) for $48.00. Another ABC agent observed the transaction and when both agents identified themselves the clerk, in the presence of the licensee, admitted the sale at the reduced price. The price then in effect for the item in question, with allowable discount, was $51.19.

Defendant has no prior adjudicated record. I shall suspend his license for a period of ten days and remit five days for the plea entered herein, leaving a net suspension of five days. Re Ridgewood Wine & Liquor Co., Bulletin 1126, Item 5.

Accordingly, it is, on this 11th day of September, 1956,

ORDERED that Plenary Retail Distribution License D-27, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Irving A. Friedman, 414-416 Tenth Avenue, Paterson, be and the same is hereby suspended for a period of five (5) days, commencing at 9:00 a.m. September 17, 1956, and terminating at 9:00 a.m. September 22, 1956.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of the Seizure on April 8, 1956 of two - two-quart "Mason" jars of alcohol and a Buick sedan, on U. S. Route #130, in the vicinity of Hedding Road, in Mansfield Township, County of Burlington and State of New Jersey.	Case No. 9157 ON HEARING CONCLUSIONS AND ORDER

Jacob Levine, Esq., Attorney for General Finance Company.
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 two jars of alcohol and a Buick sedan, described in a schedule attached hereto, seized on April 8, 1956 on U. S. Route #130, in the vicinity of Hedding Road, Mansfield Township, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing pursuant to R. S. 33:1-66, an appearance was entered on behalf of General Finance Company, which sought recognition of its alleged lien on the Buick sedan. No one opposed forfeiture of the alcohol.

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

On the above date and location a New Jersey State Trooper halted the motor vehicle during the course of his routine patrol of traffic on the highway. The trooper ascertained that the motor vehicle was being operated by Ellis D. Woods. Renzer Gordon is the registered owner of the vehicle. When the trooper discovered the aforesaid two jars of alcohol, without any tax stamps thereon indicating the payment of tax on alcoholic beverages, in the trunk of the car, he took Woods, the alcohol, and the car into custody. Later the alcohol and car were turned over to ABC agents.

A portion of 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 42.6 percent.

The alcohol is illicit because of the absence of any tax stamp on either of the jars. R. S. 33:1-1(i), R.S. 33:1-88. Such illicit alcohol and the motor vehicle in which it was transported and found constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

The General Finance Company presented in evidence a conditional sales contract dated February 8, 1956, which the finance company holds by assignment. The contract, signed by Renzer Gordon, evidences the conditional sale of the Buick sedan in question for the sum of $680.00, with an unpaid balance thereon of $525.00. The present balance due on the contract is $490.00.

Before accepting the contract and extending credit to Renzer Gordon the finance company received information that he resided at an address in Alabama, and was employed as a farmer in that state. The finance company checked with a local credit bureau, and was informed that Gordon had a satisfactory account with a furniture company and a finance company and was receiving an old age pension check of $68.00 per month in addition to his earnings on the farm. The finance company also checked with the office of the Sheriff and the Alcohol Tax Unit, and was informed that Gordon had no record with either of them. It also checked with the owner of the farm, who advised that he knew Gordon for many years.

I am satisfied that General Finance Company acted in good faith and had no knowledge of the unlawful use to which the Buick sedan was put or of such facts as would have led a person of ordinary prudence to discover such use. R. S.33:1-66(f). I shall therefore recognize its lien against the Buick sedan to the extent of $490.00.

It appears that the appraised retail value of the Buick sedan does not exceed the amount of the lien claim and the costs of its seizure and storage. Such motor vehicle will therefore be returned to General Finance Company upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 20th day of September, 1956, General Finance Company pays the costs incurred in the seizure and storage of the Buick sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to it; and it is further

DETERMINED and ORDERED that the alcoholic beverages listed in the aforesaid Schedule "A" constitute unlawful property and the same 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.

WILLIAM HOWE DAVIS
Director.

Dated: September 10, 1956.

SCHEDULE "A"

2 - two-quart "Mason" jars of alcohol
1 - Buick sedan, Serial No. 65668335, Engine No. 58173975, Alabama Registration 59-5702.

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

In the Matter of Disciplinary Proceedings against TERESA PISCETELLO 31 Cottage Street Bayonne, N. J., Holder of Plenary Retail Consumption License C-91 for the 1955-56 and 1956-57 licensing periods, issued by the Board of Commissioners of the City of Bayonne.	CONCLUSIONS AND ORDER

John J. Meehan, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to a charge alleging that on March 23, 1956 and on divers days prior thereto, she sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages to two minors and permitted such minors to consume such alcoholic beverages in and upon her licensed premises, in violation of Rule 1 of State Regulations No. 20.

At the hearing herein, William --- (age 20) testified that he entered defendant's licensed premises on March 23 with a girl friend, seated themselves at a table in one of the dining rooms and ordered a pitcher of beer from the waitress. The waitress brought the beer and two glasses to the table and accepted payment therefor. The couple drank some of the beer, then, with the remainder, joined another couple with whom they were acquainted who were seated in another dining room. A pitcher of beer was then served to the second couple by the same waitress. The four persons consumed both pitchers of beer. William was in the tavern on some previous occasions when he was served with beer and was not asked his age on any occasion or to sign any written representation thereof.

Lois --- (age 20) testified that she had been at defendant's licensed premises on a number of occasions when she purchased and consumed beer. The last such occasion was on March 23, 1956 when she was there with a girl companion. They seated themselves at a table in a dining room. A waitress took their order for a pitcher of beer but asked Lois if she was twenty-one and she answered in the affirmative. Without requesting any further evidence as to age or any written representation by Lois as to her age, the waitress brought a pitcher of beer to the girls' table with two glasses and accepted payment for the beer. The girls drank the beer and then ordered a pizza pie and two bottles of beer which were served by the waitress.

The substance of the testimony of three ABC agents is that they observed Lois and her companion drinking beer poured from a pitcher in front of them and observed William drinking beer in his group of four.

One of the agents asked Lois her age. At first she said she was twenty-one but later told him that she was actually

twenty years of age. The other two agents questioned William as to his age, who first said he was twenty-one but later admitted that he was only twenty years of age.

In defense, the licensee testified that she was not present at the licensed premises on March 23. Her son, employed by her as a bartender, testified that William has been frequenting the licensed premises; that when he first saw him there about four or five months prior to March 23, he asked William his age, who told him he was twenty-one and displayed some kind of identification to him, the nature of which he does not remember. Thereafter, he did not question William any further. He observed Lois on the premises on the date in question but did not question her as to her age. One of the waitresses testified that William was recently in the place and that she did not believe he was twenty-one so she served him coke, but the next time he came in he said "Don't worry about it. If anyone comes in I can prove I am twenty-one", so she gave him two beers although he did not display any identification, nor did she request him to sign any written representation as to his age. On March 23rd she served him the beer without any further question. The other waitress testified that she served beer to Lois after Lois told her that she was over twenty-one and always served her beer, Lois always admitting she was over twenty-one; that she did not demand any further proof or request Lois to sign any written representation as to her age.

It is readily apparent that defendant has presented no actual defense to the charge, which is established not only by the witnesses for the Division but also by defendant's witnesses. Defendant merely proceeded on the erroneous assumption that verbal representations by the minors that they were twenty-one or over could take the place of written representations as to age signed by the minors, as required by law. Such is not the fact and is not pertinent to determination of the guilt or innocence of the defendant. Re M. L. C. Corporation, Bulletin 1115, Item 3. I find defendant guilty as charged. Defendant has no prior adjudicated record. I shall suspend defendant's license for ten days, the minimum period of suspension for sales of alcoholic beverages to a twenty-year-old minor. Re Hunt et al., Bulletin 1121, Item 10.

Accordingly, it is, on this 10th day of September, 1956,

ORDERED that Plenary Retail Consumption License C-91, issued for the 1956-57 licensing period by the Board of Commissioners of the City of Bayonne to Teresa Piscetello, 31 Cottage Street, Bayonne, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. September 17, 1956, and terminating at 2:00 a.m. September 27, 1956.

WILLIAM HOWE DAVIS
Director.

10. STATE LICENSES - NEW APPLICATIONS FILED.

Lehigh Warehouse & Transportation Company-Elizabeth
963 Newark Avenue
Elizabeth, N. J.
Application filed October 15, 1956 for Public Warehouse License.

Edward Kabot
t/a Home Beverage Service
Corner Lot #1, Block B
Lafayette Place & Genesee Avenue
Englewood, N. J.
Application filed October 15, 1956 for place-to-place transfer of State Beverage Distributor's License SBD-90, from 130 North Dean Street (Rear), Englewood, N. J.

Angelo Intonti
59 Sussex Avenue
Newark, N. J.
Application filed October 16, 1956 for Transportation License.

Penn Beverage Company, Inc.
Room #1, 1113 Boardwalk
Atlantic City, N. J.
Application filed October 16, 1956 for Limited Wholesale License.

Gillhaus Beverage Co., Inc.
N/S of Meta Lane 553 Feet East of Garibaldi Avenue
Lodi, N. J.
Application filed October 18, 1956 for place-to-place transfer of Plenary Wholesale License W-14 from 95 Temple Avenue, Hackensack, N. J.

Miller Motor Haulage
365-67 Jelliff Avenue
Newark, N. J.
Application filed October 18, 1956 for Public Warehouse License.

William Howe Davis
Director.