

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

BULLETIN 1472

September 24, 1962

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

September 24, 1962

BULLETIN 1472

1. APPELLATE DECISIONS - KOCH v. PATERSON

FANNIE KOCH, t/a DAN'S LIQUORS )

Appellant, )

v. )

BOARD OF ALCOHOLIC BEVERAGE )  
CONTROL FOR THE CITY OF PATERSON )

Respondent. )  
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ON APPEAL  
CONCLUSIONS  
AND ORDER

Gerald M. Freundlich, Esq., Attorney for Appellant.

Theodore D. Rosenberg, Esq., by William J. Rosenberg, Esq., Attorney  
for Respondent.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent Board whereby on May 2, 1962, it suspended appellant's license D-68 for premises 23 Washington Street for twenty days, effective June 1, 1962, after finding appellant guilty of a charge alleging that on March 30, 1962, she sold alcoholic beverages to a 17-year-old minor in and upon her licensed premises, in violation of Rule 1 of State Regulation No. 20.

"Upon the filing of the appeal, an order dated May 22, 1962, was entered by the Director staying the effect of respondent's order of suspension until the entry of a further order herein. R.S. 33:1-31

"Appellant's petition of appeal alleges that 'The action of respondent was erroneous in that the same was against the weight of the evidence and contrary to the laws, regulations, rules and orders of the Department (Division) and of the State of New Jersey'.

"Respondent in its answer denies the allegations of appellant and contends that its action 'was based upon the sound reasoning of the Board and was not arbitrary, capricious nor was it unreasonable in view of the conditions as they existed in the premises of the appellant'.

"George --- testified at the hearing herein that he was born on April 19, 1944; that on March 30, 1962, at around 7:00 or 7:30 p.m., he visited appellant's licensed premises and purchased from Harvey Koch, employed by the appellant licensee, a pint bottle of Thunderbird wine for which he paid 60 cents; that upon leaving the premises, he stopped in an alley, drank some of the wine, then proceeded to his home that after changing his clothes, he left his home with the bottle of wine and drank the rest of the contents thereof; that he was feeling high and thereafter was seated on the curb when the police arrived and apprehended him.

"Harvey Koch, employed by the appellant, testified that he was on duty in the licensed premises between 4:30 and 10:00 p.m. on

the night in question but did not sell any wine or any other alcoholic beverages to George. He further testified that pints of Thunderbird wine are carried in stock in appellant's premises and that the retail price thereof is 60 cents. Mr. Koch testified that on Saturday, March 31, 1962, he was summoned by telephone to appear at police headquarters, where he denied selling alcoholic beverages to George on March 30, 1962 or at any other time.

"A police report dated March 31, 1962 (marked in evidence by consent of attorneys for the parties herein) with reference to the alleged sale of alcoholic beverages to George stated, among other things, that George claimed he made purchases at the appellant's licensed premises on several occasions and that he had never been asked his age or requested to show any identification. Furthermore, the two officers who apprehended George on March 30, 1962 stated in the report that George was in a drunken condition. The report also showed that George's statement to the police was taken in the presence of Harvey Koch.

"The testimony of George and that of Harvey Koch is in total disagreement. Therefore, it is incumbent upon the Hearer to determine which of the two witnesses is telling a truthful story. In the first place, the minor told a straightforward story of his whereabouts from the time he left his employment at 4:30 p.m. until being brought to police headquarters. His testimony also was to the effect that he had made purchases at appellant's licensed premises prior to the one now under consideration. On the other hand, Harvey Koch, the clerk employed by appellant, who made the alleged sale of the wine to George, flatly denied ever selling any alcoholic beverages to him and, furthermore, that he had no recollection of ever seeing George prior to the time when he was called to police headquarters on March 31, 1962.

"It has been the policy of this Division to scrutinize carefully the uncorroborated testimony of a minor wherein he alleges that he obtained alcoholic beverages at a licensed premises. Testimony on behalf of the licensee and denial thereof is carefully considered. Cf. Bonsper v. Newark, Bulletin 1427, Item 1.

"I am satisfied, after considering the testimony of George and Harvey Koch, that the minor gave an accurate account of what happened on the day in question. Under the circumstances and based on the testimony of the aforesaid witnesses, I believe the minor's testimony that he was sold a bottle of Thunderbird wine by Harvey Koch on March 30, 1962. There has been no credible evidence produced which would indicate that the testimony given by George was other than true. I am not impressed with the testimony of Harvey Koch, who was identified by George as the person who sold him the wine.

"Appellant has failed to sustain the burden of establishing that the action of respondent was erroneous. Rule 6 of State Regulation No. 15. It is recommended, therefore, that appellant be found guilty of the charge in question, and that an order be entered affirming the action of respondent, vacating the order dated May 22, 1962 which stayed the suspension imposed by the respondent herein, and fixing the effective dates for the twenty-day suspension heretofore imposed by respondent."

Written exceptions to the Hearer's Report and written argument in substantiation thereof were filed with me by the appellant's attorney, pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the evidence, the argument of the respective attorneys presented at the hearing herein, the exceptions of appellant's attorney and written argument thereto, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 17th day of July 1962,

ORDERED that the action of respondent be and the same is hereby affirmed, and that the appeal herein be and the same is hereby dismissed; and it is further

ORDERED that the twenty-day suspension heretofore imposed by respondent, and stayed during the pendency of this appeal, be restored and reinstated against the License D-68, held by Fannie Koch, t/a Dan's Liquors, for premises 23 Washington Street, Paterson, to commence at 9 a.m. Tuesday, July 24, 1962, and to terminate at 9 a.m. Monday, August 13, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR RECORD OF ONE OF LICENSEES - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

CHARLES R. MANDEL and CEIL Z. MANDEL, t/a IMPERIAL BAR & GRILL 459 Ocean Avenue Jersey City 5, New Jersey )

CONCLUSIONS AND ORDER

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Holders of Plenary Retail Consumption License C-357, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

Licensees, Pro se  
David S. Piltzer, Esq., Appearing for Division of Alcoholic Beverage Control. )

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on May 3, 1962, they possessed on the licensed premises alcoholic beverages in sixteen bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Although the licensees who compose the present partnership have no prior record as such, it appears that Charles R. Mandel (one of the licensees) held the license for the same premises in partnership with Ely S. Mandel, which license was suspended by the local issuing authority for five days effective October 1, 1951, for sale of alcoholic beverages to minors. Again, when Charles R. Mandel held the license for the same premises in partnership with Roslyn E. Mandel, it was suspended by the Director for fifteen days effective July 14, 1958, for an "hours" violation and for permitting a gambling device (punch board) on the licensed premises. Bulletin 1238, Item 6. Further, when Charles R. Mandel held the license for the same premises in partnership with Ely S. Mandel and Roslyn E. Mandel, it was again suspended by the Director for thirty days effective November 12, 1958, for sale of alcoholic beverages to minors. Bulletin 1254, Item 3.

The dissimilar violation for which the license of Charles R. Mandel and Ely S. Mandel (as partners) was suspended for five days effective October 1, 1951, will not be considered in fixing the penalty herein. I shall suspend the license herein for the violation now under

consideration for fifty days, the minimum penalty involving sixteen bottles (cf. Re Bowl More Restaurant Corp., Bulletin 1410, Item 4), to which will be added ten days for the two dissimilar violations occurring within the past five years, making a total suspension of sixty days. Five days will be remitted for the plea entered, leaving a net suspension of fifty-five days.

Accordingly, it is, on this 16th day of July 1962,

ORDERED that plenary retail consumption license C-357, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Charles R. Mandel and Ceil Z. Mandel, t/a Imperial Bar & Grill, for premises 459 Ocean Avenue, Jersey City, be and the same is hereby suspended for fifty-five (55) days, commencing at 2 a.m. Tuesday, July 24 1962, and terminating at 2 a.m. Monday, September 17, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - INDECENT MATTER ON LICENSED PREMISES - CONTRACEPTIVES - FAILURE TO NOTIFY ISSUING AUTHORITY OF CHANGE IN APPLICATION - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

Frank T. Sr. and Frank T. Kolbek, Jr. )  
t/a Homestead Cafe )  
353-355 Talmadge Avenue )  
Bound Brook, New Jersey )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-20, issued by the Mayor and Council of the Borough of Bound Brook.)  
- - - - -

Anthony Giuliano, Esq., Attorney for Licensees.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to the following charges:

- "1. On March 18, 1962, you allowed, permitted and suffered in and upon your licensed premises and had in your possession matter containing obscene, indecent, filthy, lewd, lascivious and disgusting printing, pictures, cartoons, drawing, photographs representations and writings depicting, illustrating and describing male and female persons engaged in acts of sexual intercourse, acts of sexual perversion and other lewd and indecent sexual poses, acts and practices; in violation of Rule 17 of State Regulation No. 20.
- "2. On March 18, 1962, you possessed prophylactics against venereal disease and contraceptives and contraceptive devices, in and upon your licensed premises; in violation of Rule 9 of State Regulation No. 20.

"3. You failed to file with the Mayor and Council of the Borough of Bound Brook, within 10 days after the occurrence thereof, written notice of change in facts set forth in answer to Question No. 9 of your application dated May 19, 1961, upon which you obtained your current plenary retail consumption license, such change being that on or about June 27, 1961, you commenced to engage in the business on your licensed premises of selling and offering for sale firearms and ammunition, hunting, fishing and other sporting goods and equipment, radios and appliances; your failure to file such notice being in violation of R.S. 33:1-34."

The charges aforesaid specifically set forth the violations committed by the licensees, and no further explanation of them is necessary.

Absent prior record, I shall suspend the license on Charge 1 for fifteen days (Re The Lagoon, Inc., Bulletin 1438, Item 10); on Charge 2 for ten days (Re Bacsko, Bulletin 1435, Item 1), and on Charge 3 for ten days (Re Joe D's Blue Moon, Inc., Bulletin 1234, Item 1), making a total of thirty-five days. Five days will be remitted for the plea entered, leaving a net suspension of thirty days.

Accordingly, it is, on this 18th day of July 1962,

ORDERED that plenary retail consumption license C-20, now held by Frank T. Kolbek, Sr., t/a Homestead Cafe, for premises 353-355 Talmadge Avenue, Bound Brook, be and the same is hereby suspended for thirty (30) days, commencing at 2 a.m. Thursday, July 26, 1962, and terminating at 2 a.m. Saturday, August 25, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )  
 )  
 Joseph Mattera, Jr. )  
 t/a "Country Liquor Store" )  
 Wildwood Blvd. )  
 Middle Township )  
 PO Rio Grande, New Jersey )  
 )  
 Holder of Plenary Retail Distribution License D-1, issued by the Township Committee of Middle Township )

CONCLUSIONS  
AND ORDER

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James F. McGovern, Jr., Esq., Attorney for Licensee  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 11, 1962, and on divers days prior thereto, he sold alcoholic beverages to two minors, in violation of Rule 1 of State Regulation No. 20.

Acting on information received from the Middle Township Police Department, ABC agents obtained sworn, written statements from Robert --- (age 20) and William --- (age 19). Robert stated that on May 11, 1962, he purchased six quarts of beer and, before making the sale, the person whom he identified as the licensee, questioned him for proof of age; that when he could not produce such proof, the licensee said "OK" but told him that, when he came in again, he should have proof of his age; that from January 1, 1962 to May 11, 1962, he had purchased wine or beer at the licensee's premises on seven or eight occasions without being questioned as to his age. William stated that between January 1, 1962 and May 11, 1962, he purchased beer or wine at the licensee's premises on about ten occasions and was never asked concerning his age.

Licensee has no prior adjudicated record. The minimum penalty for sale of alcoholic beverages to a 19-year-old and to a 20-year-old minor is fifteen days. Re Lagowitz, Bulletin 1350, Item 7. However, in view of the number of times alcoholic beverages were sold to the minors in question, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 16th day of July, 1962,

ORDERED that plenary retail distribution license D-1, issued by the Township Committee of Middle Township to Joseph Mattera, Jr., t/a "Country Liquor Store", for premises on Wildwood Boulevard, Middle Township, be and the same is hereby suspended for twenty (20) days, commencing at 9 a.m. Tuesday, July 24, 1962, and terminating at 9 a.m. Monday, August 13, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING SENTENCE PREVIOUSLY IMPOSED.

In the Matter of Disciplinary Proceedings against )

JOSEPH MATTERA, JR. )  
t/a "COUNTRY LIQUOR STORE" )  
Wildwood Blvd. )  
Middle Township )  
PO Rio Grande, New Jersey. )

AMENDED  
ORDER

Holder of Plenary Retail Distribution License D-1, issued by the Township Committee of Middle Township. )

-----)  
James F. McGovern, Jr., Esq., Attorney for Licensee  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On July 16, 1962, I entered an order suspending the license herein for a period of twenty days commencing July 24, 1962. The licensee requested that the imposition of the suspension be deferred and, upon good cause appearing therefor, I granted such application.

Accordingly, it is, on this 19th day of July 1962,

ORDERED that the previous order of suspension herein is hereby vacated; and it is further

ORDERED that plenary retail distribution license D-1 issued by the Township Committee of Middle Township to Joseph Mattera, Jr., t/a "Country Liquor Store," for premises on Wildwood Blvd., Middle Township, be and the same is hereby suspended for twenty (20) days, commencing at 9 a.m. Tuesday, September 11, 1962, and terminating at 9 a.m. Monday, October 1, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES UPON LICENSED PREMISES DURING PERIOD OF LICENSE SUSPENSION - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

JOHN & ELEANOR ZEILMEIER  
t/a WEDGEWOOD INN  
Route #24  
Franklin Township  
PO Broadway, New Jersey.

CONCLUSIONS  
AND ORDER

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Holders of Plenary Retail Consumption License C-3, issued by the Township Committee of Franklin Township, Warren County.

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Licensees, Pro se.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on Wednesday, June 27, 1962, during the suspension of their license, they allowed, permitted and suffered the sale, service, delivery and consumption of alcoholic beverages in and upon their licensed premises, in violation of Rule 32(a) of State Regulation No. 20.

Licensees have a prior adjudicated record. Effective June 19, 1962, their license was suspended for ten days for possession of bottles of liquor with labels which did not truly describe their contents. Re Zeilmeier, Bulletin 1465, Item 5.

Under the circumstances appearing herein, I shall suspend the license for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Cf. Re Union Casino, Inc., Bulletin 1091, Item 6.

Accordingly, it is, on this 16th day of July, 1962,

ORDERED that Plenary Retail Consumption License C-3, issued by the Township Committee of Franklin Township, Warren County, to John and Eleanor Zeilmeier, t/a Wedgewood Inn, for premises on Route #24, Franklin Township, be and the same is hereby suspended for twenty (20) days, commencing at 7:00 a.m. Tuesday, July 24, 1962, and terminating at 7:00 A.M. Monday, August 13, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - AGGRAVATING CIRCUM-  
STANCE - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )  
  
WHITE TRIANGLE, INC. )  
t/a ALFRED'S )  
3200-3202 Mt. Ephraim Ave. & )  
1326 Elm Avenue )  
Haddon Township )  
PO West Collingswood Extension, )  
New Jersey )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-4, issued by the Board of )  
Commissioners of the Township of Haddon. )

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Cahill, Wilinski, Uliase & Mohrfeld, Esqs., by Robert Wilinski,  
Esq., Attorneys for Licensee.  
Dora Prestup-Rothschild, Appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on April 6  
1962, it sold a case (twenty-four 12-ounce bottles) of beer to a minor,  
age 19 years, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the minimum penalty for sale of alcohol  
beverages to a 19-year-old minor is fifteen days. Re New Raritan Liquo  
Inc., Bulletin 1453, Item 9. However, because the violation in questio  
was aggravated by the quantity of alcoholic beverages sold, I shall  
suspend the license for twenty days. Re Causton, Bulletin 1134, Item 1  
Five days will be remitted for the plea entered, leaving a net suspensi  
of fifteen days.

Accordingly, it is, on this 12th day of July, 1962,

ORDERED that Plenary Retail Consumption License C-4, issued  
by the Board of Commissioners of Haddon Township to White Triangle, Inc  
t/a Alfred's, for premises 3200-3202 Mt. Ephraim Avenue and 1326 Elm  
Avenue, Haddon Township, be and the same is hereby suspended for fiftee  
(15) days, commencing at 2:00 a.m., Thursday, July 19, 1962, and  
terminating at 2:00 a.m. Friday, August 3, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

8. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT STILL AND EQUIPMENT ON PREMISES - PADLOCKING OF PREMISES WAIVED ON MOTION OF INNOCENT OWNER - TRUCK USED IN CONNECTION WITH STILL ORDERED FORFEITED AND SOLD - LIEN OF INNOCENT LIENOR ON TRUCK RECOGNIZED - STILL AND OTHER PROPERTY ORDERED FORFEITED.

In the Matter of the Seizure on	)	
April 17, 1962 of numerous still	)	
parts, appliances, accessories, sixty	)	Case No. 10,817
pounds of sugar, miscellaneous property,	)	
and a Chevrolet pick-up truck at premises	)	ON HEARING
located on the south side of Flora Road,	)	
east of Blue Bell Road, in the Township	)	CONCLUSIONS
of Franklin, County of Gloucester and	)	AND ORDER
State of New Jersey.	)	

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Adamo & Pagliughi, Esqs., by Joseph Adamo, Esq., Attorneys for Claimants, Giuseppina Prato and Carmelo Palverento.  
 Chivian & Chivian, Esqs., by Louis Chivian, Esq., Attorneys for General Motors Acceptance Corporation.  
 I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This matter came on for hearing pursuant to R.S.33:1-66, Chapters 1 and 2, and State Regulation No. 28, to determine whether numerous still parts, appliances, accessories, sixty pounds of sugar, miscellaneous property and a Chevrolet Pick-up truck, described in a schedule attached hereto and made part hereof, seized on April 17, 1962, at premises located on the south side of Flora Road, east of Blue Bell Road, Franklin Township, New Jersey, constitute unlawful property and should be forfeited; and further to determine whether the premises should be padlocked.

"It was stipulated by counsel for claimants that on the date in question, a still was found in operation at the said premises, including still parts, accessories, appliances, sixty pounds of sugar and other miscellaneous property, as set forth in the schedule annexed hereto.

"An analysis by the Division chemist of a six-ounce bottle of a sample of the alleged mash, taken from a 250 gallon container discloses that it is a mash, fit for distillation of alcohol therefrom, fit for beverage purposes in the absence of bichloride of mercury, with alcohol by volume of 7.0 percent.

"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 Chevrolet pick-up truck is similarly subject to forfeiture if it was used or adaptable for use in connection with the operation of the illicit still. R.S. 33:2-2 and 5; R.S. 33:1-1(y); R.S. 33:1-66.

"Carmelo Palverento appeared and sought return of the seized motor vehicle. Asher Schwegel appeared on behalf of Giuseppina Prato, the owner of the premises, to resist the padlocking of said premises. Robert J. Mullins appeared on behalf of General Motors Acceptance Corporation, which asserted a lien on the seized motor vehicle.

"The Division presents its case through the testimony of a local police officer, a State trooper and an ABC agent. A brief summary of the testimony reflects the following picture: As a result of a continuing

investigation of the activities of Mr. Palverento, Officer Walter H. Reeves of the Upper Penns Neck Police Department trailed Palverento on the morning of April 17th and observed him in the company of two men in the Chevrolet pick-up truck entering the premises in question. On the way to the said premises Palverento stopped at a feed and grain store located in Daretown and loaded some bags of rye grain on the said truck. They then proceeded to the premises and arrived there at approximately 12:15 p.m. The truck was driven to the rear premises and Palverento remained at the said premises until 1:35 P.M. and left the building, unaccompanied by the other men.

"At about 7:40 P.M. of that day, accompanied by New Jersey State Trooper James Virden, ABC agent J. returned to said premises and observe Palverento in the house. Thereafter, at approximately 7:44 P.M. Palverento left the premises and was apprehended about 300 feet beyond the said premises. They returned to the premises and, fortified with a search warrant, several other State troopers and ABC agents thereupon entered the premises. They found therein a full still in operation and Palverento and his companion, Cleo Graham, were thereupon arrested and charged with possession of an unregistered still.

"Graham verbally admitted that he had been employed as a laborer for Palverento and that Palverento had taken him down to the still about two weeks prior to this date but that he had nothing to do with the still except for removing dirt from the basement. Palverento denied knowledge of the still and refused to give any statement. They were then held in bail on charges of possession of an unregistered still and possession of untaxed alcohol (mash), pending hearing in the Municipal Court of Franklin Township.

"Trooper James Virden substantially corroborated the testimony of Officer Reeves and added the following: On the date alleged at about 7:40 P.M. in the company of Reeves and the ABC agent, he passed the two-room house which was under surveillance, and noticed Palverento therein. He then stopped his automobile at a point of observation approximately 200 to 300 yards from the house. Shortly thereafter, an electric light illuminating the interior was extinguished and Palverento came out of the back of the house, jumped into his truck and proceeded west on Flora Road. He was intercepted at the intersection of Flora Road and Blue Bell Road and questioned. He stated that he had 'done a job' for a man who lived there and came to collect \$46.00 which was owed to him. The job consisted of the repairing of the back steps and related work. He also stated that he had been out in the field to pick some broccoli pursuant to an arrangement that he had made earlier with the neighboring farmer. No broccoli was in evidence and a search of the truck failed to reveal the same.

"Thereafter, on May 7th, Verdin questioned the Mill foreman at the GLF Feed Co. in Woodstown and ascertained that Palverento had, indeed, visited that store on April 17th and had made purchases of several bags of rye. The description given to him by the mill foreman was a 'perfect description of Palverento', as was his description of the pick-up truck, with its tarpaulin and two passengers. It was also evident that the bags of rye were purchased out of season. All of these facts impressed themselves upon the mill foreman and sharpened his recollection of this incident.

"ABC Agent J, testifying to the same substantial effect as the two prior witnesses, stated that Palverento was in the interior of these premises when this witness first approached the house. Thereafter the light was put out and Palverento left the premises. He further testified that, thereafter, upon the production of the search warrant, he entered the premises and seized a still which was in full operation, in addition to all of the other items set forth in the inventory attached hereto.

"On cross examination, he emphasized that there was no broccoli in the truck, notwithstanding the purported explanation by Palverento that

one of the reasons for his coming into these premises at this time was to pick up a quantity of broccoli. Palverento had explained that he had visited the field next to these premises for the purpose of picking up broccoli, but denied that he had, at any time, entered the subject premise during that day.

"Carmelo Palverento, asserting his claim for the return of the Chevrolet pick-up truck, presented the following story: He is employed in Millville as a stationary steam engineer and performs odd jobs on contract in maintenance work during his spare time. On April 17th at about 1:30 or 2:00 o'clock he went to the farm located next door to the premises in question and purchased some broccoli. His sister-in-law requested that he purchase an additional four or five crates of broccoli for her and that evening he returned for that purchase. While he was there he checked to see whether a Mr. Stone was present in the premises herein because he had done some repair work for him and sought to collect a bill of \$46.00 for his work, labor and services. Mr. Stone was not there and he found the house padlocked. He denied that he went into the house at any time during that day and further denied that he had ever entered these premises or the basement thereof. All of the repairs were made on the outside.

"He testified that when the troopers requested that he go inside of the house it was the very first time that he had entered these premises. He admitted that he had made a stop on the afternoon of April 17th at the feed store in Woodstown, to purchase bags of rye, for use on his farm.

"On cross-examination he admitted that he had purchased some rye millings but disputed the fact that rye was 'necessarily' out of season. He denied that he had visited the premises in question during the morning of April 17th, or that he had entered the premises at any time that day, and denied further that he knew of the existence of a still thereon.

"He further asserted that he had tried on several occasions to collect the bill from a Mr. Stone whom he met on a previous occasion, and for whom he undertook to do the work. He had made no attempt since April 17th to try to collect this money.

"Thus we have the testimony of the three Division witnesses sharply in conflict with that of Palverento. All three Division witnesses testified that they saw Palverento in the premises in question and also saw him emerge therefrom. In addition the local police officer stated that he saw Palverento enter these premises earlier that day. I am unimpressed with Palverento's explanation that his visit to the area was merely to collect the bill and to purchase broccoli. I believe that this is a fabrication out of whole cloth.

"This is even more pointedly emphasized by Palverento's explanation of how he came to be in possession of a current bill for electric service, which was addressed to a Mr. Stone at these premises. It was undenied by this claimant that there was an electric light on shortly before he emerged from the premises and that it was turned off simultaneously with his departure. When he was asked why he had the electric bill in his possession, his weak and rather naive explanation was that he took it from the mail box with the intention of delivering it to Mr. Stone, when he caught up with him.

"There was no corroboration of any of his testimony and the story appears to be fanciful and illogical. His admitted conviction of crime further affects his credibility; and the straightforward consistent testimony of the Division's witnesses is entirely believable. I am therefore convinced that Palverento knew of the existence of the still, and was undoubtedly an operator thereof and made the purchase of rye for use in the said operation.

"Since his motor vehicle was used in connection with the operation of this illicit still it constitutes unlawful property and is subject to forfeiture under the provisions of R.S. 33:2-2 and 5. I therefore recommend that his claim for the return of the said motor vehicle as set forth in Schedule 'A', attached hereto, be denied, and that an Order be entered forfeiting the same. Seizure Case No. 10,235, Bulletin 1347, Item 4; Seizure Case No. 10,448, Bulletin 1383, Item 5.

"General Motors Acceptance Corporation, a corporation, presented into evidence a conditional sales contract dated January 31, 1961, signed by Carmelo Palverento, evidencing the conditional sale to him of the Chevrolet pick-up truck in question for the purchase price of \$2243.30 which contract the finance company holds by assignment. The collection manager of the finance company office in which this transaction took place testified that this company had had a previous account on Palverento and this contract was merely a substituted one for the account which had been traded in; that the account was a satisfactory one and the company had no evidence or any reason to believe that the truck in question would be used for the transportation of or in connection with illicit alcoholic beverage activity. He further stated that, had he known or had any reason to believe that it would be so used, no credit would have been extended. The purchaser's conviction of crime would not ordinarily influence his judgment with respect to the authorization to claimant credit; however, it is his view that he might have refused credit in this case.

"He did admit, however, that he did not actually check his personal references or clear any employment information. Basically, the company relied on the strength of the dealer in whom they had full confidence. There is presently due to the finance company the sum of \$831.39

"I am satisfied from the evidence presented that the finance company acted in good faith, and did not know or have any reason to suspect that Carmelo Palverento would be involved in the unlawful manufacture or transportation of alcoholic beverages, for which the vehicle would be used. I therefore recommend that the lien of General Motors Acceptance Corporation be recognized upon the motor vehicle to the extent of the balance due, namely \$831.39. Seizure Case No. 10,448, Bulletin 1383, Item 5; Seizure Case No. 10,579, Bulletin 1419, Item 4.

"It appears likely that the amount realized at public sale of the motor vehicle will exceed the costs of seizure and the amount of the lien and I therefore recommend that such vehicle be sold at public sale subject to the lien. Seizure Case No. 10,429, Bulletin 1386, Item 4.

"Asher Schwegel, testifying on behalf of his mother-in-law, Giuseppina Prato, said that while his mother-in-law is in fact the owner of these premises, she intended to leave these premises to his wife upon her death, and therefore gave him full authority to operate these premises as her agent. For the past two years it was rented and during that time there was no electric service. When the tenant moved out this witness entered into an oral agreement with a Mr. Stone in the latter part of February wherein it was agreed that the property would be sold for the total sum of \$2000.00. Stone paid \$300.00 down for which he was given a receipt, and the balance was to be paid on a monthly basis according to the terms of a contract to be drawn by Mr. Adamo, his attorney.

"It appears that Stone failed to keep his appointment to execute the contract, after he made the initial payment. Schwegel further testified that he made one visit to the premises in the early part of April, but could not locate Stone. The purported contract was admitted into evidence upon stipulation that the same would be sent to me within a few days after the hearing and become part of this record. On cross examination, Schwegel admitted that he had never met Stone before this transacti

except for the visit on April 7th to these premises, and made no other effort to find Mr. Stone. He further explained that the reason that he undertook the negotiations for the sale of the house was that his mother-in-law could neither read, write nor speak English. Considering the condition of the house, he felt that \$2,000.00 was a fair and reasonable price for the sale of same.

"There is no evidence before me to indicate that either Schwegel or Mrs. Prato had ever been involved in unlawful liquor activity, or have ever been convicted of crime. Schwegel claims that his last visit to the premises was made on April 7th. It is conceivable that the odors emanating from these premises on April 17th which should clearly have manifested an awareness of an illicit still therein may not have been so strongly marked as to be noticeable on April 7th. The benefit of the doubt should be resolved in this claimant's favor.

"On the basis of the facts presented, I conclude that it has not been shown by a fair preponderance of the believable evidence that either Schwegel or Mrs. Prato knew or should have known that these premises were used, or intended to be used, for the operation of a still or for illicit liquor activity.

"Therefore, I recommend that padlocking of these premises should be waived. Seizure Case No. 9937, Bulletin 1299, Item 7; Seizure Case No. 9700, Bulletin 1252, Item 6."

No exceptions were taken to the Hearer's Report within the time limited by Rule 4 of State Regulation No. 28. After carefully considering the facts and circumstances, the entire record, the oral argument of counsel at the hearing and the Hearer's Report, I concur in the Hearer's findings and conclusions and adopt them as my conclusions herein.

Accordingly, it is on this 18th day of July, 1962,

DETERMINED and ORDERED that the Chevrolet pickup truck, more particularly described in the schedule 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 that it be offered for sale at public sale pursuant to State Regulation No. 29, and sold by the Director of the Division of Alcoholic Beverage Control if a bid satisfactory to him is obtained; and it is further

DETERMINED and ORDERED that if the said Chevrolet pickup truck is sold, out of the proceeds of the said sale there shall be first deducted the costs of the seizure, storage and sale as may have been incurred or may be incurred; second, out of the balance, if any, there shall be paid to the General Motors Acceptance Corporation its lien claim, recognized to the extent of \$831.39; and, third, the balance of the proceeds of such sale after the payments aforesaid, shall be retained for the use of the State of New Jersey; and it is further

DETERMINED and ORDERED that the balance of 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 that it be retained for the use of hospitals and state, county and municipal institutions or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control; and it is further

DETERMINED and ORDERED that padlocking of the subject premises is hereby waived.

WILLIAM HOWE DAVIS  
DIRECTOR

SCHEDULE "A"

- 1 - set of copper coils
- 2 - goosenecks
- 60 - lbs. of sugar
- 2 - gauges
- assorted pipes and fittings
- 5 - hogsheads
- 2 - pre-cookers
- 1 - dephlegmator
- 20 - lbs. of yeast
- assorted hoses
- 1 - cooler
- 2 - galvanized steel tanks
- 1 - Chevrolet pickup truck, New Jersey Registration XES-931.

9. DISQUALIFICATION REMOVAL PROCEEDINGS - ABSENCE OF CRIMINAL RECORD INVOLVING MORAL TURPITUDE - APPLICATION GRANTED UPON PROOF OF OTHER REQUIREMENTS.

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

CASE No. 1709

CONCLUSIONS

BY THE DIRECTOR:

Applicant's police record discloses that on February 25, 1927, he was convicted under the Disorderly Persons Act and was sentenced to serve 30 days in jail; that on August 4, 1928 he was arrested under the Disorderly Persons Act (abandonment) and ordered to pay \$7 a week for the support of his child; that on October 27, 1928 he was convicted under the Disorderly Persons Act (abandonment) and again ordered to pay \$7 a week for the support of his child, and that on April 26, 1959, he was convicted in the local magistrate's court for fighting and was given a 15 day suspended sentence.

At the hearing held herein, applicant (61 years old) testified that for the past six or seven years he has lived in the same area where he presently resides; that he has been a widower for 15 years; that for the past five years he has been employed as a porter and as a relief bartender by three licensees; that the local police department had issued a bartender's identification card to him in each of said years, and that prior thereto he had informed the police authorities that in 1927 he had served 30 days in jail following a conviction as a disorderly person

Applicant further testified that he was married in 1924; that a child was born of said marriage; that because of constant quarreling and fighting with his wife, he left his wife and child; that at the time he was earning \$18 a week as a hod carrier; that he had been voluntarily making weekly contributions of \$10 to \$12 to his wife until he lost his job; that thereafter he was ordered by the court to pay his wife \$7 a week for the support of his child; that he was unable to comply with the court order for more than a few weeks, following which he was sent to jail; that subsequent to his release from jail, he was unable to find employment; that he had been hospitalized and that he had been put on relief.

Having considered applicant's record and his testimony herein, I am satisfied that applicant has not been convicted of a crime. Under the circumstances, applicant is eligible to be associated with the alcoholic beverage industry in this State, despite his aforesaid record; provided, however, that he is otherwise fully qualified.

WILLIAM HOWE DAVIS  
DIRECTOR

Dated: July 17, 1962

10. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - GAMBLING (HORSE RACE BETS) - LOTTERY (NUMBERS) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 50 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against  
  
CLUB "16" CORPORATION  
t/a CLUB 16  
16 Railroad Avenue  
Paterson 1, New Jersey

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-63, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

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Joseph G. Sproviere, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on May 26-27, 1962, it sold drinks of alcoholic beverages to two minors, age 17 and 18, in violation of Rule 1 of State Regulation No. 20, and (2 and 3) on May 16 and June 2, 1962, it permitted the acceptance of horse race bets and on May 27, 1962, the acceptance of numbers bets, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for thirty-five days, effective March 5, 1962, for local "hours" violation, indecent language and hindering investigation.

The minimum penalty for a first offense, unaggravated by prior record, is suspension for twenty days on the first charge (Re Babe's Bar, Inc., Bulletin 1412, Item 8) and twenty-five days on the second and third charges (Re Chambers, Bulletin 1454, Item 3), or a total of forty-five days. However, the prior record considered, the license will be suspended for fifty days, with remission of five days

for the plea entered, leaving a net suspension of forty-five days.

Accordingly, it is, on this 6th day of August, 1962,

ORDERED that Plenary Retail Consumption License C-63, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Club "16" Corporation, t/a Club 16, for premises 16 Railroad Avenue Paterson, New Jersey, be and the same is hereby suspended for forty-five (45) days commencing at 3:00 a.m., Friday, August 10, 1962, and terminating at 3:00 a.m., Monday, September 24, 1962.



WILLIAM HOWE DAVIS  
Director