

41 Sheffield St.
Jersey City, 5, N. J.

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

BULLETIN 950

DECEMBER 16, 1952.

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THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY

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

BULLETIN 950

DECEMBER 16, 1952.

1. DISCIPLINARY PROCEEDINGS - CONSISTENTLY INADEQUATE PENALTIES - NO DISCIPLINARY PROCEEDINGS WILL BE HEREAFTER REFERRED TO JERSEY CITY MUNICIPAL BOARD UNTIL BOARD DEMONSTRATES A FULL UNDERSTANDING OF ITS STATUTORY AUTHORITY.

November 24, 1952

John J. Kenny, Secretary
Municipal Board of Alcoholic Beverage Control
Jersey City 2, N. J.

Dear Mr. Kenny:

This acknowledges your letters of October 15th, October 27th and October 29th reporting disposition in disciplinary proceedings conducted by the Municipal Board of Alcoholic Beverage Control against licensees as follows:

1. Thomas Falkowski
t/a Tom's Tavern
404 St. Pauls Ave.
Rev. 4355 (X13,250-D)
2. John LeMore
t/a LeMore's Tavern
74 Orient Avenue
Rev. 4362 (X-2,068-B)
3. People's Center of
Jersey City, a Corp.
158 Mercer Street
Rev. 4351 (X-24,426-B)
4. Madeline DeCarlo
T/a Tommie's Glass Bar
24 Bergen Avenue
Mun. Rev. 1302 (X-17,720-B)
5. John Critelli
t/a Johnny's Tavern
178 Griffith Street
Rev. 4337 (Case 8133)

It is noted that Falkowski and LeMore were charged with sale of package goods for off-premises consumption during hours prohibited by state regulation; that People's Center and DeCarlo were charged with alcoholic beverage activity during hours prohibited by municipal regulation (and in addition, People's Center was charged with possession of raffle tickets on the licensed premises in violation of state regulation and DeCarlo with employing a bartender without identification card in violation of municipal regulation); and that Critelli was charged with sale of alcoholic beverages to eight minors (two age 16, one 17, three 18 and two 19) in violation of state regulation.

It is particularly noted that upon plea of guilty in all cases (for which plea there was a proper remission of 5 days), each license was suspended for 5 days except that of Critelli which was suspended for 10 days.

The indicated minimum penalties according to our precedents (of which the Board was advised prior to hearing in all cases except DeCarlo which was instituted on municipal initiative) are as follows:

1. In cases like the Falkowski and LeMore cases, suspension of license for 10 days.
2. In cases like the People's Center case, suspension for 25 days.

3. In cases like the Critelli case, suspension for not less than 20 days with probable substantial increase above 20 days in view of the large number of minors involved and the tender ages of some of them.

Notwithstanding the precedents just noted, the Board has imposed wholly inadequate penalties in at least four of the five cases above specified (the fifth being the DeCarlo case, as to which no opinion is expressed since I am not fully cognizant of the facts). Moreover, these inadequate penalties have been imposed in face of (a) repeated admonitions by me and (as the record bears out) my predecessors, and (b) the Board's assurance to me by its letter of September 23rd (these penalties being thereafter imposed on October 8th and 22nd) reading in part as follows:

"... in the future we will endeavor to make our penalties more vigorous and in keeping with the recommendation set forth."

It is clear that the Board's action has negated its assurance so recently given. Obviously, a municipal issuing authority's failure to impose adequate penalties, in case after case, makes a mockery of its disciplinary function. The primary responsibility for the enforcement of the law and regulations relative to retail liquor licenses rests with local authorities. And this responsibility is not fully discharged by local policing activity only, but extends to the proper conduct of disciplinary proceedings where warranted and to the imposition of penalties stringent enough to command respect for the law.

Accordingly, because of the Board's long history of inadequate penalty imposition, highlighted by its most recent manifestations of unwillingness to impose penalties commensurate with effective alcoholic beverage control, I have determined that in future no disciplinary matters will be referred by this Division to Jersey City's Municipal Board of Alcoholic Beverage Control. This determination will stand until such time as the Board shall have demonstrated, by its adjudications and penalties in cases hereafter brought on its own initiative, a full understanding of its statutory authority and of its disciplinary function thereunder.

Very truly yours,
DOMINIC A. CAVICCHIA
Director.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - AGGRAVATING CIRCUMSTANCES - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

JOSEPH M. CAMAROTA)
T/a THE WELCOME BAR)
2203 Atlantic Avenue)
Atlantic City, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-13, issued by the Board of Commissioners of the City of Atlantic City.)
-----)

Joseph M. Camarota, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to minors and allowed, permitted and suffered the consumption of alcoholic beverages by said minors on his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file discloses that, at approximately 5:00 p.m. on Saturday, October 4, 1952, three Coast Guardsmen, namely, Lindsay W. --- and Alvin O. ---, both 17 years of age, and Ivey McA. ---, 18 years of age, entered defendant's licensed premises where each consumed a bottle of beer which was served by a male bartender. In payment the bartender took money from the bar, placed there by the minors.

Defendant has no prior adjudicated record. In view of the fact that two of the minors involved were only 17 years of age and considering the number of minors involved, I shall suspend the license for twenty days. Re Primiceri, Bulletin 948, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 24th day of November, 1952,

ORDERED that Plenary Retail Consumption License C-13, issued by the Board of Commissioners of the City of Atlantic City to Joseph M. Camarota, t/a The Welcome Bar, 2203 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 7:00 a.m. December 1, 1952, and terminating at 7:00 a.m. December 16, 1952.

DOMINIC A. CAVICCHIA
Director.

3. DISCIPLINARY PROCEEDINGS - SALE ON ELECTION DAY WHILE POLLS OPEN FOR VOTING - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ALEXANDER MILAN
545 Market St.
East Paterson, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution License D-7, issued by the Mayor and Council of the Borough of East Paterson.

Samuel Moskowitz, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he delivered an alcoholic beverage to a consumer on General Election Day, while the polls were open for voting, in violation of Rule 2 of State Regulations No. 20.

The file discloses that, at approximately 6:35 p.m., on General Election Day, Tuesday, November 4, 1952, a police officer observed two men leaving defendant's licensed premises, one of them carrying a paper bag. When the officer inquired as to the contents of the bag he was told that it contained bread but upon inspection he found that it contained a sealed 4/5 quart bottle of whiskey. The officer and the two men returned to the licensed premises, where the licensee and the customer stated that the sale had been made the previous day but that the customer had left the whiskey at the licensed premises and had returned on Election Day to receive delivery.

I doubt the story told by the licensee and the customer but, in any event, Rule 2 of State Regulations No. 20 prohibits not merely sale but also delivery on Election Day while the polls are open for voting. Defendant has no prior adjudicated record. I shall suspend the license for a period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Guadagno, Bulletin 909, Item 6.

Accordingly, it is, on this 21st day of November, 1952,

ORDERED that Plenary Retail Distribution License D-7, issued by the Mayor and Council of the Borough of East Paterson to Alexander Milan, 545 Market Street, East Paterson; be and the same is hereby suspended for a period of ten (10) days, commencing at 9:00 a.m. December 1, 1952, and terminating at 9:00 a.m. December 11, 1952.

DOMINIC A. CAVICCHIA
Director.

4. DISCIPLINARY PROCEEDINGS - SALE ON ELECTION DAY WHILE POLLS OPEN FOR VOTING - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

WILLIAM BANE)
500 Communipaw Avenue)
Jersey City 4, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-53, issued by the)
Municipal Board of Alcoholic Beverage Control of the City of)
Jersey City.)

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

BY THE DIRECTOR:

Defendant pleaded guilty to a charge alleging that he sold, offered for sale and delivered alcoholic beverages to consumers and allowed, permitted and suffered the consumption of such beverages in and upon his licensed premises on General Election Day, while the polls were open for voting, in violation of Rule 2 of State Regulations No. 20.

The file discloses that, at 3:15 p.m., on General Election Day, Tuesday, November 4, 1952, two ABC agents arrived in the vicinity of the licensed premises. From the outside the place appeared to be closed but the agents observed two men enter a parking lot next to the licensed premises and go behind the building to a rear door. The agents followed them but found the rear door locked. Hearing noises within, the agents knocked at the door, gained entry and found the barroom full of men drinking beer and whiskey. The agents then identified themselves to the licensee, who verbally admitted selling alcoholic beverages during polling hours.

The licensee has no prior adjudicated record. I shall suspend the license for a period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Guadagno, Bulletin 909, Item 6.

Accordingly, it is, on this 21st day of November, 1952,

ORDERED that Plenary Retail Consumption License C-53, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to William Bane, 500 Communipaw Avenue, Jersey City, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. December 1, 1952, and terminating at 2:00 a.m. December 11, 1952.

DOMINIC A. CAVICCHIA
Director.

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

In the Matter of Disciplinary Proceedings against POINT INN, INC. T/a POINT INN INC. Shore Road & Egg Harbor Bay Beesley's Point Upper Township, P.O. Strathmere, N.J.,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Upper.

Irving I. Jacobs, Esq., Attorney for Defendant-licensee. Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold and delivered alcoholic beverages at its licensed premises to a minor, in violation of Rule 1 of State Regulations No. 20.

The file discloses that, on the afternoon of Saturday, October 4, 1952, Coast Guardsman Ivey McA. ---, 18 years of age, entered defendant's barroom (accompanied by two other youths, both 17 years of age), and ordered six cans of beer from a short gray-haired bartender later identified as the husband of the president of the licensee corporation. Pursuant to such order the bartender delivered six cans of beer to said Ivey McA. ---, charging \$1.20 therefor.

Since no aggravating circumstances appear, and the licensee has no prior adjudicated record, I shall impose the usual ten-day suspension. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Bernie's Bar, Inc., Bulletin 922, Item 11.

Accordingly, it is, on this 24th day of November, 1952,

ORDERED that Plenary Retail Consumption License C-7, issued by the Township Committee of the Township of Upper to Point Inn, Inc., t/a Point Inn Inc., Shore Road & Egg Harbor Bay, Beesley's Point, Upper Township, be and the same is hereby suspended for a period of five (5) days, commencing at 7:00 a.m. December 1, 1952, and terminating at 7:00 a.m. December 6, 1952.

DOMINIC A. CAVICCHIA Director.

6. <u>ACTIVITY REPORT FOR NOVEMBER 1952</u>	
ARRESTS:	
Total number of persons arrested - - - - -	13
Licensees and employees - - - - -	4
Bootleggers - - - - -	9
SEIZURES:	
Motor vehicles - cars - - - - -	1
- trucks - - - - -	1
Stills - over 50 gallons - - - - -	2
- 50 gallons or under - - - - -	5
Alcohol - gallons - - - - -	485.03
Mash - gallons - - - - -	46,840.00
Distilled alcoholic beverages - gallons - - - - -	28.95
Wine - gallons - - - - -	74.51
Brewed malt alcoholic beverages - gallons - - - - -	24.75
RETAIL LICENSEES:	
Premises inspected - - - - -	791
Premises where alcoholic beverages were gauged - - - - -	801
Bottles gauged - - - - -	13,744
Premises where violations were found - - - - -	92
Violations found - - - - -	102
Type of violations found:	
Unqualified employees - - - - -	27
Reg. #38 sign not posted - - - - -	8
Disposal permit necessary - - - - -	5
Prohibited signs - - - - -	4
Probable fronts - - - - -	2
Improper beer taps - - - - -	2
Other violations - - - - -	54
STATE LICENSEES:	
Premises inspected - - - - -	25
License applications investigated - - - - -	4
COMPLAINTS:	
Complaints assigned for investigation - - - - -	362
Investigations completed - - - - -	329
Investigations pending - - - - -	121
LABORATORY:	
Analyses made - - - - -	105
Refills from licensed premises - bottles - - - - -	1
Bottles from unlicensed premises - - - - -	22
IDENTIFICATION BUREAU:	
Criminal fingerprint identifications made - - - - -	16
Persons fingerprinted for non-criminal purposes - - - - -	187
Identification contacts made with other enforcement agencies - - - - -	148
Motor vehicle identifications via N. J. State Police Teletype - - - - -	1
DISCIPLINARY PROCEEDINGS:	
Cases transmitted to municipalities - - - - -	14
Violations involved:	
Sale to minors - - - - -	5
Sale during prohibited hours - - - - -	3
Permitting lottery activity (50-50 club) - - - - -	2
Permitting gambling (caró) on premises - - - - -	1
Permitting bookmaking on premises - - - - -	1
Sale to non-members by club - - - - -	1
Permitting hostesses on premises - - - - -	1
Sale to intoxicated persons - - - - -	1
Permitting minor to tend bar - - - - -	1
Permitting brawl on premises - - - - -	1
Bartender working while drunk - - - - -	1
Cases instituted at Division - - - - -	15
Violations involved:	
Permitting immoral activity on premises - - - - -	4
Sale to minors - - - - -	3
Sale to intoxicated persons - - - - -	2
Permitting prostitutes on premises - - - - -	2
Permitting foul language on premises - - - - -	2
Sale on election day - - - - -	2
Sale during prohibited hours - - - - -	2
Fraud and front - - - - -	2
Sale to minors - - - - -	2
Mislabeling beer taps - - - - -	2
Possessing slot machines on premises - - - - -	1
Sale outside scope of license - - - - -	1
Purchase from improper source - - - - -	1
Unauthorized transportation - - - - -	1
Possessing contraceptives on premises - - - - -	1
Possessing illicit liquor - - - - -	1
Cases brought by municipalities on own initiative and reported to Division - - - - -	8
Violations involved:	
Sale to minors - - - - -	5
Fraud and front - - - - -	1
Employing unqualified person - - - - -	1
Permitting brawl on premises - - - - -	1
Permitting persons of ill repute on licensed premises - - - - -	1
Conducting business as a nuisance - - - - -	1
Sale during prohibited hours - - - - -	1
HEARINGS HELD AT DIVISION:	
Total number of hearings held - - - - -	31
Appeals - - - - -	3
Disciplinary proceedings - - - - -	14
Eligibility - - - - -	8
Seizures - - - - -	4
Tax revocations - - - - -	2
PERMITS ISSUED:	
Total number of permits issued - - - - -	1,207
Employment - - - - -	165
Social affairs - - - - -	339
Solicitors - - - - -	48
Special wine - - - - -	485
Disposal of alcoholic beverages - - - - -	65
Miscellaneous - - - - -	105

Dated: December 1, 1952.

DOMINIC A. CAVICCHIA
DIRECTOR

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

In the Matter of Disciplinary Proceedings against)

JACOB J. ROSENBLIT)
T/a THE PLACE)
9-15 North Indiana Ave.)
Atlantic City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-78, issued by the Board of Commissioners of the City of Atlantic City.)

-----)
Julius Waldman, Esq., Attorney for Defendant-licensee.)
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.)

BY THE DIRECTOR:

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

The file discloses that, at approximately 6:00 p.m. on Saturday, October 4, 1952, Coast Guardsman Ivey McA. ---, 18 years of age, entered the package goods section of defendant's licensed premises (accompanied by two other youths, both 17 years of age), and ordered twelve cans of beer from a male clerk. While the clerk was filling this order the aforementioned Ivey McA. --- requested a pint bottle of whiskey, in consequence of which the clerk handed him a single package containing twelve cans of beer and a pint bottle of whiskey, charging four dollars and some cents therefor.

Since no aggravating circumstances appear, and the licensee has no prior adjudicated record, I shall impose the usual ten-day suspension. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Bernie's Bar, Inc., Bulletin 922, Item 11.

Accordingly, it is, on this 24th day of November, 1952,

ORDERED that Plenary Retail Consumption License C-78, issued by the Board of Commissioners of the City of Atlantic City to Jacob J. Rosenblit, t/a The Place, 9-15 North Indiana Avenue, Atlantic City, be and the same is hereby suspended for a period of five (5) days, commencing at 7:00 a.m. December 1, 1952, and terminating at 7:00 a.m. December 6, 1952.

DOMINIC A. CAVICCHIA
Director.

8. DISQUALIFICATION - APPLICATION TO LIFT - GOOD CONDUCT FOR 22 YEARS DESPITE RECENT CONVICTION AS DISORDERLY PERSON - APPLICATION TO LIFT DISQUALIFICATION GRANTED.

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

CONCLUSIONS
AND ORDER

Case No. 1009.)
-----)

BY THE DIRECTOR:

On February 28, 1929, petitioner, then 22 years of age, pleaded non vult to eight charges of breaking, entering, larceny and receiving. Apparently, he was one of a group of youths who had been breaking into empty or closed establishments and stripping them of the fixtures. On the aforesaid date petitioner also pleaded guilty to two charges of larceny of an automobile, it appearing that he and the other youths had been driving around in a stolen automobile. Sentence was suspended on all the above charges except one dealing with larceny of the automobile. On that charge petitioner was sentenced to the State Reformatory for an indefinite term and fined \$1.00, and he was released on parole from this institution on March 14, 1930.

The foregoing crimes of which petitioner was convicted involved moral turpitude, and hence they disqualify him from being connected with the alcoholic beverage business in New Jersey. See R.S. 33:1-25, 26; Re Case No. 981, Bulletin 939, Item 9; Re Case No. 996, Bulletin 943, Item 8. He here petitions that such disqualification be removed under the discretionary powers afforded to me by R. S. 33:1-31.2.

Petitioner is now 45 years of age and, although married, he is apparently separated from his wife. He has resided in the same neighborhood in one of our New Jersey cities for at least the last seven and one-half years. At the hearing he produced three character witnesses. One, a man formerly employed at a warehouse but presently unemployed, states that he has known petitioner for about 12 years. Another, an employee at a restaurant apparently patronized by petitioner, states that he has known him about six and one-half years. The third, a lawyer who is presently a police magistrate in the city where petitioner resides, states that he has known him for about nine years. All three witnesses testify that his reputation as a law-abiding citizen is good.

Petitioner states that he has been employed during the past two years as a truck driver for a company which holds a license to transport alcoholic beverages in New Jersey; that at first he drove a "regular truck" but that about 11 months ago the company assigned him to operate a truck that occasionally transports alcoholic beverages. Somewhat tardily, the transportation company filed a questionnaire with this Division in May 1952 covering petitioner's above employment in its alcoholic beverage transportation business (State Regulations No. 12). In this questionnaire petitioner frankly admitted that he had a criminal record but described it as "Auto Car Theft". After routine investigation, petitioner was duly advised by this Division that his criminal record rendered him ineligible for said employment. There is nothing to indicate that he was previously aware that his record of so many years ago disqualified him from such employment.

Petitioner states that prior to his employment for the above company he had worked for a national concern as a "rollerman's helper" for some five and one-half years.

A report from the police department of the city where petitioner lives has disclosed no investigation or complaint presently pending which relates to petitioner.

Were there no more to the case, I would have but little hesitancy in removing petitioner's disqualification. However, while his record is otherwise clear since his parole back some 22 years ago in 1930, it appears that on February 13, 1949 he pleaded guilty to a disorderly conduct charge (loitering) and was fined \$25.00. The charge resulted from the arrest of a woman who was soliciting him for apparently immoral purposes.

To afford petitioner the relief requested, it is necessary that I find that he has been conducting himself in a law-abiding manner for five years last past and that his association with the alcoholic beverage industry will not be contrary to the public interest. See R. S. 33:1-31.2. Although his above conviction in 1949, being for disorderly conduct, does not constitute conviction of a "crime" (Re Case No. 65, Bulletin 193, Item 11; Re Case No. 318, Bulletin 394, Item 17), it is nevertheless a pertinent circumstance to consider on the question whether he has successfully rehabilitated himself and has been living in a "law-abiding" manner during the above requisite period. However, being a single lapse during the last 22 years and not being a "crime" or indicating a criminal turn of mind or an attitude prejudicial to the alcoholic beverage industry, I do not believe it is sufficient to overcome petitioner's otherwise clear record of so many years and the favorable testimony of his character witnesses. For similar decisions, see Re Case No. 315, Bulletin 608, Item 5; Re Case No. 789, Bulletin 862, Item 6.

Hence, I conclude that petitioner is fairly to be granted the relief sought.

Accordingly, it is, on this 18th day of November, 1952,

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

DOMINIC A. CAVICCHIA
Director.

9. CONTAINERS - SALE OF BEER IN PAILS OR CARTONS - RULING IN BULLETIN 27, ITEM 2, RE "BEER GROWLER" SALES EXPLAINED.

November 26, 1952

Gentlemen:

You hold a plenary retail consumption license for your tavern at the above address.

In your letter you refer to the practice of "rushing the beer growler", and you raise various inquiries concerning it.

Under the Alcoholic Beverage Law, R. S. 33:1-12(1), (2), the general rule is that no tavernkeeper in New Jersey may, under any circumstances, sell any alcoholic beverage of any kind to be taken off the licensed premises unless it is sold and taken away in the original container. This means that your sales of any alcoholic beverage for off-premises consumption must be restricted to sales in the original sealed bottle or other original sealed container in which the alcoholic beverage came packaged to you. The one and only exception is the above mentioned custom of "rushing the beer growler" (Bulletin 27, Item 2).

Under this exception, as presently construed, a tavernkeeper may, as part of his tavern business, draw beer from his tap into a pitcher, or pail, or a paper or cardboard container, for the patron to take off the licensed premises. It should emphatically be noted that this exception extends only to tap beer and no other beer or alcoholic beverage, and that it permits only the above specified containers to be used -- no jars, bottles, or jugs of any kind, whether open or not, may be used.

Except as restricted by municipal regulation, these "beer growler" sales may be made during the same hours as sales by the drink at the tavern. State Regulations No. 38 of this Division do not apply to these "beer growler" sales.

In light of the foregoing, we may now answer your specific inquiries. As to your first inquiry, viz., whether you may sell drinks of whiskey to be taken off the licensed premises, the answer most emphatically is NO. This by no means comes within the "beer growler" exception.

As to your second inquiry, viz., whether you may make delivery of a "beer growler" sale to the home of the patron, here again the answer is decidedly NO. The exception in favor of "beer growler" sales, being based on pre-existing custom, prevails only when the patron comes into the establishment for the "beer growler" and takes it away with him.

Very truly yours,
DOMINIC A. CAVICCHIA
Director.

10. AUTOMATIC SUSPENSION - SALE TO MINOR - LICENSE HERETOFORE SUSPENDED BY LOCAL ISSUING AUTHORITY FOR 20 DAYS - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by)

K & W LIQUOR AND DELICATESSEN, INC.)
101 Broadway)
East Paterson, N. J.,)

ON PETITION
CONCLUSIONS AND ORDER

To Lift the Automatic Suspension of)
Plenary Retail Distribution License)
No. D-3, issued by the Mayor and)
Council of the Borough of East)
Paterson.)
-----)

Ervan F. Kushner, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

It appears from a verified petition filed herein that on November 24, 1952, David Palm, President of K & W Liquor and Delicatessen, Inc., was fined the sum of \$100.00 in the Criminal District Court of Bergen County after he pleaded non vult to a complaint alleging that he sold alcoholic beverages to a minor in violation of R. S. 33:1-77. Said conviction has resulted in the automatic suspension of the license held by K & W Liquor and Delicatessen, Inc., for the balance of its term. R. S. 33:1-31.1. On November 24, 1952, the license certificate was picked up by ABC agents, and no alcoholic beverage activity has been conducted on the licensed premises since that time. The petition herein prays that the automatic suspension of the license be lifted.

It appears from the records of the Division of Alcoholic Beverage Control that on October 28, 1952, the Mayor and Council of the Borough of East Paterson suspended the license held by K & W Liquor and Delicatessen, Inc. for a period of twenty-five days, less five for the plea, after it had pleaded non vult in disciplinary proceedings to a charge that it permitted the sale of alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20. As a result of said suspension, no alcoholic beverage activity was conducted at the licensed premises from 9:00 a.m. November 3, 1952 to 9:00 a.m. November 23, 1952.

The complaint in the criminal proceedings and the charge in the disciplinary proceedings were based upon the same facts. The case concerns the sale of alcoholic beverages to a minor who was then fifteen years of age.

A review of the facts of the case indicates that the suspension heretofore imposed by the municipal issuing authority was adequate under the circumstances of the case. Hence the relief sought herein will be granted.

Accordingly, it is, on this 25th day of November, 1952,

ORDERED that the automatic suspension of License D-3, held by K & W Liquor and Delicatessen, Inc., for premises 101 Broadway, East Paterson, be and the same is hereby lifted, and said license is hereby restored to full force and operation, effective immediately.

DOMINIC A. CAVICCHIA
Director.

11. SEIZURE - FORFEITURE PROCEEDINGS - UNLAWFUL TRANSPORTATION OF ALCOHOLIC BEVERAGES PURCHASED ON BEHALF OF MINORS FOR CONSUMPTION BY THEM AT A "PARTY" - ALCOHOLIC BEVERAGES FORFEITED.

In the Matter of the Seizure on June 22, 1952 of approximately 20 cases of beer and 1 pint of whiskey at 17 Pennsylvania Avenue, in the Borough of Lavallette, County of Ocean and State of New Jersey. Case No. 8112 ON HEARING CONCLUSIONS AND ORDER

Paul Minor, Pro Se. Harry Castelbaum, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether 20 cases of beer and a pint bottle of whiskey, seized on June 22, 1952 at 17 Pennsylvania Avenue, Lavallette, N. J., constitute unlawful property and should be forfeited.

The Chief of Police of Lavallette seized the alcoholic beverages in the first instance, while investigating a disturbance at the above address. This investigation developed, among other matters, that one Paul Minor, a person 21 years of age, had purchased the beer at a local retail liquor store on behalf of, and with funds supplied by, a group of boys and girls recently graduated from high school; that the arrangements had been made through an "interfraternity council" representative; and that Minor had transported the beer in his car from the liquor store to the bungalow at the above address where a party for the group was to be held. The Chief of Police notified the Division of Alcoholic Beverage Control of these circumstances, and the beer and the bottle of whiskey found on the premises were turned over to ABC agents.

Minor's car was not licensed to transport alcoholic beverages. The quantity transported was in excess of that permitted to be transported without a license for personal consumption. See R. S. 33:1-2. In any event, the beer was purchased by Minor as a delegate for the group. The beer was transported unlawfully. Indeed, the retail liquor licensees suffered a suspension of their license for their part in the transaction. Re Garibaldi, Bulletin 944, Item 9.

The beer constitutes an illicit alcoholic beverage because it was transported unlawfully. R. S. 33:1-1(i). Such illicit beer, and the bottle of whiskey seized therewith, constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

When the matter came on for hearing pursuant to R.S. 33:1-66, Paul Minor appeared and sought return of the beer, indicating that he deemed himself morally responsible to the group which had put up the money for the cost of the beer, and that he was unaware that it was unlawful to transport the beer in his car.

I have the discretionary authority to relieve a person from forfeiture if he establishes to my satisfaction that he has acted in good faith and has unknowingly violated the law. R.S. 33:1-66(e).

An essential ingredient of good faith is that the alcoholic beverages must have been transported for a lawful purpose, in a legitimate enterprise, even if the transporter was unaware that the actual transportation was unlawful. See Seizure Case No. 7318, Bulletin 829, Item 1.

In the Matter under consideration here, the actual owner of the beer sought to be recovered is the group of boys and girls -- composed, or largely composed, of minors -- who supplied the funds for its purchase. Assuming that the purchaser, merely by reason thereof, may be deemed the proper representative of the group and entitled to present whatever claim it has, nevertheless the beer was in fact purchased on behalf of minors for consumption at premises where they were to congregate for a "party".

This was an improper objective. One of the primary aims of liquor control is that minors are to be prevented from purchasing alcoholic beverages. Manifestly, minors are not to be encouraged to skirt (by the simple device of employing a purchaser of legal age) this statutory objective.

To return the beer in this instance would encourage similar circumventions of the law in the future. And in reaching my determination, the possibility that if the beer were returned it would not be made available to minors is not a factor, because it is now too late to abandon the original intention to have the beer available for use by minors. Cf. Seizure Case No. 7318, supra. Loss of the cost of the beer, on the other hand, should serve as a deterrent.

Paul Minor's request for return of the beer is denied for the reasons above expressed.

Accordingly, it is DETERMINED and ORDERED that the seized alcoholic beverages, more fully described in Schedule "A" attached hereto, 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: November 25, 1952.

DOMINIC A. CAVICCHIA
Director.

SCHEDULE "A"

20 - cases of beer
1 - pint of whiskey

12. STATE LICENSES - NEW APPLICATIONS FILED.

Linden Bottling Co., Inc.
1006 W. Elizabeth Ave., Linden, N. J.
Application filed December 4, 1952 for transfer of State Beverage Distributor License SBD-29 from 1111 West Elizabeth Ave., Linden, N. J.

Rand Express Freight Lines, Inc.
1110 Rutherford Ave., Lyndhurst, N. J.
Application filed December 4, 1952 for transfer of Transportation License T-90 from 16 Alabama Avenue, Paterson, N. J.

DOMINIC A. CAVICCHIA
Director.

13. DISCIPLINARY PROCEEDINGS - DEFENDANT'S GUILT ON CHARGE OF SALE TO MINOR NOT ESTABLISHED BY REQUISITE PREPONDERANCE OF THE EVIDENCE - CHARGE DISMISSED.

In the Matter of Disciplinary Proceedings against)

GEORGE PETKOS, JR.)
2 Holsman Street)
Paterson 2, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-246, issued by the Board of Alcoholic Beverage Control of the City of Paterson.)

-----)
Jacob G. Goldfarb, Esq., Attorney for Defendant-licensee.)
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.)

BY THE DIRECTOR:

Defendant has pleaded not guilty to a charge alleging that he sold, served and delivered, and allowed, permitted and suffered the service and delivery of alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20.

At the hearing, David W. --- testified that he was born on September 4, 1934; that he and a companion, Peter Unger, entered defendant's licensed premises "around ten to eleven" and stayed on the premises "about to twelve" on the evening of July 30, 1952; that during the time he remained in defendant's licensed premises he played shuffleboard and consumed three or four glasses of beer served to him at various times by Helen Petkos, the wife of the licensee; that prior to visiting this tavern he had spent several hours in another licensed premises during which time he drank "about eight or nine beers". The minor further testified that after leaving defendant's establishment he returned to the premises where he had previously obtained drinks of alcoholic beverages, consumed some more drinks of beer and thereafter became involved in trouble with the law. He admitted to a detective and also at the hearing that he was feeling "high".

An ABC agent testified that on August 8, 1952, during the course of the investigation of the alleged violation, he and David W. --- went to defendant's licensed premises, and the youth identified Helen Petkos as the person who had served beer to him on July 30, 1952. Helen Petkos, according to the testimony of the ABC agent, stated that she served birch beer to him but denied serving beer to him at any time whatsoever.

Helen Petkos testified that David and three other male patrons had played shuffleboard and that in response to an order from David W. --- for beer on the evening in question she remarked, "You look too young to have beer." She further testified that she served three glasses of birch beer to David at various times during the evening without any objection on his part.

Chester Beeker, a witness produced by the defendant, testified that he was in defendant's licensed premises on the evening of July 30, 1952, and heard Helen Petkos say to David W. --- when the latter ordered beer, "You're only a baby yet. I can't serve you beer." He testified that thereafter he observed Helen Petkos draw birch beer from the tap and serve it to David W. ---.

Cornelius Hamilton, also produced as a witness by the defendant, testified that he was present in defendant's licensed premises on the evening of July 30, 1952, and that he was seated next to David W. --- when Peter Unger ordered four glasses of beer from Helen Petkos; that he heard her say that David W. --- was too young to drink beer; and that "there were three beers and a glass of birch put on the bar."

He further testified that after the drinks were drawn from the taps he observed a glass of birch beer on the bar in front of David W.---

George W. Wolf testified that although he saw David W. ---, whom he had known for seven years, in defendant's tavern on July 30, 1952, he did not see him drink anything that evening. He further testified that he, his "partner" and Peter drank the three glasses of beer served by Helen Petkos.

The licensee testified he was not present on the evening in question.

This case involves inconsistent stories told by the minor and by the various witnesses produced by the defendant. After a careful review of all the evidence, I conclude that the defendant's guilt has not been established by the requisite preponderance of the evidence. Therefore, the charge will be dismissed. Re Clark, Bulletin 616, Item 12; Re Salmanowitz, Bulletin 638, Item 6; Re Cartwright, Bulletin 725, Item 1; Re Rova Farms, Inc., Bulletin 937, Item 9.

Accordingly, it is, on this 4th day of December, 1952,

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

DOMINIC A. CAVICCHIA
Director.

14. DISCIPLINARY PROCEEDINGS - EFFECTIVE DATE FIXED FOR SUSPENSION PREVIOUSLY IMPOSED UPON REOPENING OF BUSINESS.

In the Matter of Disciplinary Proceedings against
C. L. K., INC.
T/a LA RHUMBA BAR
705 Madison Avenue
Lakewood, N. J.,
Holder of Plenary Retail Consumption License C-28 (for the 1951-52 licensing year) issued by the Township Committee of the Township of Lakewood.

O R D E R

BY THE DIRECTOR:

It appearing that by order dated May 8, 1952, the license then held by the above named defendant was suspended for a period of fifteen days, and that the effective dates of said suspension were to be fixed by subsequent order herein after the licensed premises shall have reopened for business in the autumn of 1952 (Re C.L.K., Inc., Bulletin 936, Item 5), and

It further appearing that the Township Committee of the Township of Lakewood has issued to defendant, t/a Clarendon Hotel, License C-32 for the 1952-53 licensing year in renewal of its license held for the previous licensing year, and that defendant's premises have now been reopened for business,

It is, on this 26th day of November, 1952,

ORDERED that Plenary Retail Consumption License C-32, for the 1952-53 licensing year, issued by the Township Committee of the Township of Lakewood to C. L. K., Inc., t/a Clarendon Hotel, for premises 705 Madison Avenue, Lakewood, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 2:00 a. m. December 3, 1952, and terminating at 2:00 a.m. December 18, 1952.

Dominic A. Cavicchia
Dominic A. Cavicchia