

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

BULLETIN 1284

JULY 6, 1959

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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.

BULLETIN 1284

July 6, 1959

1. DISCIPLINARY PROCEEDINGS - PERMITTING SOLICITATION FOR PROSTITUTION AND THE MAKING OF ARRANGEMENTS FOR ILLICIT SEXUAL RELATIONS ON LICENSED PREMISES - PERMITTING PROSTITUTES ON PREMISES - LICENSES SUSPENDED FOR 120 DAYS.

In the Matter of Disciplinary Proceedings against )

ALBERT CHAIKA )  
t/a AL'S TAVERN )  
2081 Springfield Avenue )  
Union Township )  
P.O. Vauxhall, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-41, issued by the Township Committee of the Township of Union. )

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McKenzie & Hehl, Esqs., by A. Donald McKenzie, Esq., Attorneys for Defendant-licensee.  
David S. Piltzer, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to the following charges:

- '1. On July 31 and August 1, 7 and 8, 1958, you allowed, permitted and suffered in and upon your licensed premises lewdness and immoral activity, viz., solicitation for prostitution and the making of overtures and arrangements for illicit sexual relations; in violation of Rule 5 of State Regulation No. 20.
- '2. On July 31 and August 1, 7 and 8, 1958, you allowed, permitted and suffered in and upon your licensed premises a prostitute; in violation of Rule 4 of State Regulation No. 20.'

"At the hearing herein, the Division called as its witnesses five ABC agents who participated in the investigation of defendant's licensed premises. They will be referred to by the initials of their surnames.

"The evidence adduced in support of the charges is hereinbelow succinctly stated.

"On the night of July 31, 1958, Agents L and S visited defendant's licensed premises wherein they met and conversed with a colored female named Vivian, whose unsolicited familiarities with Agent L and other males at the bar were characteristic of a courtesan. On the night of August 1, 1958 the same agents returned to the licensed premises where they again met Vivian who solicited them for drinks and persistently sought to have them engage in illicit sexual relations with her in a parking lot adjacent to the licensed premises for the price of \$5.00. The agents declined the invitation and stated they

would see her at a later date. On the night of August 5, 1958, Agents L, C and G visited the licensed premises and engaged Albert Chaika, the licensee, in conversation respecting the cleanliness and marital status of Vivian, who was not then in the premises. Agent L informed Chaika of the proposition made by Vivian as hereinabove related and Chaika responded: 'Look, you don't want to get any venereal disease, do you?' On the night of August 7, 1958, Agents L, C and G returned to the licensed premises where Agent L was greeted by Vivian. At her request he bought her a drink, stating: 'I'm a little low on funds right now, but tomorrow I'm being paid and I'll be raring to go.' Promising that he would meet her at 10:00 p.m. the following night, he introduced her to the other agents with whom she remained for several minutes and departed. Thereafter, Agent L, in the presence of Chaika, informed the other agents that he had a date to meet Vivian the next evening and that she was going to have sexual relations with him in the parking lot for the price of \$5.00. When Agent C expressed feigned concern that Agent L would 'get caught by the cops', Chaika said: 'Don't be worried about the cops. There are none around here. Everybody goes back there and gets laid.' Agent C then asked Chaika if Vivian was a prostitute and Chaika informed him that she used to have an apartment in Newark where she consorted with men for the price of \$10.00, but that now she is charging \$5.00.

"At about 9:50 p.m. on August 8, 1958, Agents L, C and G again visited the licensed premises and at 10:30 p.m. Vivian arrived. She greeted Agent L and stated that she would be gone for about ten minutes to take care of an elderly male there present and asked him to wait. Vivian left the premises and shortly thereafter the elderly man followed. At about 11:15 p.m. Vivian returned, consumed a high-ball and inquired of Agent L: 'Are you ready now?' When Agent L replied in the affirmative, Vivian continued: 'Tell your buddy I'll charge you \$7.00 and tell your buddy I'll charge him \$7.00 and I won't take anything less than \$7.00.' Agent L conferred with Agent C and both agreed to the arrangements. Vivian then asked where Agent L's car was parked. When she was told that it was parked near the street entrance to the parking lot, she said: 'Pull it back and you will see a truck further back in the parking area and park next to that truck and I'll see you in five minutes.' When Agent L asked if she wanted to be paid then, she stated: 'You won't leave here until I get paid.' Agent L then handed her \$7.00 in marked currency and departed. Agent C observed Vivian and Chaika in whispered conversation and saw her hand over her pocketbook to the licensee, after which she also left. Agent C followed shortly thereafter and contacted Agent P and two local detectives and the four proceeded to the parking lot where they found Vivian seated with Agent L in his car. Vivian was placed under arrest and Agents L and C and the two detectives proceeded to the licensed premises wherein they informed Chaika of the violations and asked him for Vivian's purse. Chaika handed over the purse and in it they found the marked money.

"Albert Chaika testified in substance that he has operated the same licensed premises since 1933, during which time no other charges had been preferred against him; that when the agents were in his premises they discussed with him Vivian's marital status; that when one of the agents stated: 'We want to get laid tonight', he replied: 'Nothing I know around, you'll probably get it down Newark some place'; and that he asked: 'Do you fool around with those women floating around from tavern to tavern? You don't know what they have \*\*\* Why don't you get yourself a girl friend --- clean girl friend -- and have fun with her?' He admitted that there was a discussion among the agents and him respecting the parking lot and that he told them: 'Different people from all over, after I close, bother us. They park with the car on the empty lot

and the police don't watch them.' With respect to holding Vivian's purse, he testified that 'she asked me: "Will you watch my pocket-book. I go across the street, I be right back." I figure she is going to get pizza pie or even sausage or something.' He further testified that 'I never heard anything about Vivian was doing things like that or charge money because she never told me herself', and 'I don't know her so long.' On cross-examination he admitted that he has known Vivian since World War II; that Vivian has been visiting his tavern 'well, after the war, not too often'; that when the agents asked how much Vivian charged, he said: 'I don't know if she charge anything or not', and that it was the first time Vivian had left her purse with him.

"Two males, who for years have patronized the licensed premises, were called as witnesses for defendant. Their testimony for the most part tends to show that Chaika would tolerate no misconduct on his licensed premises and that he, personally at times, ejected patrons who attempted to violate his business standards.

"Having carefully considered the evidence herein, I find that Albert Chaika knowingly permitted a prostitute in and upon his licensed premises, and that he failed in his responsibility as a licensee to prevent the improper use of his premises by those occupying them with his knowledge.

"Were it established that Chaika had actually procured Vivian to engage in sexual intercourse with the agents, I would recommend that his license be revoked outright. Re Merjack Corporation Bulletin 998, Item 1, and cases cited therein. However, in the absence of such concrete proof and considering all the facts and circumstances, including the licensee's clean record for over twenty-five years and the fact that he did not permit his premises to be used as a haven for prostitutes, I recommend that an order be entered adjudging defendant guilty on both charges and that his license be suspended for a period of ninety days. Cf. Re Lach, Bulletin 1250, Item 2."

Pursuant to Rule 6 of State Regulation No. 16, the attorneys for both parties herein filed written exceptions to the Hearer's Report and I decided to hear oral argument.

After careful consideration of the entire record herein, including the transcript of the proceedings, the Hearer's Report, the written exceptions thereto and the oral argument before me, I concur in and adopt the Hearer's recommendation as to defendant's guilt. However, I feel that the recommended penalty is inadequate and shall suspend defendant's license for one hundred twenty days.

Accordingly, it is, on this 20th day of May 1959,

ORDERED that Plenary Retail Consumption License C-41, issued by the Township Committee of the Township of Union to Albert Chaika, t/a Al's Tavern, for premises 2081 Springfield Avenue, Union Township, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m., Wednesday, May 27, 1959; and it is further

ORDERED that any renewal for the 1959-60 licensing year or transfer of said license shall be and remain under suspension until 2:00 a.m., Thursday, September 24, 1959.

WILLIAM HOWE DAVIS  
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - HINDERING INVESTIGATION - FAILURE TO HAVE TRUE COPY OF LICENSE APPLICATION ON PREMISES - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

TAMIM, INC. )  
t/a S. S. PARK INN )  
247 W. Westfield Avenue )  
Roselle Park, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-3, issued by the Borough Council of the Borough of Roselle Park. )

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John Anthony Lombardi, Esq., Attorney for Defendant-licensee Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

The following charges were preferred against the defendant:

- "1. On March 6, 1959, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to persons under the age of twenty-one (21) years, viz., Martin ---, age 19 and Joseph ---, age 19, and allowed, permitted and suffered the consumption of alcoholic beverages by such persons in and upon your licensed premises; in violation of Rule 1 of State Regulation No. 20.
- "2. On March 6, 1959, while investigators of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey were conducting an investigation, inspection and examination at your licensed premises, you, through Isadore DiBernardo, a person then and there employed on your licensed premises, failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R.S. 33:1-35.
- "3. On March 6, 1959, you conducted your licensed business without having a photostatic or other true copy of your application for your current license on the licensed premises available for inspection; in violation of Rule 16(b) of State Regulation No. 20."

Defendant entered a plea of "no defense" to Charges 1 and 3, and a plea of non vult to Charge 2.

The plea of "no defense" has been ruled to have a similar import and effect as a plea of non vult and, therefore, will be so considered in the instant case. Re Club 17, Inc., 26 N.J. Super 43.

On the evening of March 6, 1959, ABC agents observed Jerry Dasti (a bartender) serve a bottle of beer to each of two youths

(Martin --- and Joseph ---) seated at the bar in the defendant's licensed premises. After the youths consumed their beer, the bartender served each a second bottle and, when they had consumed a portion of their respective drinks, the agents identified themselves and questioned them regarding their ages. Martin admitted he was 19 years of age, whereas Joseph claimed to be 21 years of age and produced an identification card to that effect. The youths were then requested by one of the agents to occupy a booth where further pertinent information might be elicited. The agent seized the glasses containing beer from the youths and placed them on the table inside the booth. While one of the agents was questioning the minors at a table and the other agent was telephoning the local police, Isadore DiBernardo, who previously had been observed acting as host (escorting patrons to seats) picked up one of the glasses of beer and deliberately spilled its contents on the table and on the floor. DiBernardo was questioned by the agent and, with the exception of stating that he was 21 years of age, he refused to identify himself. After arrival of the local police, DiBernardo still refused to give the agents any information concerning himself and continued to refuse until one of the police officers threatened to take him to Police Headquarters. The bartender and Martin and Joseph were taken to Police Headquarters, at which place Joseph gave his true age as 19 years and admitted that the identification card in his possession belonged to an older brother. Both minors and the bartender admitted that neither minor was asked about his age prior to service of beer to him.

Defendant's attorney, in attempted mitigation of penalty, stated that he prepared forms for use by the defendant to be signed by persons 21 years or older when his or her age appeared questionable and that the part-time bartender had failed to follow his employer's instructions in that regard in the present case. The failure of an employee to follow instructions cannot be accepted as an excuse when a violation occurs on the licensed premises. Manno v. Clifton, Bulletin 931, Item 2. The attorney further stated that DiBernardo performed services in defendant's premises as a volunteer and that "any action on his part was generated by a mistaken and misplaced loyalty" to the defendant. Nevertheless, a licensee is fully responsible for acts of persons whose services are utilized to further the licensed business, whether or not they are compensated for such services. Re Forman and Butron, Bulletin 1253, Item 1. Finally, the attorney for defendant claims that, due to a misunderstanding, the copy of the application was inadvertently unavailable for inspection by the agents at the time in question and that the stockholders of defendant corporate licensee had no knowledge that the copy of the application was not available. It might be pointed out that on four previous occasions a copy of the application was missing, and also on March 13, 1959, during a routine investigation, the defendant failed to have a copy of the license application on the premises.

Defendant has no prior adjudicated record. I shall suspend defendant's license for fifteen days for sale to two minors (19 years of age) (Re Barth, Bulletin 1236, Item 9); for an additional fifteen days on Charge 2, involving a wilful destruction of evidence (Re Club Elena, Inc., Bulletin 1115, Item 10), and for an additional ten days on Charge 3 (Re Kalasarines & Vlismas, Bulletin 1211, Item 3), making a total suspension of forty days. Five days will be remitted for the pleas entered herein, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 26th day of May, 1959,

ORDERED that Plenary Retail Consumption License C-3, issued by the Borough Council of the Borough of Roselle Park to Tamim, Inc.,

t/a S. S. Park Inn, for premises 247 W. Westfield Avenue, Roselle Park, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m., Thursday, June 4, 1959; and it is further

ORDERED that any renewal or transfer of said license shall be and remain under suspension until 2:00 a.m., Thursday, July 9, 1959.

WILLIAM HOWE DAVIS  
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - CHARGE ALLEGING EMPLOYMENT OF BARTENDER WITHOUT LOCAL IDENTIFICATION CARD DISMISSED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

MICHAEL J. KENNY AND THOMAS BUTLER )  
500 Ocean Avenue )  
Jersey City 5, N. J. )

CONCLUSIONS  
AND ORDER

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Holders of Plenary Retail Consumption License C-523, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City. )

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Eugene P. Kenny, Esq., Attorney for Defendant-licensees  
Dora P. Rothschild, Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Defendants pleaded non vult to Charge 1 herein which alleges that they sold during prohibited hours alcoholic beverages in their original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Defendants pleaded not guilty to Charge 2 herein which alleges that they employed a bartender who did not have an identification card required by a local ordinance.

Two ABC agents entered defendants' licensed premises on Saturday, April 18, 1959, at about 10:40 p.m., and remained on the premises until 12:40 a.m. on the following morning. At about 10:55 p.m. Joseph Langley (bartender) sold three bottles of beer to a patron who carried the bottles from the premises. At 12:15 a.m. the bartender sold a bottle of beer to one of the agents. Both agents left with the bottle but returned immediately and identified themselves to the bartender who verbally admitted the sales.

After reviewing all the facts concerning the identification card, I have decided to nolle pros Charge 2.

Defendants have no prior adjudicated record as partners. When Michael Kenny held a license for the same address his license was suspended by the local issuing authority for three days, effective May 22, 1939, for permitting persons other than employees on the premises during prohibited hours. However, since this violation occurred more than ten years ago, it will not be considered in fixing penalty herein. Re Cosmanic, Bulletin 1248, Item 2. I shall suspend defendants' license for fifteen days on Charge 1.

Re Bunce, Bulletin 1273, Item 4. Five days will be remitted for the plea, leaving a net suspension of ten days.

Accordingly, it is, on this 25th day of May, 1959,

ORDERED that Plenary Retail Consumption License C-523, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Michael J. Kenny and Thomas Butler, for premises 500 Ocean Avenue, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2 a.m. Monday, June 1, 1959, and terminating at 2 a.m. Thursday, June 11, 1959.

WILLIAM HOWE DAVIS  
DIRECTOR

4. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF ILLICIT ALCOHOL - ALCOHOL ORDERED FORFEITED - MOTOR VEHICLE ORDERED RETURNED TO INNOCENT OWNER (MOTHER OF WRONGDOER).

In the Matter of the Seizure ) Case No. 9894  
on February 8, 1959 of a quantity )  
of alcohol and a Mercury convertible ) ON HEARING  
on the New Jersey Turnpike at the ) CONCLUSIONS AND ORDER  
112 Mile Post, in the Town of )  
Seacaucus, County of Hudson and )  
State of New Jersey. )

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Raymond A. Brown, Esq., Attorney for Ruth Ledwith Lasister and Southern Auto 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 96 two-quart "Mason" jars of alcohol, and a Mercury coupe, described in a schedule attached hereto, seized on February 8, 1959 on the New Jersey Turnpike in Secaucus, 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 Ruth Ledwith Lasister, who sought return of the motor vehicle, and for Southern Auto Finance Company which sought recognition of its alleged lien thereon. 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 claimants, disclose the following facts:

On February 8, 1959 a New Jersey State trooper came upon the motor vehicle in question parked at the mentioned location during his routine patrol of traffic on the highway. He ascertained that the car bore license plates issued to Charles Knox Lasister, Jr., who with his wife and child, were seated therein. When the trooper discovered in the trunk of the car the 96 two-quart "Mason" jars of alcohol, without any stamps thereon indicating the payment of tax on alcoholic beverages, he arrested Lasister and took into custody the alcohol and car. Later such alcohol and car were turned over to ABC agents.

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 44.9 percent.

Charles Knox Lasister, in a signed statement, asserts that he is a porter employed by Eastern Airlines, and resides in Raleigh, North Carolina; that on February 7, 1959 he arranged with an acquaintance to buy a quantity of "moonshine" whiskey, which was placed in the Mercury and which he intended to sell in New York; that in the early morning hours of February 8th, he left Raleigh with his wife to visit her mother who resided in New York City, and was enroute when he had a flat tire; that he had been the owner of the car, but during a strike at his place of employment, he lost the car, and his mother is now making payments to the finance company which re-possessed the car.

The seized alcohol is illicit because of the absence of a tax stamp on any 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 substance of the evidence presented on behalf of Ruth Ledwith Lasister is as follows:

A certificate of the Department of Motor Vehicles of North Carolina evidences that the Mercury sedan in question is registered in the name of Ruth Ledwith Lasister, with a lien of \$1618.56 in favor of Southern Auto Finance Company noted thereon.

A letter from the Department of Motor Vehicles of such state discloses that license plates ZN4419 for such motor vehicle were issued to Charles Knox Lasister, Jr. and transferred on January 16, 1959 to Ruth Ledwith Lasister and that registry cards were issued for the same numbered license plates.

According to Mrs. Lasister, her son is 30 years of age, was employed by Eastern Airlines, and resided with his wife and children at an address in Raleigh; that some time in November 1958 the employees of the airline went on strike and therefore her son ceased to have any income and was unable to maintain his installment payments on the car to the finance company; that she went to the finance company and arranged to have title to the car transferred to her; that the finance company investigated her character and background, and then accepted a chattel mortgage on the vehicle.

It appears from the affidavit of the manager of the finance company that he personally investigated Mrs. Lasister's character and background and ascertained that she was of good character and reputation and was the owner of several parcels of real estate in Raleigh and had a good credit rating; that she did not have any reputation or record for ever having dealt in whiskey, narcotics, or any other unlawful or illegal enterprise.

Mrs. Lasister further states that from the date she acquired title to the car she used it to travel to and from her place of employment, although her son would use it on occasions, and she permitted him to use the car on the occasion in question to drive with his wife on a visit to the latter's mother, who resided in Long Island, New York, and was ill; and that she had no idea her son would transport illicit alcohol in the car. Further, that she has a brother who is a contractor and another brother who is a police officer in Raleigh; that her son was at one time a student in a well known music school, then worked as a porter, both in New York City, and then she suggested that he move to Raleigh, where he was employed for about four years by the airline; that to her knowledge he was never in trouble; that during the strike she paid the rent for premises occupied by her son and his family, and provided food and clothing for them; and that she is personally responsible to the

finance company for the balance due such concern on her chattel mortgage.

This case is somewhat similar to Seizure Case No. 8680, Bulletin 1044, Item 4 (daughter who made car available for family use) and Seizure Case No. 8638, Bulletin 1038, Item 3 (mother who made car available for use of juvenile offender) in that there does not appear to be anything in the son's background from which Mrs. Lasister could anticipate that he would use the car to transport illicit alcoholic beverages, and that the mother's action in trying to salvage her son's equity in the motor vehicle was a natural instinct. The motor vehicle in question will therefore be returned to her upon payment of the costs of its seizure and storage.

Counsel for the Southern Auto Finance Company has stated on the record that its claim is to be considered withdrawn if the motor vehicle is returned to Mrs. Lasister.

Accordingly, it is DETERMINED and ORDERED that if on or before the 1st day of June, 1959, Ruth Ledwith Lasister pays the costs of the seizure and storage of the Mercury convertible, more fully described in Schedule "A" attached hereto, it will be returned to her; and it is further

DETERMINED and ORDERED that the alcoholic beverages, as listed in Schedule "A", 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 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: May 21, 1959

WILLIAM HOWE DAVIS  
DIRECTOR

SCHEDULE "A"

- 96 - two-quart "Mason" jars of alcohol
- 1 - Mercury convertible, Serial No. 57ME33923M,  
North Carolina Registration ZN4419

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

In the Matter of the Seizure on March 9, 1959 of a quantity of alcoholic beverages and an Oldsmobile sedan on the New Jersey Turnpike at the 78 Mile Post in the Township of East Brunswick, County of Middlesex and State of New Jersey.

Case No. 9922

ON HEARING CONCLUSIONS AND ORDER

Bertram C. Bland, Esq., Attorney for Albert Myers. 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:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey, to determine whether an Oldsmobile sedan and 59 two-quart "Mason" jars of alcohol, described in a schedule attached hereto, seized on March 9, 1959 on the New Jersey Turnpike, East Brunswick, 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 Motors Acceptance Corporation, which sought recognition of its alleged lien on the Oldsmobile sedan. Counsellor Bland entered an appearance for Albert Myers, the registered owner of the motor vehicle, merely as a formality in response to the notice of hearing in the case, to clarify any question if the occasion should arise, but not to present any claim on his behalf. No one opposed forfeiture of the alcohol.

Reports of ABC agents and other documents in the file, presented in evidence with consent of counsel, disclose the following facts: A New Jersey State trooper halted the Oldsmobile sedan in question on the above date and location during his routine patrol of traffic on the highway. He ascertained that the motor vehicle was being operated by Thurlow Whitfield and that Albert R. Myers, the registered owner of the car, was a passenger therein. When the trooper discovered, in the trunk of the car, the 59 two-quart "Mason" jars of alcohol, without a stamp on any of the jars indicating the payment of tax on alcoholic beverages, he took into custody the motor vehicle and alcohol. Later such motor vehicle and alcohol were turned over to ABC agents.

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 51.5 percent.

Albert Myers, in a signed statement, asserts that while on a visit to Richmond, Virginia, he made the acquaintance of a person from whom he purchased the alcohol, which was placed in his car on a highway.

The seized alcohol is illicit because of the absence of a tax stamp on any 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.

General Motors Acceptance Corporation has presented in evidence a conditional sales contract dated June 24, 1958 signed by Albert R. Myers and Dorothy Carr, covering the purchase of the Oldsmobile in question. The present balance due on such contract, (which the finance company held by assignment) after rebate for prepayment, is \$2413.68.

The finance company credit supervisor testified that before extending credit to finance the purchase of the motor vehicle and accept such contract, the finance company received information that Albert Myers had been employed as a porter by a local hospital for about seven months, with a salary of \$60.00 a week, and previous to such employment, was in the Army for seven years, resided in Newark and was 33 years of age. The finance company was also furnished with trade and personal references. The finance company checked the information concerning employment and residence with an independent credit bureau, and with the hospital, and found the information furnished to it to be accurate. Since Myers' income of \$60.00 a week was deemed insufficient to carry monthly payments on the contract of \$93.18, the signature of Dorothy Carr, who was reported to be a nurse employed at the same hospital, with an income of \$3800.00 a year, was required as a co-signer of the contract.

Although it appears that despite both signatures, the account was troublesome by reason of default in payments resulting in a number of repossessions and redemptions of the car, they occurred after credit was extended. This represents financial instability, not a course of conduct which was likely to lead the finance company to suspect that Myers would engage in bootlegging activities, especially since he does not appear to have any previous criminal record on that score.

I am satisfied that the finance company acted in good faith and did not know or have any reason to suspect that Albert R. Myers would unlawfully transport alcoholic beverages in such vehicle. I shall therefore recognize the lien of General Motors Acceptance Corporation upon the motor vehicle in question to the extent of \$2413.68.

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

Accordingly, it is DETERMINED and ORDERED that if on or before the 1st day of June, 1959 General Motors Acceptance Corporation pays the costs of the seizure and storage of its Oldsmobile sedan, more fully described in Schedule "A" attached hereto, it will be returned to General Motors Acceptance Corporation; and it is further

DETERMINED and ORDERED that the alcoholic beverages, as listed in Schedule "A", constitute unlawful property and that 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: May 21, 1959

WILLIAM HOWE DAVIS  
DIRECTOR

SCHEDULE "A"

- 59 - two-quart "Mason" jars of alcohol
- 1 - Oldsmobile sedan, Serial No. 11406, Engine No. 6226091, New Jersey Registration FB6897.

6. 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

FRANK J. FOTI AND VINCENZO FOTI t/a FOTI WINES & LIQUORS 840 Elizabeth Avenue Elizabeth, N. J.

CONCLUSIONS AND ORDER

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Holders of Plenary Retail Distribution License D-25, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth.

Defendant-licensees, by Frank J. Foti, Partner. Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded non vult to a charge alleging that they 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 Regulation No. 30.

An examination of defendants' records by an ABC agent disclosed that on various dates during December 1958 defendants, at the request of a customer, delivered bottles of alcoholic beverages to six individuals as gifts. The customer's account was charged with \$268.03, the total minimum resale price of the gifts. However, Frank J. Foti admitted that the sum of \$240 had been accepted from the customer in full payment, and explained that he approved this transaction because he wished to repay the customer, who is a medical doctor, for professional services rendered without charge.

Defendants have no prior record. I shall suspend defendants' license for the minimum period of ten days (Re Jay, Bulletin 1254, Item 2). Five days will be remitted for the plea herein, leaving a net suspension of five days.

Accordingly, it is, on this 20th day of May, 1959,

ORDERED that Plenary Retail Distribution License D-25, issued by the Municipal Board of Alcoholic Beverage Control of the City of Elizabeth to Frank J. Foti and Vincenzo Foti, t/a Foti Wines & Liquors, for premises 840 Elizabeth Avenue, Elizabeth, be and the same is hereby suspended for five (5) days, commencing at 9 a.m. Monday, June 1, 1959, and terminating at 9 a.m. Saturday, June 6, 1959.

WILLIAM HOWE DAVIS  
DIRECTOR

7. STATE BEVERAGE DISTRIBUTOR - APPLICATION TO LIFT CONDITION PREVIOUSLY IMPOSED UPON LICENSE DENIED.

In the Matter of an Application )  
to Lift a Condition imposed on )  
License SBD-58, held by )

CONCLUSIONS

PHILLIPS DISTRIBUTING COMPANY, INC. )  
Rear 700 Somerset Street, )  
New Brunswick, N. J. )

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Ladislau M. Gerencser, President of Phillips Distributing Company Inc., Appearing for Applicant.  
Anthony F. Barzda, Appearing for Joe's Barn and Joseph Zimmerman, Objectors.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Applicant has applied to lift the following condition imposed on its license:

'that no deliveries of alcoholic beverages to consumers be made on the licensed premises.'

"The condition was imposed by the Director in Conclusions dated April 29, 1958, wherein he approved the transfer of applicant's license from Canal Road, Griggstown, Franklin Township, to its present premises, subject to the aforesaid condition. See Bulletin 1229, Item 4.

"At the hearing herein Ladislau M. Gerencser testified that, because of the existence of the condition, applicant has had to refuse customers who wished to pick up 'their own merchandise on their way to picnics, to ball games, to fishing trips or any other outings' and has lost trade. The objector who appeared is a stockholder in a corporation which holds a retail license in New Brunswick. His objection is based substantially upon the contention that, if the condition is lifted, applicant 'will be competing with the taverns and package stores.'

"At the hearing held in the previous case involving the transfer of the license, Mr. Gerencser testified that applicant never delivered alcoholic beverages at its licensed premises in Griggstown, where it operated for nearly three years, and that it had no intention of delivering any at its proposed licensed place in New Brunswick. At the hearing herein Mr. Gerencser testified that the Griggstown premises were extremely out of the way and that applicant's present premises are in one of the business centers of New Brunswick. Removal of the condition might increase applicant's business but, considering the large number of retail licenses in New Brunswick, the condition originally imposed is reasonable and there appears to be no public need or necessity for the lifting of said condition. Cf. Re VanVliet, Bulletin 1248, Item 8. It is recommended, therefore, that the application to lift the aforesaid condition be denied."

Exceptions to the Hearer's Report and written argument were filed with me by the President of applicant corporation.

After careful consideration of the entire record, including

the exceptions and argument, I concur in the Hearer's findings and adopt his recommendation. I shall, therefore, deny the request filed by the applicant for removal of the condition heretofore imposed on its license.

Dated: May 21, 1959

WILLIAM HOWE DAVIS  
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - PREVIOUS ORDER SUSPENDING LICENSE VACATED AND CHARGE ALLEGING SALE BELOW MINIMUM CONSUMER RESALE PRICE DISMISSED.

In the Matter of Disciplinary Proceedings against )

FORD'S LIQUOR STORES, INC. )  
485 New Brunswick Avenue )  
Woodbridge Township )  
PO Fords, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distribution License D-4, issued by the Township Committee of Woodbridge Township. )

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Defendant-licensee, by Martin K. May, President  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

On May 12, 1959, I entered an order suspending defendant's license for five days commencing at 9 a.m. May 18, 1959, after it pleaded non vult to a charge alleging that it sold a malt alcoholic beverage at less than the price thereof filed with the Director. On May 15, 1959, I notified defendant and the Chief of Police, by telegram, that said suspension was stayed pending further consideration.

The case involves a sale, on April 7, 1959, by the President of defendant corporation to an ABC agent of six 12-ounce tall neck bottles of Ambassador Export Brewed Beer. The filed price then in effect for the item was \$1.00 plus a deposit of 12 cents. The item was sold to the agent for \$1.07.

After the charge herein was preferred, the President and Vice President of G. Krueger Brewing Company called on me and later submitted a letter. They advised me that effective January 1, 1959, their Company reduced the case-price of tall neck bottles of Ambassador Export Brewed Beer from \$3.99 plus deposit to \$3.75 plus deposit, but made no change in the price per unit or the price for the pack of six of said bottles. They expressed the opinion that many retailers had become confused because various Krueger salesmen had told them that the price of "tall necks" had been reduced to meet competition whereas, in fact, only the case-price had been so reduced. The President of defendant corporation has advised me that he was positive in his belief that the price for the pack of six had also been reduced to meet competition. This is confirmed, in my opinion, by the fact that he quoted the price of \$1.07 to the agent and readily admitted the sale at that price.

Under all the circumstances I conclude that the President of defendant corporation made an honest mistake. Hence, I shall permit defendant to withdraw its plea and enter a plea of not guilty. I shall enter an order vacating my previous order and dismissing the

charge.

Accordingly, it is, on this 25th day of May, 1959,

ORDERED that the order entered herein on May 12, 1959, be and the same is hereby vacated, and the charge herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS  
DIRECTOR

9. AUTOMATIC SUSPENSION - LICENSE PREVIOUSLY SUSPENDED BY LOCAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED.

Auto. Susp. #167 )  
In the Matter of a Petition to )  
Lift the Automatic Suspension of )  
Plenary Retail Consumption License )  
C-165 issued by the Board of )  
Commissioners of the City of Union )  
City to )

ON PETITION  
ORDER

FRANK PAVONE )  
108 - 43rd Street )  
Union City, N. J. )

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Nicholas J. Paladino, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

The petition filed herein discloses that on May 1, 1959, Frank Pavone was sentenced to one year in the Penitentiary but that the sentence was suspended and he was fined \$250 and costs after he pleaded non vult in the Hudson County Court to an indictment for selling alcoholic beverages to a minor, in violation of R.S. 33:1-77. Said conviction resulted in the automatic suspension of his license. R.S. 33:1-31.1. The petition requests the lifting of said suspension. The license has not been picked up because of the pendency of this proceedings.

The petition and records of this Division disclose that the local issuing authority suspended petitioner's license for fifteen days, effective September 21, 1958, after finding him guilty in disciplinary proceedings of a charge alleging sale of alcoholic beverages to the same minor. Under all the circumstances, it appears that the suspension imposed by the local issuing authority was adequate. The relief requested herein will be granted.

Accordingly, it is, on this 26th day of May, 1959,

ORDERED that the automatic suspension of License C-165, held by Frank Pavone for premises 108 - 43rd Street, Union City, be and the same is hereby lifted, and said license is restored to full force and operation, effective immediately.

WILLIAM HOWE DAVIS  
DIRECTOR

10. AUTOMATIC SUSPENSION - EFFECT OF SUSPENSION STAYED PENDING ACTION OF LOCAL ISSUING AUTHORITY IN DISCIPLINARY PROCEEDINGS.

Auto. Susp. #168 )  
 In the Matter of a Petition to )  
 Lift the Automatic Suspension of )  
 Plenary Retail Distribution License )  
 D-36, issued by the Municipal Board )  
 of Alcoholic Beverage Control of the )  
 City of Clifton to )  
  
 MADISON NARROW FABRICS )  
 t/a LEXINGTON LIQUOR SHOP )  
 432-A Lexington Avenue )  
 Clifton, N. J. )

ON PETITION  
 ORDER


BY THE DIRECTOR:

The petition filed herein by Louis DeRoon, Jr. (President of Madison Narrow Fabrics) discloses that on May 26, 1959, he was fined \$50 and costs in the Municipal Court of the City of Clifton after he had been found guilty of selling alcoholic beverages to minors, in violation of R.S. 33:1-77. Said conviction resulted in the automatic suspension of the license held by the corporation. R.S. 33:1-31.1. The petition requests a stay of said suspension. Because the Division was informed that the licensee intended to apply for a stay, the license has not been picked up.

Disciplinary proceedings have not yet been instituted against the licensee because of said sale of alcoholic beverages to minors. A supplemental petition to lift the automatic suspension may be filed with me by petitioner after the disciplinary proceedings have been decided. In fairness to the licensee I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Faessler, Bulletin 920, Item 15.

Accordingly, it is, on this 27th day of May, 1959,

ORDERED that the aforesaid automatic suspension be stayed pending the entry of a further order herein.

  
 William Howe Davis  
 Director