

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

Director

BULLETIN 1875

September 12, 1969

TABLE OF CONTENTS

ITEM

1. APPELLATE DECISIONS - SUPPA v. HARRISON.
2. APPELLATE DECISIONS - LEMONGELLI v. NEWARK.
3. APPELLATE DECISIONS - MOUNT ZION OVERCOMING HOLINESS CHURCH FOR ALL PEOPLE, INC., ET ALS. v. NEWARK and O'NION, JONES, HILL, MC CARTHY.
4. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN GROCERY STORE - SUM DEPOSITED REPRESENTING RETAIL VALUE OF CERTAIN EQUIPMENT ORDERED RETURNED TO INNOCENT OWNER - BALANCE OF PERSONAL PROPERTY, CASH, AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.
5. ACTIVITY REPORT FOR JULY 1969.
6. DISCIPLINARY PROCEEDINGS (Jersey City) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Jersey City) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Palisades Park) - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
9. DISCIPLINARY PROCEEDINGS (Long Branch) - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1875

September 12, 1969

1. APPELLATE DECISIONS - SUPPA v. HARRISON.

DOMINICK SUPPA)	
t/a Suppa Tavern,)	
)	
Appellant,)	ON APPEAL
)	ORDER
v.)	
)	
MAYOR AND COUNCIL OF THE)	
TOWN OF HARRISON,)	
)	
Respondent.)	

Samuel Raffaelo, Esq., Attorney for Appellant
Walter Michaelson, Esq., Attorney for Respondent

BY THE DIRECTOR:

Appellant appeals from respondent's action suspending his plenary retail consumption license for sixty days effective July 3, 1969. Upon the filing of the appeal I entered an order on July 7, 1969, staying the suspension pending the determination of the appeal.

Prior to the hearing on appeal, counsel for appellant advised me that the appeal was withdrawn. No reason appearing to the contrary,

It is, on this 30th day of July 1969,

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

ORDERED that Plenary Retail Consumption License C-67, issued by the Mayor and Council of the Town of Harrison to Dominick Suppa, t/a Suppa Tavern, for premises 115 John Street, Harrison, be and the same is hereby suspended for the fifty-four (54) day balance of the original sixty (60) day suspension, commencing at 2 a.m. Wednesday, August 6, 1969, and terminating at 2 a.m. Monday, September 29, 1969.

JOSEPH M. KEEGAN
DIRECTOR

2. APPELLATE DECISIONS - LEMONGELLI v. NEWARK.

RALPH LEMONGELLI)	
t/a CLUB 28,)	
)	
Appellant,)	ON APPEAL
)	CONCLUSIONS
v.)	AND ORDER
)	
MUNICIPAL BOARD OF ALCOHOLIC)	
BEVERAGE CONTROL OF THE CITY)	
OF NEWARK,)	
)	
Respondent.		

 Mario V. Farco, Esq., Attorney for Appellant
 Philip E. Gordon, Esq., by Ronald Owens, Esq., Attorney for
 Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This appeal is addressed to the action of the respondent Municipal Board of Alcoholic Beverage Control of the City of Newark (hereinafter Board) which by resolution dated January 22, 1969 suspended the plenary retail consumption license of the appellant for premises 28 Columbia Street, Newark, for twenty-five days to become effective "when and if the present licensee rebuilds the license location which is now partially destroyed due to fire", after finding the appellant guilty in disciplinary proceedings of charges alleging that he sold, delivered, allowed, permitted and suffered the sale and delivery of an alcoholic beverage in its original container for consumption off the licensed premises, and allowed, permitted and suffered the removal of such alcoholic beverage from the licensed premises on Sunday, September 8, 1968, in violation of Rule 1 of State Regulation No. 38 and of the local ordinance.

Upon the filing of this appeal an order was entered by the Director on February 13, 1969, staying the Board's order of suspension until further order of the Director.

In his petition of appeal the appellant alleges that the Board's action was erroneous because (a) it was contrary to the weight of the evidence, (b) its determination was based on "matters extraneous to the evidence" and (c) "the purchaser of the alleged alcoholic beverage was not produced at the trial before the Board."

The attorney for the Board, by letter dated March 26, 1969, entered his appearance but filed no answer.

The matter was presented for determination upon the stenographic transcript of the proceedings held before the Board which was submitted pursuant to Rule 8 of State Regulation No. 15, supplemented by oral summation of counsel.

The transcript reflects the following: Richard Butler (a Newark police officer) testified that, while on regular motor patrol duty on September 8, 1968, accompanied by his partner Police Officer Michael Smith, he observed "quite a few of these winos" near the subject licensed premises "drinking bottles of

wine." The officers placed themselves in a position about one hundred feet from the licensed premises and, within a period of fifteen minutes, saw a person (later identified as James E. Smith) go up to the door of the tavern. A few seconds later, Julius Paterson (an employee of the licensee) opened the door, handed Smith a bottle of wine, and received currency therefor. Smith put the bottle of wine under his belt and then proceeded down the street. The officers apprehended Smith, seized the bottle of wine, and returned to the premises. After questioning Paterson and the licensee, both men were arrested.

On cross examination the witness stated that he could not be certain that it was a one-dollar bill but was certain that it was United States currency, and was also certain that the money was given in exchange for the wine.

Police Officer Michael Smith corroborated the testimony of Butler and added that the bottle of wine was delivered to the police property clerk.

With respect to the wine, since no specific identification was made by these witnesses, the bottle of wine was submitted for inspection subsequent to the hearing by stipulation of counsel for the appellant and the Board. The bottle is a sealed bottle of Gallo Gypsy Rose wine, which was accordingly accepted into evidence.

Julius C. Paterson, testifying on behalf of the appellant, gave the following account: He was employed on the date in question as a part-time porter for the licensee and was engaged to clean up the premises on Sunday mornings. He denied making the alleged sale to Smith, and insisted that the only time he opened the door of the premises on the morning in question was in response to the officers' summons to open the door. Finally he stated that the tavern does sell Gallo Gypsy Rose wine.

The licensee, who was present on the morning in question, did not testify in these proceedings.

We are dealing here with a purely disciplinary measure and its alleged infraction. Such proceedings are civil in nature and not criminal. Kravis v. Hock, 137 N.J.L. 252 (Sup.Ct. 1948). Thus the Board was required to establish its case only by a fair preponderance of the credible evidence. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373. In other words, the finding must be based upon a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042.

Since there was an absolute denial by the appellant of the alleged violation, it became the function of the Board to evaluate the testimony after observing the demeanor of the witnesses and giving weight to such testimony as it found credible. It is axiomatic that evidence, to be believed, must not only proceed from the mouths of credible witnesses but must be credible in itself, and must be such as common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App.Div. 1961).

It is quite apparent that the Board chose to believe the testimony of the two police officers and found their testimony to be forthright, factual and credible under the circumstances. The Board found to be probable and believable the account given

by the police officers that they found a number of persons drinking wine from bottles in the immediate vicinity of the subject premises, which caused their suspicions to be aroused that the source of supply was the appellant's tavern. This circumstance prompted the officers to initiate their investigation. These police officers were merely engaged in the normal course of their duties and there is nothing in the record to indicate any improper motive on their part in proceeding as they did.

There is no doubt whatever that Smith had the bottle of wine in his possession when apprehended only a short distance from the licensed premises and, according to the police officers, he was seen receiving the said bottle from Paterson (the licensee's employee). Under these circumstances it is very difficult to understand the complete denial of that transaction by Paterson.

As noted above, the licensee, who was present at the time of the alleged sale, failed to testify with respect to the alleged transaction. His failure to testify gives rise to an adverse inference. Re Cork'n Bottle, Inc., Bulletin 1232, Item 3.

I therefore must completely discount the version given by Paterson as being incredible and in fact untrue.

I am persuaded from my reading of the entire record that the evidence on the whole supports the decision of the Board. Cf. 1 Greenleaf Evidence, sec. 13a; Morris Long Bar, Inc. v. Newark, Bulletin 1803, Item 1.

The burden of establishing that the Board acted erroneously and in an abuse of its discretion is upon the appellant. The ultimate test in these matters is one of reasonableness on the part of the Board. Or, to put it another way, could the Board, as reasonable men, acting reasonably, have come to its determination based upon the credible evidence presented. Cf. Hudson Bergen Liquor Dealers Ass'n v. Hoboken, 135 N.J.L. 502. In other words, the Director should not reverse until he finds as a fact that there was a clear abuse of discretion or unwarranted finding of fact or mistake of law by the Board. Cf. Nordco, Inc. v. State, 43 N.J. Super. 277 (App.Div. 1957).

The attorney for the appellant argues that the best evidence would be the production of Smith; that the failure to produce Smith constituted a fatal deficiency in the establishment of the charges.

It is clear, however, that the Board need not rely upon that testimony if the sum of the testimony presented preponderates in support of its finding. Furthermore, Smith was equally available to the appellant who, if his testimony were considered to be critical, should have subpoenaed him to testify either below or at this appeal hearing.

I am satisfied that the testimony and the applicable law generate no doubt whatever that there was in fact a sale and delivery during prohibited hours by an employee of the licensee on the date alleged in the charges herein. The licensee is liable for the acts of his employee. Rule 33 of State Regulation No. 20.

I find that the Board has established the necessary quantum of proof, namely, by a preponderance of the believable evidence, to establish appellant's guilt. I conclude, therefore, that the appellant has failed to sustain the burden of proof of showing that the Board's action was erroneous and against the weight of the

evidence, as required by Rule 6 of State Regulation No. 15.

It is accordingly recommended that an order be entered affirming the Board's action and dismissing the appeal. It is further recommended that the effective dates of the twenty-five-day suspension of the license be fixed by resolution of the Board if and when the operation of the licensed business has been fully resumed on a substantial basis by the licensee or any transferee of the license.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

After carefully considering all the evidence adduced in this matter, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 24th day of July, 1969,

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

ORDERED that Plenary Retail Consumption License C-771, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Ralph Lemongelli, t/a Club 28, for premises 28 Columbia Street, Newark, be and the same is hereby suspended for twenty-five days, the effective dates of such suspension to be fixed by resolution of the respondent Board if and when the operation of the licensed business at the said premises has been fully resumed on a substantial basis by the licensee or any transferee of the license.

JOSEPH M. KEEGAN
DIRECTOR

3. APPELLATE DECISIONS - MOUNT ZION OVERCOMING HOLINESS CHURCH FOR ALL PEOPLE, INC., ET ALS. V. NEWARK and O'NION, JONES, HILL, McCARTHY.

MOUNT ZION OVERCOMING HOLINESS
CHURCH FOR ALL PEOPLE, INC., et als.,

Appellants,

v.

MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE
CONTROL OF THE CITY OF NEWARK, and
MARY O'NION, ISABELLE JONES, HATTIE HILL,
BARBARA McCARTHY, t/a SILVERLEAF CLUB,

Respondents.

ON APPEAL
CONCLUSIONS
AND ORDER

Jacob M. Goldberg, Esq., Attorney for Appellants
Skoloff & Wolfe, Esqs., by Saul A. Wolfe, Esq., Attorneys for
Respondents Mary O'Nion, et als.

Levy & Krauss, Esqs., by Norman A. Kurtz, Esq., Attorneys for
Mr. and Mrs. William J. Smith, et al.

No appearance on behalf of Respondent Municipal Board

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the unanimous action of respondent Municipal Board of Alcoholic Beverage Control of the City of Newark (hereinafter Board) whereby it granted a place-to-place transfer of the plenary retail consumption license issued for the 1968-69 period to respondents Mary O'Nion, Isabelle Jones, Hattie Hill, Barbara McCarthy, t/a Silverleaf Club, from premises 203 Morris Avenue to premises 133 Bergen Street, Newark.

Appellants allege in their petition of appeal that the action of the Board was erroneous for the following reasons:

"A. The new location is within 200 feet of a church in violation of N.J.S.A. 33:1-76; and

"B. A sign for the alleged transfer was posted on the top of the building instead of in full view of the street, in violation of Section 3.27 of the Revised Ordinances of the City of Newark."

The Board filed no answer to the said petition of appeal. However, respondent licensees filed an answer denying the aforesaid allegations contained in appellants' petition.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15. The stenographic transcript of the proceedings before the Board was received in evidence, and supplemental testimony was presented at this hearing by the parties herein in accordance with Rules 6 and 8 of said regulation.

The transcript of the hearing before the Board discloses that five objectors testified in opposition to the transfer of the license in question, one being Selma Thompson who represented that she was an evangelist, and another being Eugene Johnson who stated that he was chairman of the West Ward Civic Association with headquarters at 149 Camden Street. All of the aforesaid objectors were of the opinion that there was no need or necessity for a liquor license at the proposed site because it would constitute a nuisance in the neighborhood.

Selma Thompson, aforementioned, testified that she is connected with appellant Mount Zion Overcoming Holiness Church for all People and that her husband is the bishop of that institution; that she resides with her husband on the second floor of the premises which she alleges constitute a church; that on the first floor thereof are a kitchen and dining room. Mrs. Thompson further stated that there are fifty parishioners, twenty-five of whom are children, connected with her church, some of whom reside in the immediate community whereas others do not.

Eugene Johnson testified that he is of the opinion there is no need for another tavern in the area and he considers all taverns at the present time to be nuisances.

Tobe Nelson, who resides at 135 Bergen Street, testified that she does not want to see the tavern being permitted to operate in the area.

Agatha Grohs, who resides at 129 Bergen Street, testified that her objection is that people coming from taverns in the late hours throw empty bottles on her property and she is constantly compelled to clean up the place.

John Moore, 137 Bergen Street, testified that his objection to the tavern is that after two o'clock, especially in the summertime, persons leaving the taverns in the neighborhood

sit in front of his door and constantly use vulgar language.

At the hearing herein, Selma Thompson again testified and reiterated her objection that the licensed premises are within two hundred feet of the appellant church and thus the transfer granted by the Board was illegal.

The licensees contend that the appellant (which is designated as a church) does not actually constitute such within the meaning of the Alcoholic Beverage Law.

The term "church" as used in the Alcoholic Beverage Law has been definitely established in the early days of this Division to mean a recognized edifice devoted permanently to the worship of God. Parisi v. Jersey City et al., Bulletin 1201, Item 1.

In Manning v. Trenton, Bulletin 247, Item 1, the late Commissioner Burnett stated:

"The word 'church' may designate either a religious congregation or an edifice of worship, according to the context. See Trustees, etc. vs. Fisher, 18 N.J.L. 254, 257 (Sup. Ct. 1841); Newark Athletic Club vs. Board of Adjustment, 7 N.J.Misc. 55, 59 (Sup. Ct. 1929). As used in the Alcoholic Beverage Control Act, it means a 'recognized edifice devoted permanently to the worship of God'. Bulletin 5, Item 3. That an edifice is what is meant appears from the fact that the yardstick in the statute is a distance of 200 feet, to be measured between 'the nearest entrance of said church' and 'the nearest entrance of the premises sought to be licensed.' Hence, being a religious body is not of itself sufficient to invoke the benefit of the statute. Cf. George vs. Board of Excise, 73 N.J.L. 366 (Sup. Ct. 1906) aff'd. 74 N.J.L. 816 (E. & A. 1907), where the Court said: 'The Legislature clearly did not intend that wherever religiously inclined persons meet together for Bible study and the like, a church existed within the meaning of this excise regulation'. The mere fact, therefore, that a religious organization calls itself a 'church' does not make it a church within the meaning of Section 76 of the Control Act, R.S. 33:1-76."

In Quality House Wine & Liquor, Inc. v. New Brunswick, Bulletin 249, Item 4, a brick building in which church services were conducted in one of three stores on the ground floor, and which was also occupied above by six tenants, was held not to be a "church" within the meaning of the statute.

In Ritter v. Jersey City District Missionary Society, 105 N.J.Eq. 122 (Ch. 1929), wherein a question involved construction of restrictive covenants relating to the use of lands and whether or not the erection of a church upon the lands would constitute a violation of such covenants, Vice Chancellor Fallon, citing 11 C.J. 763, said:

"A church is a place where persons regularly assemble for worship."

During the hearing below, Mrs. Thompson, when questioned by the attorney for the licensees as to whether or not the religious institution in question had a regular church schedule,

stated, "Sometimes we don't." Furthermore, when questioned whether or not services had been held the Sunday prior to the hearing before the Board, she stated, "No, we went out." When questioned by Chairman Haynes of the Board concerning the alleged church's affiliation, Mrs. Thompson stated that it is not affiliated with any state or national organization but is independent.

I am satisfied that although religious services may at times be conducted at the premises of appellant institution, the structure cannot be considered a church within the meaning of the Alcoholic Beverage Law.

I will now discuss the objection by appellants with reference to the placing of a sign on the building giving notification that the transfer was sought to the premises on Bergen Street. The revised ordinance of the municipality provides, among other things, under section 3.27, that:

"Every applicant for a transfer from place to place, shall place or cause to be placed, at least five days prior to newspaper publication of second notice of application, on or about the premises sought to be licensed, in full view of the street, a sign which shall be worded the same as the newspaper notice, each letter to be not less than two inches high and of proportionate widths..."

Mrs. Mary O'Nion (one of the licensees) testified that the store to which the transfer of the license is sought is presently occupied and that the proprietor thereof would not permit any signs to be placed on or about the front of the store. For this reason, the only place the sign could be attached was at or above the second floor. Although it may have been easier to read the sign at a lower level, it has not been shown that appellants or objectors were in any way prejudiced by reason of the placing of the sign in this manner.

The number of licenses which shall be granted in the business district is peculiarly within the discretion of the issuing authority. Alberts et al. v. Roselle et al., Bulletin 465, Item 6.

I have considered the various grounds set forth by appellants in their petition of appeal. There has been no indication that the members of the Board were in any way improperly motivated; and their action in granting the transfer was based on the fact that they were satisfied that the transfer of the license would inure to the benefit of, rather than be detrimental to, the proposed area. The burden of proof to establish that the Board was in error is upon appellants herein. Rule 6 of State Regulation No. 15.

Under the circumstances appearing herein, it is recommended that the action of the Board be affirmed and the appeal filed herein be dismissed.

Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 14 of State Regulation No. 15.

Having carefully considered the entire record herein, including the transcripts of testimony, the exhibits and the Hearer's report, I concur in the findings and conclusions of the

Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 28th day of July, 1969,

ORDERED that the action of the Municipal Board of Alcoholic Beverage Control of the City of Newark be and the same is hereby affirmed and the appeal herein be and the same is hereby dismissed.

JOSEPH M. KEEGAN
DIRECTOR

4. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN GROCERY STORE - SUM DEPOSITED REPRESENTING RETAIL VALUE OF CERTAIN EQUIPMENT ORDERED RETURNED TO INNOCENT OWNER - BALANCE OF PERSONAL PROPERTY, CASH, AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure on)	
January 31, 1969 of a quantity of)	CASE NO. 12,158
alcoholic beverages, various fixtures,)	ON HEARING
furnishings, equipment, foodstuffs and)	CONCLUSIONS
\$20.00 in cash in a grocery store)	AND ORDER
located at 474 Main Street, in the City)	
of Paterson, County of Passaic and)	
State of New Jersey)	

Flip's Amusements, claimant, by Edward Gilmore, Jr., and
Bert Harland, partners.
Harry Gross, Esq., appearing for Division.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey and State Regulation No. 28 to determine whether 23 containers of alcoholic beverages, various fixtures, furnishings, equipment, foodstuffs and \$20.00 in cash, as set forth in an inventory attached hereto, made part hereof and marked Schedule "A", seized on January 31, 1969 at a grocery store located at 474 Main Street, Paterson, New Jersey, constitute unlawful property and should be forfeited; and, further, to determine whether the sum of \$350.00 deposited by Edward Gilmore, Jr., (a partner of Flip's Amusements), with the Director, under protest, representing the appraised retail value of certain furnishings and equipment which were returned to the said Edward Gilmore, Jr., should be forfeited or returned to him.

The seizure was made by ABC agents because of alleged unlawful sales of alcoholic beverages at a speakeasy conducted at the said premises.

When the matter came on for hearing pursuant to R.S. 33:1-66, Edward Gilmore, Jr., a partner of Flip's Amusements, appeared pro se and sought the return of the money deposited under the aforesaid stipulation. No one appeared or entered a claim for the return of the alcoholic beverages or the seized cash.

Reports of ABC agents and other documents in the file, admitted into evidence with the consent of the claimant herein, disclosed the following facts: At about 8:15 P.M. on January 31, 1969, three ABC agents arrived at the subject premises pursuant to a specific assignment to investigate an alleged speakeasy conducted thereat. The premises are located on the ground floor of a multi-storied building and is operated as a combination grocery store and recreation parlor. It is equipped with a pool table,

cigarette machine, pinball machine, juke box, tables and chairs, counter and grocery items. In the rear of the premises is a bedroom adjoining another room which contains a refrigerator and a wall phone.

Agent M entered the premises while the other two agents remained outside at a point of observation. He observed a female, later identified as Catalina Torres, selling cans of beer to approximately eight male patrons. He ordered, and was served by her a twelve-ounce can of Rheingold beer and handed her a "marked" five-dollar bill in payment therefor, and received \$4.65 in change. At about 8:40 P.M. the other agents accompanied by local police, entered, identified themselves and informed Mrs. Torres of the said violation. The "marked" five-dollar bill was found in Mrs. Torres' pocket together with three other \$5.00 bills which were seized by the agents.

A seizure was made of the alcoholic beverages on the premises. Gilmore appeared shortly after the confrontation, and informed the agents that he was the owner of the machines on the premises, and posted cash in the sum reflected in the aforementioned stipulation.

Mrs. Torres was thereupon arrested, charged with the sale of alcoholic beverages without a license in violation of R.S. 33:1-50(a) and was held in bail for arraignment in the Paterson Municipal Court.

The report of the Division chemist, certified by the Director on March 16, 1969 shows that two cans of beer seized by the agent were analyzed and found to be fit for beverage purposes, with an alcoholic content by volume of 4.57% and 4.33% respectively.

The Division records do not disclose the issuance of any license or permit to anyone at the premises, or for the premises at 474 Main Street, Paterson. Since Mrs. Torres did not have any license authorizing her to sell alcoholic beverages, the alcoholic beverages, intended for sale, are illicit. The alcoholic beverages, the personal property and the cash as set forth in Schedule "A" thus constitute unlawful property and are subject to forfeiture. R.S. 33:1-2; R.S. 33:1-66; Seizure Case No. 11,431, Bulletin 1644, Item 3.

Edward Gilmore, Jr. presented a claim for the return of monies deposited under the aforementioned stipulation, and gave the following account: He is a partner in an amusement games company under the trade name of "Flip's Amusements". This business was purchased by him about a year ago, and the equipment reflected in the inventory had been placed on these premises at the time of his said purchase.

When he re-applied for a license for the juke box, a pinball machine and the pool table for the calendar licensing period, he was informed and assumed that the Police Department made a thorough investigation of the background of the owner of the premises since these licenses contained the approval of the Police Department upon issuance. He and his partner made collections once a week, usually on Saturday mornings, and he did not see any alcoholic beverages on the premises or any liquor activity therein.

Bert Harland, the other partner in Flip's Amusements, corroborated Gilmore's testimony and asserted that on those occasions when he was called to make repairs to the equipment, he

did not observe any liquor activity at the said premises. I am persuaded that, although this claimant did not make an independent background investigation of the operators of the premises or of the premises in question, the partner relied, in good faith, upon the investigation made by the Paterson Police Department.

Under the circumstances, I conclude that there is no evidence of bad faith, and I find that the claimant did not know or have any reason to believe that alcoholic beverages were being sold in these premises. The money deposited by Gilmore, under the aforementioned stipulation will, therefore, be ordered returned to him. Seizure Case No. 11,821, Bulletin 1742, Item 5.

Accordingly, it is on this 22nd day of July, 1969

DETERMINED and ORDERED that the claim of Edward Gilmore, Jr., t/a Flip's Amusements be and the same is hereby recognized; and the cash in the sum of \$350.00 deposited by him under the aforementioned stipulation be and the same shall be returned to him; and it is further

DETERMINED and ORDERED that the balance of the miscellaneous property, the cash and the alcoholic beverages, more fully set forth in Schedule "A", attached hereto, constitutes unlawful property, and the same is hereby forfeited in accordance with law; and it is further

DETERMINED AND ORDERED that the alcoholic beverages be and the same shall 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.

JOSEPH M. KEEGAN
DIRECTOR

SCHEDULE "A"

- 23 - containers of alcoholic beverages
- Miscellaneous furnishings, fixtures and equipment
- \$20.00 - cash

5.

ACTIVITY REPORT FOR JULY 1969

RESTS:			
Total number of persons arrested	-----		15
Licensees and employees	-----		
Bootleggers	-----		
IZURES:			
Alcohol - gallons	-----		.80
Distilled alcoholic beverages - gallons	-----		45.58
Wine - gallons	-----		99.69
Brewed malt alcoholic beverages - gallons	-----		34.55
TAIL LICENSEES:			
Premises inspected	-----		381
Premises where alcoholic beverages were gauged	-----		352
Bottles gauged	-----		5,746
Premises where violations were found	-----		139
Violations found	-----		239
No Form E-141-A on premises	87	No disposal permit	3
Unqualified employees	82	Prohibited practice	2
Application copy not available	21	Other violations	28
Form E-141-A incomplete	16		
ATE LICENSEES:			
Premises inspected	-----		8
License applications investigated	-----		13
PLAINTS:			
Complaints assigned for investigation	-----		469
Investigations completed	-----		448
Investigations pending	-----		328
LABORATORY:			
Analyses made	-----		69
Refills from licensed premises - bottles	-----		56
Bottles from unlicensed premises	-----		8
ENTIFICATION:			
Criminal fingerprint identifications made	-----		9
Persons fingerprinted for non-criminal purposes	-----		654
Identification contacts made with other enforcement agencies	-----		482
CIPLINARY PROCEEDINGS:			
Cases transmitted to municipalities	-----		3
Violations involved	-----		3
Sale during prohibited hours	2		
Sale to minors	1		
Cases instituted at Division	-----		19
Violations involved	-----		28
Permitting female imperson. on prem.	4	Filing false tax reports	2
Permitting immoral activity on prem.	4	Fail. to close premises during	
Sale during prohibited hours	3	prohibited hours	2
Sale below filed price	3	Permitting bookmaking on premises	1
Permitting lottery acty. on prem.	2	Hindering investigation	1
Sale to minors	2	Fraud in application	1
Purchase from improper source	2		
Cases brought by municipalities on own initiative and reported to Division	-----		18
Violations involved	-----		24
Sale to minors	7	Unqualified employees	1
Sale during prohibited hours	4	Perm. premises to be used in furtherance	
Acts of violence	3	of illegal activity	1
Permitting brawl on premises	3	Employing female bartender (local reg.)	1
Conducting business as a nuisance	2	Permitting gambling on premises	1
Failure to close prem. during prohibited			
hours	2		
ARINGS HELD AT DIVISION:			
Total number of hearings held	-----		37
Appeals	6	Applications for license	1
Disciplinary proceedings	22	On Petition	1
Eligibility	7		
ATE LICENSES AND PERMITS:			
Total number issued	-----		2,914
Licenses	614	Wine permits	8
Solicitors' permits	44	Miscellaneous permits	489
Employment permits	738	Transit insignia	513
Disposal permits	102	Transit certificates	80
Social affair permits	326		
ICE OF AMUSEMENT GAMES CONTROL:			
Licenses issued	8	Premises inspected	509
State Fair licenses issued	26	Premises where violations were found	28
Enforcement files established	25	Number of violations found	42

JOSEPH M. KEEGAN

Director of Alcoholic Beverage Control
Commissioner of Amusement Games Control

ted: August 8, 1969

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
Labeled - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)
MICHAEL ADDAS)
t/a Mike Addas)
392 Baldwin Avenue)
Jersey City, New Jersey)
Holder of Plenary Retail Consumption)
License C-149 issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Jersey City)

CONCLUSIONS
AND ORDER

Licensee, Pro se
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on June 7, 1969, he possessed an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license will be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Thompson, Bulletin 1850, Item 7.

Accordingly, it is, on this 28th day of July, 1969,

ORDERED that Plenary Retail Consumption License C-149, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Michael Addas, t/a Mike Addas, for premises 392 Baldwin Avenue, Jersey City, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. Monday, August 4, 1969, and terminating at 2:00 a.m. Saturday, August 9, 1969.

JOSEPH M. KEEGAN
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
 LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
 Proceedings against

FRANK J. KENNY
 t/a Kenny's Tavern
 1697 Kennedy Blvd.
 Jersey City, N. J.

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consumption
 License C-74, issued by the Municipal
 Board of Alcoholic Beverage Control
 of the City of Jersey City

 Licensee, Pro se
 Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
 May 26, 1969 he possessed alcoholic beverages in five bottles
 bearing labels which did not truly describe their contents, in
 violation of Rule 27 of State Regulation No. 20.

Absent prior record, 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. Re Putz,
 Bulletin 1851, Item 5.

Accordingly, it is, on this 29th day of July 1969,

ORDERED that Plenary Retail Consumption License C-74,
 issued by the Municipal Board of Alcoholic Beverage Control of
 the City of Jersey City to Frank J. Kenny, t/a Kenny's Tavern,
 for premises 1697 Kennedy Blvd., Jersey City, be and the same is
 hereby suspended for twenty (20) days, commencing at 2 a.m.
 Tuesday, August 5, 1969, and terminating at 2 a.m. Monday,
 August 25, 1969.

JOSEPH M. KEEGAN
 DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
LABELED - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

JOHN LULLMANN & GRACE L. FINN
107 Grand Avenue
Palisades Park, N. J.

)
) CONCLUSIONS
) AND ORDER
)
)

Holders of Plenary Retail Consumption
License C-6, issued by the Mayor and
Council of the Borough of Palisades Park

Licensees, by Grace L. Finn, Pro se
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on
May 5, 1969 they possessed alcoholic beverages in five bottles
bearing labels which did not truly describe their contents, in
violation of Rule 27 of State Regulation No. 20.

Absent prior record, 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. Re Putz, Bulletin 1851,
Item 5.

Accordingly, it is, on this 29th day of July 1969,

ORDERED that Plenary Retail Consumption License C-6,
issued by the Mayor and Council of the Borough of Palisades
Park to John Lullmann & Grace L. Finn, for premises 107 Grand
Avenue, Palisades Park, be and the same is hereby suspended for
twenty (20) days, commencing at 3 a.m. Tuesday, August 5, 1969,
and terminating at 3 a.m. Monday, August 25, 1969.

JOSEPH M. KEEGAN
DIRECTOR

In the Matter of Disciplinary
Proceedings against

95 West End Ave.

Long Branch, New Jersey

License C-20 issued by the City

Council of the City of Long Branch

Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Delair Liquor Store, Inc., Bulletin 1825, Item 9.

ORDERED that Plenary Retail Consumption License C-20, issued by the City Council of the City of Long Branch to Banjo Palace, Inc., for premises 95 West End Avenue, Long Branch, be and the same is hereby suspended for ten (10) days, commencing at 3 a.m. Tuesday, August 5, 1969, and terminating at 3 a.m. Friday, August 15, 1969.

Joseph M. Keegan
Director