

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

BULLETIN 1693

September 28, 1966

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1. APPELLATE DECISIONS - HUDSON-BERGEN COUNTY RETAIL LIQUOR STORES
ASSOCIATION v. NORTH BERGEN AND TONNELE SHOP-RITE LIQUOR.

APPELLATE DECISIONS - NORTH BERGEN TAVERN OWNERS ASSOCIATION
ET AL. v. NORTH BERGEN AND TONNELE SHOP-RITE LIQUOR.

Hudson Bergen County Retail
Liquor Stores Association,

Appellants,

v.

Municipal Board of Alcoholic
Beverage Control of the Township
of North Bergen, and Tonnele Shop-
Rite Liquor (corp.),

Respondents.

ON APPEAL
CONCLUSIONS
AND ORDER

North Bergen Tavern Owners
Association and John Ryglicki,

Appellants,

v.

Municipal Board of Alcoholic Beverage
Control of the Township of North
Bergen, and Tonnele Shop-Rite Liquor
(corp.),

Respondents.

Samuel Moskowitz, Esq., Attorney for Appellant Hudson-Bergen etc.
James F. McGovern, Jr., Esq., Attorney for Appellants North
Bergen etc. and John Ryglicki

Nicholas S. Schloeder, Esq., by Robert W. Bazzani, Esq., Attorney
for Respondent Municipal Board

Robert S. Feder, Esq., Attorney for Respondent Tonnele Shop-Rite
Liquor (corp.).

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

Two separate appeals were filed by appellants against the
respondent Municipal Board of Alcoholic Beverage Control of the
Township of North Bergen (hereinafter Board) and Tonnele Shop-Rite
Liquor (corp.) respectively. By consent of the parties to the said
appeals, and in view of the fact that the issues are inter-related
and involve the same questions of law and fact, they were consolidated
for hearing and will be the subject of a single report.

Appellants' petitions of appeal contain various reasons
relied upon for reversal of the Board's action, but at the hearing

herein the only ground pursued related to R.S. 33:1-12.31 (P.L. 1962, c. 151) which provides as follows:

"On and after the effective date of this act no person, as the same is defined in section 33:1-1 of the Revised Statutes, shall, except as hereinafter provided, acquire a beneficial interest in more than a total of 2 alcoholic beverage retail licenses, but nothing herein shall require any such person who has, on the effective date of this act, such interest in more than 2 such licenses to surrender, dispose of, or release his interest in any such license or licenses."

The testimony of David Fern (hereinafter Fern) discloses that he is an officer and stockholder of a corporation which at the present time holds three plenary retail distribution licenses. It appears that his niece and her husband (Mildred Schreiber and Sam Schreiber) discussed with Fern that they were interested in obtaining a package goods license in the Township of North Bergen. In order to meet the necessary expenditures it would require the Schreibers to borrow a substantial amount of money from one or more financial institutions. Fern had business dealings over the years with two banks and suggested that Schreibers go to the said banks and apply for a loan, and he agreed, if permissible, to be a co-signer of the promissory notes. Fern then wrote to the Division to ascertain whether it was permissible for him to be a co-signer on a note for money borrowed from the banks by Schreiber in view of R.S. 33:1-12.31 aforementioned because of his beneficial interest in three retail liquor licenses. Fern received an answer to his letter to the Division, the pertinent part of which reads as follows:

"In response to your inquiry, you are advised that in our view, the provisions of the cited law do not prohibit a person beneficially interested in two or more retail licenses from being the co-signer of a note of another retail licensee (even though niece or other relative) provided there is no resulting beneficial interest, disclosed or undisclosed, direct or indirect, in the license of the other retail licensee. In this connection, it is noted that you represent that 'Naturally, I would have no share of the profits. It would be just my name acting as a co-signer at the bank.'"

Further testimony of Fern indicates that, although he introduced the Schreibers to the former holder of the license in question and to the person who constructed shelvings and counters in the liquor store, he did not enter into any negotiations whatsoever regarding the transfer of the license, the lease of the premises or the layout of the premises.

Sam Schreiber's testimony corroborated that given by Fern concerning the loans from the two banks whereby the notes promising repayment thereof were co-signed by Fern. Schreiber testified that Fern has no interest whatsoever in the license or the business conducted pursuant thereto. Schreiber produced the financial statement of the combined net worth of him and his wife Mildred, which statement was prepared by a certified public accountant. The statement disclosed that the Schreibers had advanced a fairly substantial amount of their own money to the corporate licensee.

Sanford Price (a certified public accountant) testified that he prepared the financial statement for the respondent corporate licensee and that it is the primary obligor on the promissory

notes payable to the two banks.

Fern's endeavors on behalf of his niece and nephew by being a co-signer of the bank notes, if unexplained, would most likely arouse suspicion that R.S. 33:1-12.31 may be violated. However, before signing the notes in question Fern communicated with this Division and obtained an ex parte ruling in the matter.

Called by appellants as a witness, Fern unhesitatingly testified that he has no interest whatsoever in the license in question. Sam Schreiber's testimony supports that given by Fern. Financial statements of the corporate licensee and of Schreiber and his wife respectively, prepared by certified public accountants, were marked in evidence. Nothing therein discloses that Fern has any beneficial interest in the license in question.

It might be aptly said that the testimony presented herein shows that the interest of Fern in the licensed business is avuncular rather than beneficial. As such it is not proscribed by law.

After careful consideration of all of the evidence adduced herein, there is not sufficient proof that Fern has any interest, beneficial or otherwise, in the liquor license or the business conducted by reason thereof.

Under the circumstances it is recommended that the action of respondent Board be affirmed, and that the appeals herein be dismissed.

Conclusions and Order

No exceptions to the Hearer's report were filed with me within the time limited by Rule 14 of State Regulation No. 15.

Having carefully considered the record herein, including the testimony taken, the exhibits introduced in evidence at the hearing on the appeals, the Hearer's report and the recommendations included therein, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 26th day of July 1966,

ORDERED that the action of respondent Municipal Board of Alcoholic Beverage Control be and the same is hereby affirmed, and that the appeals herein be and the same are hereby dismissed.

JOSEPH P. LORDI
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE BETS) - LICENSE
SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Mary Jane Inn, Inc.
t/a Mary Jane Inn
73 Main Street
Sayreville, N.J.

Holder of Plenary Retail Consumption
License C-36, issued by the Mayor and
Borough Council of the Borough of
Sayreville

CONCLUSIONS

and

ORDER

-----)
Licensee, by Vincent J. Raffa, President, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
June 15, 1966, it permitted acceptance of horse race bets on the
licensed premises, in violation of Rule 7 of State Regulation
No. 20.

Absent prior record, the license will be suspended for
sixty days, with remission of five days for the plea entered,
leaving a net suspension of fifty-five days. Re Stanley and Padlo,
Bulletin 1632, Item 2.

Accordingly, it is, on this 3d day of August, 1966,

ORDERED that Plenary Retail Consumption License C-36,
issued by the Mayor and Borough Council of the Borough of Sayre-
ville to Mary Jane Inn, Inc., t/a Mary Jane Inn, for premises 73
Main Street, Sayreville, be and the same is hereby suspended for
fifty-five (55) days, commencing * at 3:00 a.m. Wednesday, August 10
1966, and terminating at 3:00 a.m. Tuesday, October 4, 1966.

JOSEPH P. LORDI
DIRECTOR

*By order dated August 8, 1966, the effective dates of suspension
were amended to commence at 3:00 a.m. Tuesday, August 23, 1966 and to
terminate at 3:00 a.m. Monday, October 17, 1966.

3. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED -
 LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

Theodosia Francis)
 t/a Omega Bar & Grill)
 302 Ninth Avenue, East)
 Roselle, New Jersey)

CONCLUSIONS

and

ORDER

Holder of Plenary Retail Consumption)
 License C-8, issued by the Mayor and)
 Council of the Borough of Roselle)

 John L. McGuire, Esq., Attorney for Licensee.

David S. Piltzer, Esq., Appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 3, 1966, she possessed alcoholic beverages in eight bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior adjudicated record, the license will be suspended for thirty days (Re Nate Kates, Inc., Bulletin 1672, Item 4), with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 1st day of August, 1966,

ORDERED that Plenary Retail Consumption License C-8, issued by the Mayor and Council of the Borough of Roselle to Theodosia Francis, t/a Omega Bar & Grill, for premises 302 Ninth Avenue, East, Roselle, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, August 8, 1966, and terminating at 2:00 a.m. Friday, September 2, 1966.

JOSEPH P. LORDI
 DIRECTOR

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

In the Matter of Disciplinary)
 Proceedings against)

Vito Stamato)
 t/a Hotel Allaben)
 501 Monmouth Ave.)
 Lakewood, New Jersey)

CONCLUSIONS

and

ORDER

Holder of Plenary Retail Consumption)
 License C-22, issued by the Township)
 Committee of the Township of Lakewood)

 Licensee, Pro se.

David S. Piltzer, Esq., Appearing for Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on April 5, 1966, 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 430 Lanes, Inc., Bulletin 1670, Item 8.

Accordingly, it is, on this 2d day of August, 1966,

ORDERED that Plenary Retail Consumption License C-22, issued by the Township Committee of the Township of Lakewood to Vito Stamato, t/a Hotel Allaben, for premises 501 Monmouth Avenue, Lakewood, be and the same is hereby suspended for twenty (20) days, commencing * at 2:00 a.m. Tuesday, August 9, 1966, and terminating at 2:00 a.m. Monday, August 29, 1966.

JOSEPH P. LORDI
DIRECTOR

*By order dated August 8, 1966, the effective dates of suspension were amended to commence at 2:00 a.m. Tuesday, September 20, 1966 and to terminate at 2:00 a.m. Monday, October 20, 1966.

5. STATUTORY AUTOMATIC SUSPENSION - ORDER STAYING SUSPENSION.

Auto. Susp. #289)
In the Matter of a Petition to Lift)
the Automatic Suspension of Plenary)
Retail Distribution License D-29,)
issued by the Board of Commissioners)
of the City of Passaic to)
Thomas R. Forgione)
t/a M. & S. Liquors)
531 Main Avenue)
Passaic, N. J.)

ON PETITION
ORDER

-----)
Daniel T. Hanley, Esq., Attorney for Petitioner.

BY THE DIRECTOR:

It appears from the petition filed herein and the records of this Division that on July 19, 1966, the licensee-petitioner was fined \$75 and \$10 costs in the Passaic Municipal Court after being found guilty of a charge of sale of alcoholic beverages to a minor on July 6, 1966, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of petitioner's license for the balance of its term. R.S. 33:1-31.1. The statutory automatic suspension was effectuated at 1:00 p.m. on July 27, 1966.

It further appears that disciplinary proceedings are in contemplation but have not yet been instituted by the municipal issuing authority against the licensee because of the said sale of alcoholic beverages to the minor. 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 petitioner, I conclude that at this time the effect of the automatic suspension should be temporarily stayed. Re Elmo, Bulletin 1685, Item 5.

Accordingly, it is, on this 28th day of July, 1966,

ORDERED that the aforesaid automatic suspension of license D-29 be stayed pending the entry of a further order herein.

JOSEPH P. LORDI
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED -
LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Elizabeth Dinzik
t/a Dinzik's Tavern
246 Ferry St.
Newark, N. J.

Holder of Plenary Retail Consumption
License C-668, issued by the Muni-
cipal Board of Alcoholic Beverage
Control of the City of Newark.

CONCLUSIONS

and

ORDER

Licensee, Pro se.

David S. Piltzer, Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on May 24, 1966, she possessed alcoholic beverages in four bottles bearing labels which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days effective August 21, 1944, for permitting gambling on the premises.

The prior record of suspension of license for dissimilar violation occurring more than ten years ago disregarded, the license will be suspended for twenty days, with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Mikedan, Inc., Bulletin 1658, Item 6.

Accordingly, it is, on this 2d day of August, 1966,

ORDERED that Plenary Retail Consumption License C-668, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Elizabeth Dinzik, t/a Dinzik's Tavern, for premises 246 Ferry Street, Newark, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. Tuesday,

August 9, 1966, and terminating at 2:00 a.m. Wednesday, August 24, 1966.

JOSEPH P. LORDI
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - LICENSE
SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Alexander Kuda
946-956 Market Street,
611-613 East 36th Street
10-24 Lakeview Avenue
Paterson, New Jersey

CONCLUSIONS

and

ORDER

Holder of Plenary Retail Distribution
License D-18, issued by the Board of
Alcoholic Beverage Control for the
City of Paterson

Licensee, Pro se.

Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on Ju
23, 1966, he sold six 4/5 quart bottles of whiskey at less than
filed price, in violation of Rule 5 of State Regulation No. 30.

Absent prior record, the license will be suspended for t
days, with remission of five days for the plea entered, leaving a
suspension of five days. Re Barrett, Bulletin 1679, Item 6.

Accordingly, it is, on this 11th day of July, 1966,

ORDERED that Plenary Retail Distribution License D-18,
issued by the Board of Alcoholic Beverage Control for the City of
Paterson to Alexander Kuda, for premises 946-956 Market Street, 61
613 East 36th Street, 10-24 Lakeview Avenue, Paterson, be and the
same is hereby suspended for five (5) days, commencing at 9:00 a.m
Monday, July 18, 1966, and terminating at 9:00 a.m. Saturday,
July 23, 1966.

Joseph P. Lordi
Director

8. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN CLUB - ILLICIT ALCOHOLIC BEVERAGES, EQUIPMENT AND COMMINGLED CASH ORDERED FORFEITED - CASH DEPOSIT ON STIPULATION ORDERED RETURNED TO INNOCENT CLAIMANT.

In the Matter of the Seizure)
 on December 17, 1965 on premises)
 known as the Puerto Rican Sports)
 Club (erroneously listed in this)
 matter as the Portuguese Club))
 at 65 French Street, in the City)
 of New Brunswick, County of Middle-))
 sex and State of New Jersey.)

Case No. 11,622

On Hearing

CONCLUSIONS
 and
 ORDER

-----)
 Peter J. Selesky, Esq., appearing for Joseph A. Maroon, claimant.
 Mayo and Griggs, Esqs., by Ralph Mayo, Esq., appearing for
 Puerto Rican Sports Club.
 I. Edward Amada, Esq., appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to R.S. 33:1-66 and State Regulation No. 28, and further, pursuant to a stipulation dated February 25, 1966, signed by Joseph Maroon, to determine whether 96 cans of beer \$74.69 in cash, various furnishings and equipment set forth in an inventory attached hereto and marked Schedule "A", seized on December 17, 1965 on premises known as the Puerto Rican Sports Club (erroneously listed in this matter as the Portuguese Club) at 65 French Street, New Brunswick, N.J. constitute unlawful property and should be forfeited; and further, to determine whether the sum of \$400.00, representing the retail value of a juke box, a cigarette machine and a pool table, paid under protest by Joseph Maroon should be forfeited or returned to him.

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

When the matter came on for hearing pursuant to R.S. 33:1-66, Joseph Maroon, individually and trading as Maroon's National Vending, represented as counsel, appeared and sought return of the property covered by the stipulation signed by him. Subsequent to the original hearing but prior to the preparation of a Hearer's Report, this Division was notified by counsel for the Puerto Rican Sports Club that it did not appear at the original hearing because it was not in receipt of a notice of said hearing. Although the file herein indicates that such notice was sent, nevertheless, a supplemental hearing was held at which the Puerto Rican Sports Club, represented by counsel, appeared and was permitted to present its claim for the return of all of the items set forth in the inventory, exclusive of those claimed by Maroon.

At the supplemental hearing counsel for said claimant was afforded an opportunity to review the transcript of testimony of the Division's witnesses and to cross-examine the said witnesses.

The testimony of ABC agents M and S, who were produced as Division witnesses, reflected the following: Pursuant to a specific assignment to investigate the alleged unlawful sale of alcoholic

beverages at the Puerto Rican Sports Club located at the address aforesaid, ABC agents visited the said premises on three occasions; the third occasion was on December 17, 1965.

Agents S and M entered the premises on December 17, 1965 and three other agents remained on the outside. They observed about 10 patrons standing around a bar, consuming cans of Schaefer beer which were served to them by a bartender, later identified as Victor Davilla. Upon serving the beer to these patrons he accepted payment which he placed in a wooden box behind the bar. Four separate purchases of beer were made by Agent M with single dollar bills, the serial numbers of which had been previously recorded, and he was charged 30¢ per can of beer.

At about 11:45 P.M., the other agents entered the premise and Davilla was placed under arrest. The "marked" bills were found intermingled with the other cash in the wooden box, and were initialled by Davilla. It was also stipulated by counsel that Davilla sold alcoholic beverages, and in fact, Davilla admitted selling the beer to the agent.

The records of this Division disclose that no license was issued to Davilla or for the premises herein for the sale of alcoholic beverages. There was admitted into evidence the affidavit of mailing, the affidavit of publication, the chemist's report, the original stipulation, a copy of the cash receipt and the inventory.

On cross-examination, Agent M admitted that he made a wager with one of the patrons on a pool game. This patron suggested the bet and as a result of losing the bet, the agent purchased the beer for the patron and himself.

Victor Davilla, testifying in behalf of the claim of the Puerto Rican Sports Club gave the following account: Members of this club were charged \$1.25 or \$1.50 for the purchase of beer and they all "drink together". No member is required to pay his share in order to participate. Every member is entitled to bring guests. Agent M entered the premises as a guest of one of the members. On cross-examination he admitted that Agent M gave him a dollar which he took because he thought it was "gift for the club" and "profit for the club". This he did on two separate occasions.

This witness further stated that the personal property other than that claimed by Maroon is owned by the Club, although he was unable to produce any invoices or bills reflecting title to the television set, the guitar or any of the other goods and chattes.

My examination of the entire record satisfies me and I so find, that there were unlawful sales of alcoholic beverages on these premises in violation of the applicable statute. The contention that the money accepted by Davilla from the agent was, in fact, a gift to the club, must be rejected because the evidence clearly shows that there was an unlawful sale.

R.S. 33:1-1(w) defines a "sale" as

"Sale." Every delivery of an alcoholic beverage otherwise than by purely gratuitous title, including deliveries from without this State and deliveries by any person without this State intended for shipment by carrier or otherwise into

this State and brought within this State, or the solicitation or acceptance of an order for an alcoholic beverage, and including exchange, barter, traffic in, keeping and exposing for sale, serving with meals, delivering for value, peddling, possessing with intent to sell, and the gratuitous delivery or gift of any alcoholic beverage by any licensee."

In fact, the sale of alcoholic beverages to other members of the club also violates the provisions of this Act because the proofs show that the members paid for the alcoholic beverages and thus, the club was required to obtain a license. See Bulletin 1325, Item 3. It is quite obvious that the agents were not bona fide guests invited by individual members of the club.

Accordingly, the seized alcoholic beverages are illicit because they were intended for sale without a license. R.S. 33:1-1(i). Such illicit alcoholic beverages, the personal property and the cash, as set forth in Schedule "A" herein, constitute unlawful property and are subject to forfeiture. R.S. 33:1-2; R.S. 33:1-66.

With particular reference to the cash, the evidence clearly shows that the money obtained from Agent A was commingled with the other monies obtained through the unlawful sales; thus, all of the money as well as the furnishings and equipment is subject to forfeiture. Seizure Case No. 11,182, Bulletin 1568, Item 5; Seizure Case No. 10,898, Bulletin 1500, Item 2; R.S. 33:1-2; R.S. 33:1-66(b).

I conclude that the Division has established its case by clear and convincing evidence and therefore recommend that the equipment and personal property, cash and alcoholic beverages, exclusive of that property claimed by Joseph Maroon, be declared to be unlawful property; that the claim of the Puerto Rican Sports Club, for the return of its property, be denied; and that an order be entered forfeiting the same. R.S. 33:1-66; Seizure Case No. 10,009, Bulletin 1391, Item 4; Seizure Case No. 11,182, supra.

Joseph Maroon, who trades as Maroon's National Vending, testified that he deposited \$400.00 and signed a stipulation for the return of the personal property which was seized on the date in question. He stated that he is the owner of a juke box, a cigarette machine and a pool table, and produced evidence in support of his title thereto. He further asserts that this equipment was placed at this location on a "50-50" arrangement; and that he would visit the premises once every two weeks, in the morning, solely for the purpose of taking the receipts. Although he admitted on cross-examination that he saw a "counter" in the premises, he did not know that it was, in fact, a bar, and at no time did he observe any unlawful liquor activity or the sale of alcoholic beverages.

It was his impression that this was merely a social club conducted for members only, and that the club was engaged in holding meetings and dances.

There is no evidence in this case that this claimant knew that unlawful alcoholic beverages were being dispensed at these premises, although there has been some testimony by ABC agents that cases of beer in the rear of the premises were clearly visible. This witness stated categorically that he did not see them nor were there any patrons or club members on the premises during the morning when he visited the said premises.

The testimony further indicates that at no time was any effort made by this claimant to investigate the character and background of the Puerto Rican Sports Club in order to determine the desirability of installing these machines.

On the basis of the evidence presented, I am persuaded that the claimant acted imprudently rather than in bad faith, and I would resolve any doubt with respect to his good faith in favor of his claim. It is a well known fact that in the music machine rental business competition is extremely keen and this claimant, who had less than two years of experience in this field, was undoubtedly concerned with his own operations. Under the circumstances, I conclude that the claimant acted in good faith, and did not know, or have any reason to believe that alcoholic beverages were being sold at these premises.

I therefore recommend that his claim be recognized. Seizure Case No. 10,557, Bulletin 1419, Item 3; Seizure Case No. 10,416, Bulletin 1384, Item 4; R.S. 33:1-66(f).

Conclusions and Order

No exceptions were taken to the Hearer's Report within the time limited by Rule 4 of State Regulation No. 28.

After carefully considering the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and adopt them as my conclusions herein.

Accordingly, it is on this 8th day of August, 1966,

DETERMINED and ORDERED that \$400.00, representing the retail value of a juke box, a cigarette machine and a pool table, paid under protest by James Maroon, under a stipulation signed by him shall be returned to him; and it is further

DETERMINED and ORDERED that the balance of the seized property, including \$74.69 in cash, as set forth in Schedule "A", attached hereto, constitutes unlawful property and the same be and hereby is forfeited in accordance with State Regulation No. 29, or 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 P. LORDI
DIRECTOR

SCHEDULE "A"

- 96 - cans of beer
- 1 - television set
- 2 - juke boxes
- 1 - cigarette machine
- Miscellaneous personal property
- \$74.69 in cash

9. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - FOUL LANGUAGE - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Ingeborg Fixler
t/a Kentucky Inn
23 South Kentucky Avenue
Atlantic City, New Jersey

Holder of Plenary Retail Consumption
License C-42, issued by the Board
of Commissioners of the City of
Atlantic City

CONCLUSIONS

and

ORDER

Licensee, Pro se.

Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that she (1) on July 16, 1966, sold six cans of beer for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38, and (2) on June 18 and July 16, 1966, permitted foul, filthy and obscene language (by a bartender and a female patron) on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

Absent prior record, the license will be suspended on the first charge for fifteen days (Re Vecchione, Bulletin 1684, Item 7) and on the second charge for ten days (Re Zukas, Bulletin 1675, Item 3), or a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 4th day of August, 1966,

ORDERED that Plenary Retail Consumption License C-42, issued by the Board of Commissioners of the City of Atlantic City to Ingeborg Fixler, t/a Kentucky Inn, for premises 23 South Kentucky Avenue, Atlantic City, be and the same is hereby suspended for twenty (20) days, commencing at 7:00 a.m. Thursday, August 11, 1966, and terminating at 7:00 a.m. Wednesday, August 31, 1966.

JOSEPH P. LORDI
DIRECTOR

10. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - LICENSE
SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Cattani Wines & Liquors, Inc.
601 Central Avenue & 706 - 6th Street
Union City, New Jersey

Holder of Plenary Retail Distribution
License D-5, issued by the Board of
Commissioners of the City of Union City

CONCLUSIONS

and

ORDER

Licensee, by George Cattani, President, Pro se.
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on
June 17, 1966, it sold a quart bottle of whiskey at less than
filed price, in violation of Rule 5 of State Regulation No. 30.

Although the licensee-corporation has no previous record,
the license then held by George, Alfred and Eugene Cattani
(officers and stockholders of the licensee-corporation) for the
same premises was suspended by the Director for fifteen days effective
September 26, 1955, for sale below filed price and possession of
lottery tickets. Re Cattani, Bulletin 1083, Item 10.

The prior record of suspension of license disregarded
because occurring more than ten years ago, the license will be sus-
pended for ten days, with remission of five days for the plea
entered, leaving a net suspension of five days. Re Lenzi, Bulletin
1664, Item 4.

Accordingly, it is, on this 8th day of August, 1966,

ORDERED that Plenary Retail Distribution License D-5,
issued by the Board of Commissioners of the City of Union City to
Cattani Wines & Liquors, Inc. for premises 601 Central Avenue and
706 - 6th Street, Union City, be and the same is hereby suspended
for five (5) days, commencing at 9:00 a.m. Monday, August 15,
1966, and terminating at 9:00 a.m. Saturday, August 20, 1966.

JOSEPH P. LORDI
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - POSSESSION OF OPEN CONTAINERS OF ALCOHOLIC BEVERAGES BY DISTRIBUTION LICENSEE - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Francis A. Rotondo & Ralph A.
Rotondo
t/a The Frank Rotondo Co.
1341 George Street
Plainfield, New Jersey

CONCLUSIONS

and

Holders of Plenary Retail Distribution
License D-5, issued by the Common
Council of the City of Plainfield

ORDER

Louis D. Avolio, Esq., Attorney for Licensees.

David S. Piltzer, Esq., Appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on May 11, 1966, they possessed open containers of alcoholic beverages on their premises licensed under a plenary retail distribution license, in violation of Rule 14 of State Regulation No. 20.

Report of investigation discloses that during the course of routine inspection, there were found on the licensed premises an opened quart bottle of whiskey and a gallon bottle of vermouth, both about one-half full. In addition, there were found five shot glasses, several highball glasses and twenty-four empty quart whiskey bottles and approximately forty to fifty cases containing empty one-gallon wine bottles, four bottles to the case.

Absent prior record, the license will be suspended for ten days (cf. Re Koslo, Bulletin 1682, Item 4), with remission of five days for the plea entered, leaving a net suspension of five days.

Accordingly, it is, on this 15th day of August, 1966,

ORDERED that Plenary Retail Distribution License D-5, issued by the Common Council of the City of Plainfield to Francis A. Rotondo and Ralph A. Rotondo, t/a The Frank Rotondo Co., for premises 1341 George Street, Plainfield, be and the same is hereby suspended for five (5) days, commencing at 9:00 a.m. Monday, August 22, 1966, and terminating at 9:00 a.m. Saturday, August 27, 1966.

JOSEPH P. LORDI
DIRECTOR

12. DISCIPLINARY PROCEEDINGS - SALE OF DRINKS FOR OFF-PREMISES CONSUMPTION - LICENSE SUSPENDED FOR 5 DAYS, LESS 2 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

Alfio Crimi
507 Front Street
Union Beach, New Jersey

Holder of Plenary Retail Consumption
License C-10, issued by the Mayor
and Council of the Borough of
Union Beach

Licensee, Pro se.

Edward F. Ambrose, Esq., Appearing for Division of Alcoholic
Beverage Control.

CONCLUSIONS

and

ORDER

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 13, 1966, he sold mixed drinks of alcoholic beverages (Tom Collins) in cardboard containers for off-premises consumption, in violation of R.S. 33:1-2..

Absent prior record, the license will be suspended for five days, with remission of two days for the plea entered, leaving a net suspension of three days. Re Jerome, Bulletin 1652, Item 9.

Accordingly, it is, on this 8th day of August, 1966,

ORDERED that Plenary Retail Consumption License C-10, issued by the Mayor and Council of the Borough of Union Beach to Alfio Crimi for premises 507 Front Street, Union Beach, be and the same is hereby suspended for three (3) days, commencing at 2:00 a.m. Monday, August 15, 1966, and terminating at 2:00 a.m. Thursday, August 18, 1966.


Joseph F. Lordi
Director