

Gossweiler

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

BULLETIN 1498

MARCH 15, 1963

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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 1498

MARCH 15, 1963

1. APPELLATE DECISIONS - MAMA VENTURA, INC. v. VOORHEES.

MAMA VENTURA, INC., t/a MAMA)	
VENTURA'S,)	
)	
Appellant,	)	ON APPEAL
	)	CONCLUSIONS
v.	)	AND ORDER
)	
TOWNSHIP COMMITTEE OF THE)	
TOWNSHIP OF VOORHEES,)	
)	
Respondent.)	

Richard R. S. Carroll, Esq., Attorney for Appellant.
Charles L. Rudd, Esq., Attorney for Respondent.

BY THE ACTING DIRECTOR:

The Hearer has filed the following Report herein:

"This is an appeal from the action of respondent whereby it suspended appellant's license for a period of ten days effective October 15, 1962. Appellant was found guilty in disciplinary proceedings on the charge that on September 28, 1962, it permitted patrons to remain on its licensed premises after 2 a.m. in violation of a municipal ordinance.

"Upon the filing of the appeal an order dated October 15, 1962, was entered by the Director staying the effect of respondent's order of suspension pending the determination of the appeal. R.S. 33:1-31.

"The appellant contends in its petition of appeal that the action of respondent was erroneous because it was founded on insufficient evidence.

"Police Officer Herbert Dixon testified that at approximately 2:10 a.m. September 28, 1962, he knocked on the door of appellant's premises, waited for a short period of time and knocked again; that, receiving no response, he went to the side door and knocked and, when no one answered, he got into the police car and waited; that, after seeing a pick-up truck park at the far side of the building, he went to the front door at approximately 2:18 a.m. and, finding it unlocked, entered the barroom; that Vincent Ventura and several persons were in the place; that he requested Vincent Ventura to appear at headquarters at 9 a.m. that day; that a male carrying a glass containing a beverage followed him to the police car.

"Vincent Ventura, secretary of appellant, testified that 'It was about two o'clock, I think' on September 28, 1962, when he opened the door to the premises and permitted Officer Dixon to enter; that at the time, in addition to himself, there were two men and two women, only one of whom was an employee of the licensee; that the other woman was waiting to be driven home; that one of the men was waiting for the work to be finished so that he could go to his (Ventura's) home to talk business.

"Catherine Eckels testified that she is employed by appellant as a waitress and was on the premises on the morning in question when the police officer entered; that 'it could have been five minutes after two, seven minutes after two, nobody really knew the exact time.'

"Section 8 of the local ordinance in question provides:

'No alcoholic beverages shall be sold, served, delivered, nor shall any licensee suffer or permit the sale, service, or delivery of any alcoholic beverage directly or indirectly, or open for business any place so licensed, between the hours of two a.m. and seven a.m. Local Time, any weekday or Sunday. All parts of licensed premises where alcoholic beverages shall be sold shall be cleared of all patrons between the hours of two a.m. and seven a.m.' (Emphasis supplied)

"As used in the ordinance, 'cleared of all patrons' means that all members of the public must be excluded. Cf. Re Casarico, Bulletin 268, Item 1, and Re Heisel, Bulletin 318, Item 12.

"In Re Zenda, Bulletin 271, Item 5, the then Commissioner ruled that proof of the charge of 'keeping open' (which is the same as 'not being closed' or 'cleared of all patrons') requires only proof that the licensee continues to entertain the public. See also Town House, Inc. v. Montclair, Bulletin 792, Item 3, as to what constitutes 'closing' of the licensed premises during prohibited hours.

"I have carefully considered the evidence adduced herein and I find that the testimony of the police officer reflects what actually occurred on the date alleged and at the time testified to by him. On the other hand, Vincent Ventura was not at all certain of the time, believing it was 'about two o'clock.' Catherine Eckels' testimony clearly indicates that she speculated as to the time when Officer Dixon entered appellant's licensed premises.

"Under the circumstances, I conclude that a preponderance of the believable evidence presented establishes the guilt of the appellant as charged. I recommend, therefore, that an order be entered affirming respondent's action, vacating the order entered on October 15, 1962, and fixing the effective dates of the ten-day suspension heretofore imposed by respondent."

No exceptions were taken to the Hearer's Report within the time limited by Rule 14 of State Regulation No. 15.

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

Accordingly, it is, on this 22nd day of January 1963,

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

ORDERED that the ten-day suspension heretofore imposed by respondent, and stayed during the pendency of these proceedings, be and the same is hereby reinstated and reimposed against

appellant's License No. C-4, issued by the Township Committee of the Township of Voorhees for premises on Route #73, Kresson, Township of Voorhees, to commence at 3 a.m. Tuesday, January 29, 1963, and to terminate at 3 a.m. Friday, February 8, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

2. APPELLATE DECISIONS - MELSTAN CORPORATION v. RANDOLPH.

MELSTAN CORPORATION,)	
t/a THE SALEM,)	
Appellant,)	
v.	)	ON APPEAL
	)	AMENDED
	)	ORDER
TOWNSHIP COMMITTEE OF THE)	
TOWNSHIP OF RANDOLPH,)	
Respondent.)	

Paul Colvin, Esq., Attorney for Appellant.
Young & Sears, Esqs., by Harry L. Sears, Esq., Attorneys
for Respondent.

BY THE ACTING DIRECTOR:

On January 14, 1963, the Director entered an order suspending the license herein for twenty-five days commencing January 21, 1963.

Licensee has filed a petition requesting that the imposition of the suspension be deferred until February 11, 1963 and, for good cause appearing, I shall grant such petition.

Accordingly, it is, on this 21st day of January, 1963,

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

ORDERED that Plenary Retail Consumption License C-10, issued by the Township Committee of the Township of Randolph to Melstan Corporation, t/a The Salem, for premises on South Salem Street, Randolph Township, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, February 11, 1963, and terminating at 2:00 a.m. Friday, March 8, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

3. DISCIPLINARY PROCEEDINGS - HOSTESS ACTIVITY - INTOXICATED
EMPLOYEE - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

B & N TAVERN, INC.)
t/a DEALERS INN)
7 Park Avenue)
Paterson 1, N. J.)

CONCLUSIONS)
AND ORDER)

Holder of Plenary Retail Consumption)
License C-140, issued by the Board of)
Alcoholic Beverage Control for the)
City of Paterson.)

Licensee, by Ralph Trombino, President, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 14-15 and 19, 1962, it conducted its licensed place of business as a nuisance, viz., permitting female patrons and a bartender to solicit purchase of drinks from male patrons and permitting an intoxicated bartender to work on the premises, in violation of Rule 5 of State Regulation No. 20.

Absent prior record, the license will be suspended for forty days (cf. Re Blue Chateau, Inc., Bulletin 1496, Item 4; Re Subar, Inc., Bulletin 1481, Item 5), with remission of five days for the plea entered, leaving a net suspension of thirty-five days.

Accordingly, it is, on this 21st day of January, 1963,

ORDERED that Plenary Retail Consumption License C-140, issued by the Board of Alcoholic Beverage Control for the City of Paterson to B & N Tavern, Inc., t/a Dealers Inn, for premises 7 Park Avenue, Paterson, be and the same is hereby suspended for thirty-five (35) days, commencing at 3:00 a.m. Monday, January 28, 1963, and terminating at 3:00 a.m. Monday, March 4, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

4. DISCIPLINARY PROCEEDINGS - FALSE STATEMENTS IN APPLICATION FOR LICENSE - FRONT - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO LIFT AFTER 25 DAYS UPON PROOF OF CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Disciplinary
Proceedings against

BERGEN SMITH RECREATION, INC.
13-15-17 Smith Street
Jersey City 6, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption
License C-346, issued by the Municipal
Board of Alcoholic Beverage Control
of the City of Jersey City.

Matthew F. Czachorowski, Esq., Attorney for Licensee.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic
Beverage Control

BY THE ACTING DIRECTOR:

Licensee pleads non vult to the following charges:

- "1. In your application dated June 20, 1962, filed with the Jersey City Municipal Board of Alcoholic Beverage Control, upon which you obtained your current plenary retail consumption license, in answer to Question No. 22, you falsely listed James Kovacs, Peter Clark and Harriet Kemple as each the holder of 5 shares and 33-1/3% of your issued and outstanding stock, and in answer to Questions Nos. 23 and 24 you falsely denied that anyone else had any beneficial interest, directly or indirectly, in the stock of said stockholders, whereas in truth and fact said listed stockholders did not have any beneficial interest in said stock and Charles Motkowski had such an interest in that he was the real and beneficial owner of all of said stock; said false statements, misrepresentation and evasion and suppression of material facts being in violation of R.S. 33:1-25.
- "2. From February 14, 1958 to date, you knowingly aided and abetted Charles Motkowski to exercise, contrary to R.S. 33:1-26, the rights and privileges of your successive plenary retail consumption licenses; in violation of R.S. 33:1-52."

The facts are sufficiently set forth in the quoted charges.

To date, no correction of the unlawful situation has been accomplished.

Licensee has a previous record of suspension of license by the Director for forty-five days, effective July 18, 1962, for sale to minors, sale during prohibited hours, serving women at the bar and possessing liquor not truly labeled. Re Bergen Smith Recreation, Inc., Bulletin 1471, Item 3.

The prior record considered as well as the plea entered herein, the license will be suspended for the balance of

its term, with leave granted to the licensee or any bona fide transferee of the license to apply for lifting of the suspension whenever the unlawful situation has been corrected but in no event sooner than twenty-five days from the date of commencement of the suspension herein. Cf. Re Karunos and Arvanitis, Bulletin 1476, Item 4.

Accordingly, it is on this 21st day of January, 1963,

ORDERED that Plenary Retail Consumption License C-346, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Bergen Smith Recreation, Inc. for premises 13-15-17 Smith Street, Jersey City, be and the same is hereby suspended for the balance of its term, effective 2:00 a.m. Monday, January 28, 1963, with leave to the licensee or any bona fide transferee of the license to file verified petition establishing correction of the unlawful situation for lifting of the suspension of the license on or after 2:00 a.m. Friday, February 22, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

5. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS, CARD GAME, WAGERING) - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ARTHUR B. SCHWENK AND GOLDIE SCHWENK
t/a ART'S CLUB
813 Southard Street
Trenton 8, N. J.

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-6, issued by the City Council of the City of Trenton.

Licensees, Pro se.

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

BY THE ACTING DIRECTOR:

Licensees plead non vult to charges (1) and (2) alleging that on December 14, 18, 21 and 28, 1962, they permitted gambling on the licensed premises, viz., acceptance of numbers bets on December 14, 21 and 28, a card game for money stakes on December 14, 18 and 21, and the playing of a bowling machine game for side bets on December 14, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensees have a previous record of suspension of license by the municipal issuing authority for ten days, effective January 2, 1961, for violation of State Regulation No. 38.

The prior record considered, the license will be suspended for thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days. Cf. Re Hillside Bowling, Inc., Bulletin 1448, Item 2; Re Waldron, Inc., Bulletin 1434, Item 4.

Accordingly, it is, on this 21st day of January, 1963,

ORDERED that Plenary Retail Consumption License C-6, issued by the City Council of the City of Trenton to Arthur B. Schwenk and Goldie Schwenk, t/a Art's Club, for premises 813 Southard Street, Trenton, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, January 28, 1963, and terminating at 2:00 a.m. Friday, February 22, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR SIMILAR VIOLATION - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

P. & S. BAR, INC.

t/a LOUIS' BAR

239 Neilson Street

New Brunswick, N. J.

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-60, issued by the Board of Commissioners of the City of New Brunswick.

Licensee, by Ray Feldman, President, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 20, 1962, it sold drinks of beer to two minors, age 18 and 19, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days, effective August 22, 1960, for similar violation.

The prior record considered, 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 Kirk, Bulletin 1449, Item 7.

Accordingly, it is, on this 22d day of January, 1963,

ORDERED that Plenary Retail Consumption License C-60, issued by the Board of Commissioners of the City of New Brunswick to P. & S. Bar, Inc., t/a Louis' Bar, for premises 239 Neilson Street, New Brunswick, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, January 29, 1963, and terminating at 2:00 a.m. Monday, February 18, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

7. ACTIVITY REPORT FOR JANUARY 1963

ARRESTS:

Total number of persons arrested - - - - -
 Licensees and employees - - - - - 14
 Bootleggers - - - - - 3

SEIZURES:

Motor vehicles - cars - - - - -
 Distilled alcoholic beverages - gallons - - - - -
 Wine - gallons - - - - -

RETAIL LICENSEES:

Premises inspected - - - - -
 Premises where alcoholic beverages were gauged - - - - -
 Bottles gauged - - - - -
 Premises where violations were found - - - - -
 Violations found - - - - -
 Reg. #30 Sign not posted - - - - 39 Other mercantile business - - - - 9
 Application copy not available - - 32 Disposal permit necessary - - - - 3
 Unqualified employees - - - - - 30 Improper beer taps - - - - - 1
 Prohibited signs - - - - - 10 Other violations - - - - - 29

STATE LICENSEES:

Premises inspected - - - - -
 License applications investigated - - - - -

COMPLAINTS:

Complaints assigned for investigation - - - - -
 Investigations completed - - - - -
 Investigations pending - - - - -

LABORATORY:

Analyses made - - - - -
 Refills from licensed premises - bottles - - - - -
 Bottles from unlicensed premises - - - - -

IDENTIFICATION:

Criminal fingerprint identifications made - - - - -
 Persons fingerprinted for non-criminal purposes - - - - -
 Identification contacts made with other enforcement agencies - - - - -
 Motor vehicle identifications via N.J. State Police teletype - - - - -

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities - - - - -
 Violations involved - - - - -
 Sale during prohibited hours - - - 6 Sale outside scope of license - - - - 1
 Sale to minors - - - - - 3 Possessing chilled beer (DL lic.) - - - 1
 Cases instituted at Division - - - - -
 Violations involved - - - - -
 Sale to minors - - - - - 4 Permitting bookmaking on premises - - - 1
 Permitting lottery activity (numbers, "50-50 Club") on premises - - - - 3 Failure to afford view into premises during prohibited hours - - - - 1
 Sale during prohibited hours - - - 3 Unqualified employees - - - - - 1
 Conducting business as a nuisance - 2 Sale below filed price - - - - - 1
 Possessing liquor not truly labeled - 2 Combination sale - - - - - 1
 Beverage Tax Law non-compliance - - 1 Sale at discount - - - - - 1
 Hindering investigation - - - - - 1 Purchase from improper source - - - - 1
 Fraud and front - - - - - 1 Solr. aiding & abetting unlic. sale - - 1
 Permitting foul language on prem. - - 1 Unlicensed purchase by solicitor - - - 1
 Permitting immoral act. on prem. - - 1 Unauthorized transportation - - - - - 1
 Cases brought by municipalities on own initiative and reported to Division - - - - -
 Violations involved - - - - -
 Sale to minors - - - - - 11 Permitting minors on prem. unaccompanied by parents or guardians (loc. reg.) - - 2
 Permitting brawl on premises - - - 1

HEARINGS HELD AT DIVISION:

Total number of hearings held - - - - -
 Appeals - - - - - 6 Eligibility - - - - - 6
 Disciplinary proceedings - - - - - 23 Seizures - - - - - 3

STATE LICENSES AND PERMITS ISSUED:

Total number issued - - - - -
 Licenses - - - - - 2 Social affair permits - - - - - 310
 Solicitors' permits - - - - - 39 Miscellaneous permits - - - - - 123
 Employment permits - - - - - 161 Transit insignia - - - - - 266
 Disposal permits - - - - - 79 Transit certificates - - - - - 31
 Wine permits - - - - - 7

OFFICE OF AMUSEMENT GAMES CONTROL:

Licenses issued - - - - - 35
 Enforcement files established - - - - 5

EMERSON A. TSCHUPP
 Acting Director of Alcoholic Beverage Control
 Acting Commissioner of Amusement Games Control

Dated: February 5, 1963

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

In the Matter of Disciplinary
 Proceedings against

MARTIN GINSBURG AND BLANCHE GINSBURG
 t/a FRIENDS TAVERN
 e/s Mantua Pike, Route 45, app. 1950
 feet North of Ogden Road
 Deptford Township
 PO Wenonah, N. J.

CONCLUSIONS
 AND ORDER

Holders of Plenary Retail Consumption
 License C-7, issued by the Township
 Committee of Deptford Township.

 Benjamin Asbell, Esq., Attorney for Licensees.
 Edward F. Ambrose, Esq., Appearing for the Division of
 Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

Licensees plead non vult to a charge alleging that on
 December 18, 1962, they sold a case of whiskey at less than filed
 price, in violation of Rule 5 of State Regulation No. 30.

Although licensees individually have no prior record,
 the license of Choice Liquors, Inc., 3512 Westfield Avenue,
 Camden, of which Martin Ginsburg was then an officer and stock-
 holder, was suspended by the Director for five days effective
 January 3, 1949, for service of beverages to a woman at the bar.
Re Choice Liquors, Inc., Bulletin 827, Item 5.

The prior record of dissimilar violation disregarded
 because occurring more than five years ago, 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 McManus,
 Bulletin 1482, Item 6.

Accordingly, it is, on this 21st day of January, 1963,

ORDERED that Plenary Retail Consumption License C-7,
 issued by the Township Committee of the Township of Deptford to
 Martin Ginsburg and Blanche Ginsburg, t/a Friends Tavern, for
 premises on the east side of Mantua Pike, Route 45, approximately
 1950 feet north of Ogden Road, Deptford Township, be and the same
 is hereby suspended for five (5) days, commencing at 2:00 a.m.
 Monday, January 28, 1963, and terminating at 2:00 a.m. Saturday,
 February 2, 1963.

EMERSON A. TSCHUPP
 ACTING DIRECTOR

9. SEIZURE - FORFEITURE PROCEEDINGS - ILLICIT STILL - STILL PARTS AND ALCOHOL ORDERED FORFEITED - PADLOCKING OF PREMISES WAIVED.

In the Matter of the Seizure on)	
November 17, 1962, of numerous	)	CASE NO. 10,946
still parts, appliances, accessories,	)	ON HEARING
a thirty gallon barrel of alcoholic	)	CONCLUSIONS
beverages, at 35 Lincoln Avenue, in	)	AND ORDER
the Borough of Fairlawn, County of)	
Bergen and State of New Jersey.)	

Anna Hugenbruch, Pro se.

I. Edward Amada, Esq., Appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapters 1 and 2, Revised Statutes of New Jersey and State Regulation No. 28 to determine whether numerous still parts, appliances, accessories and a thirty-gallon barrel of alleged alcoholic beverages described in a schedule attached hereto and made part hereof, marked Schedule "A", seized on November 17, 1962 at 37 Lincoln Avenue, Fairlawn, New Jersey, constitute unlawful property and should be forfeited; and further to determine whether the premises should be padlocked.

When the matter came on for hearing pursuant to R.S. 33:1-66 and R.S. 33:2-5, an appearance was made by Anna Hugenbruch who sought to avoid padlocking of the said premises.

Reports of ABC agents and other documents, presented with the consent of Anna Hugenbruch, acting pro se, disclosed the following facts: On November 17, 1962, about 5:00 p.m., local police officers notified ABC agents that they had visited the premises in response to a call concerning domestic problems between Mr. and Mrs. John Kampff, who reside at the said premises. As a result of the information conveyed to the agents of this Division, they, in the company of the local police officers, went to the premises, and in the cellar thereof, found a still composed of a unit consisting of an electric motor with fan, a tank, metal drum, heating elements, thermometer, ruler, rubber hose, and wine press, all of which were seized as being in violation of the sections hereinabove referred to.

On November 20, 1962, a sample of the contents of the alcoholic beverages seized was analyzed by the Division chemist, who reports that it is a cider, fit for beverage purposes, with an alcoholic content by volume of 5.8 percent.

Neither the still nor any part thereof is registered with this Division.

Mrs. Hugenbruch testified that these premises were owned by her husband, and upon his death in April, 1962, were inherited by her. They were rented on a monthly basis to John Francis Kampff, and, prior to her husband's death, Mr. Hugenbruch visited the premises monthly, on the first of each month, to collect rent. Since April 1962, she has had occasion to visit these premises only once, for the purpose of rent collection, and at that time was unaware of the existence of a still or still parts.

She further states that she had no knowledge of said illicit operation, nor any reason to suspect that the tenant of this dwelling was engaged in such illegal operation.

Immediately after the seizure of the said still Kampf was placed under arrest, charged with possession of a still and distilling apparatus and parts thereof without registering the same with this Division, in violation of R.S. 33:2-10. Upon his arrest he stated that he first started to assemble the said still on November 16, 1962. He was arraigned in the Fairlawn Municipal Court on November 21, 1962 and held in bail for action by the Bergen County Grand Jury.

Accordingly, it is DETERMINED and ORDERED that the seized property, more fully described in Schedule "A", attached hereto, constitutes unlawful property and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66 and R.S. 33:2-5 and that it be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part at the direction of the Director of the Division of Alcoholic Beverage Control; and it is further

DETERMINED and ORDERED that padlocking of the said premises shall be and is hereby waived.

Dated: January 22, 1963

EMERSON A. TSCHUPP,
ACTING DIRECTOR

SCHEDULE "A"

- 1 - 30 gal. barrel of alleged alcoholic beverages
- 1 - unit consisting of an electric motor, fan and tank
- 1 - metal drum
- 2 - heating elements
- 1 - container
- 1 - thermometer
- 1 - ruler
- 1 - rubber hose
- 1 - wine press

10. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN PRIVATE CLUB - CLAIM OF INNOCENT OWNER OF EQUIPMENT RECOGNIZED - DEPOSIT ON STIPULATION ORDERED RETURNED - ALCOHOLIC BEVERAGES AND CASH ORDERED FORFEITED.

In the Matter of the Seizure)	
on November 30, 1962 of a	)	CASE NO. 10,955
quantity of alcoholic beverages,	)	ON HEARING
furnishings, equipment, and \$28.50	)	ORDER
in cash at 230 River Street, in)	
the City of Paterson, County of)	
Passaic and State of New Jersey.)	

Roosevelt Harp, Pro Se.

N and C Sales, by Charles J. Miller, Pro Se.

I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE ACTING 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, and further pursuant to a stipulation, dated December 10, 1962 signed by Charles William Convery, attorney for Charles J. Miller, to determine whether two bottles of alcoholic beverages, 12 cans of beer, a juke box, pool table, an ABC Bowler, \$28.50 in cash, and 16 pool balls, described in a schedule attached hereto and made part hereof and marked Schedule "A", seized on November 30, 1962 at 230 River Street, Paterson, New Jersey, constitute unlawful property and should be forfeited; and further to determine whether the sum of \$200.00, representing the retail value of the furnishings and equipment, exclusive of the alcoholic beverages and \$28.50 in cash, paid under protest by Miller aforesaid should be forfeited or returned to him.

Miller appeared pro se and sought return of the said \$200.00, representing the appraised retail value of the property listed hereinabove, exclusive of the alcoholic beverages and the \$28.50 in cash.

Roosevelt Harp appeared in response to a notice which he had received. However, upon being sworn, he stated that he had no interest in any of the property and did not desire to present a claim or oppose forfeiture of any of the property herein. No one appeared to oppose forfeiture of the \$28.50 in cash or the alcoholic beverages.

The file herein and other documents therein presented in evidence with the consent of Miller, disclose the following facts: The store in question is located on the ground floor of a three-family dwelling and contains a serving counter, pool table, bowler, juke box, pool balls and more particularly, the equipment which was seized.

On November 16, 1962, at approximately 11:50 p.m., ABC Agent M entered the premises and observed two males consuming Schaefer beer from cans. He also observed Roosevelt Harp and a female make a sale and serve beer to the said males. Thereafter, the agent purchased three cans of beer from Harp who took the beer from the refrigerator and accepted a total of \$1.05 in payment thereof.

On November 30, 1962 at about 11:30 p.m. this agent returned to the premises. On this occasion he observed Harp serve cans of beer to two males, and accept payment therefor, which he rang up in the cash register. Agent M then purchased a can of beer with one of the four "marked" dollar bills which he had in his possession, and received sixty-five cents in change. He thereafter purchased two bottles of whiskey for two females who were then present on the premises, and purchased an additional can of beer and shot of whiskey for himself, all of which was served by Harp. He then paid Harp the sum of \$1.85 with two "marked" one dollar bills and received fifteen cents in change.

Shortly thereafter, as pre-arranged, two other ABC agents and other local police officers came on to the premises, and identification was then made. Harp was called upon to produce the money from the cash register which contained \$18.00 in bills among which were found three "marked" one-dollar bills. The agents thereupon seized the goods and personal property.

Harp was thereupon arrested, charged with sale of alcoholic beverages without a liquor license in violation of R.S. 33:1-2; R.S. 33:1-50(a); as well as possession of alcoholic beverages with intent to sell the same without a license contrary to R.S. 33:1-2; and R.S. 33:1-50(b); and thereupon, was held in bail for arraignment in the Paterson Municipal Court.

The records of this Division do not disclose that any license had been issued to Roosevelt Harp or for the premises in question authorizing the sale of liquor.

A sample of the beer alleged to have been sold was analyzed by the Division chemist who finds that it is a malt alcoholic beverage fit for beverage purposes with an alcoholic content of 4.2 percent. A sample of the alleged whiskey sold by Harp similarly analyzed established that it is an alcoholic beverage, containing whiskey and water, fit for beverage purposes, with an alcoholic content of 12.0 percent.

Charles J. Miller, claimant, testified that he deposited \$200.00 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 the equipment set forth in Schedule "A" and produced documents establishing such ownership. He further asserts that this equipment was placed in Harp's location on a 50-50 percent basis, and he would visit these premises once a week solely for the purpose of taking the receipts. At no time did he ever see any unlawful activity, and, to his knowledge, this is a private club catering to its members. A sign on the front door had the legend, "For Members Only".

There was some question as to the actual serial numbers on the pool table which were not reflected on the documents produced in court. The claimant was given an opportunity to produce these at a later date and these documents were picked up by an ABC agent on the day following this hearing. My inspection of these documents satisfies me that the equipment in question is the property of this claimant.

There is no evidence in this case that this claimant knew that Harp was dispensing alcoholic beverages. Under the

circumstances, I am convinced that the claimant acted in good faith and did not know or have any reason to suspect the illegal activity with respect to alcoholic beverages on these premises.

Hence, the \$200.00, which was deposited by this claimant pursuant to the stipulation signed herein, will be returned to him.

Accordingly, it is DETERMINED and ORDERED that the \$200.00 deposit of the claimant, Charles J. Miller, be and the same shall be returned to him; and it is further

DETERMINED and ORDERED that the alcoholic beverages, as listed in Schedule "A" and the cash in the sum of \$28.50 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 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 Acting Director of the Division of Alcoholic Beverage Control.

Dated: January 25, 1963

EMERSON A. TSCHUPP
ACTING DIRECTOR

SCHEDULE "A"

2-bottles of alcoholic beverages
12-12 oz. cans of beer
1-juke box
1-pool table
1-ABC Bowler
16-pool balls
\$28.50 in cash

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

In the Matter of Disciplinary)
Proceedings against)

JACOB ROTHWACKS, INC.)
t/a JACOB ROTHWACKS)
178 Passaic Street)
Passaic, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-63, issued by the Board)
of Commissioners of the City of Passaic.)

Robert M. Kronman, Esq., Attorney for Licensee.
David S. Piltzer, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on
December 10, 1962, it possessed alcoholic beverages in three
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 days, with remission of five days for the plea entered,
leaving a net suspension of fifteen days. Re Voacolo Holding
Corp., Bulletin 1478, Item 8.

Accordingly, it is, on this 22d day of January, 1963,

ORDERED that Plenary Retail Consumption License C-63,
issued by the Board of Commissioners of the City of Passaic to
Jacob Rothwacks, Inc., t/a Jacob Rothwacks, for premises 178
Passaic Street, Passaic, be and the same is hereby suspended
for fifteen (15) days, commencing at 3:00 a.m. Tuesday,
January 29, 1963, and terminating at 3:00 a.m. Wednesday,
February 13, 1963.

EMERSON A. TSCHUPP
ACTING DIRECTOR

12. DISCIPLINARY PROCEEDINGS - LOTTERY (50-50 CLUB) - LICENSE
SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

VETERANS ASSO. OF RARITAN, INC.)
64 West Somerset Street)
Raritan, N. J.)

CONCLUSIONS
AND ORDER

Holder of Club License CB-4, issued
by the Mayor and Borough Council)
of the Borough of Raritan)

Licensee, by Joseph A. Amorosa, President, Pro se.
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic
Beverage Control.

BY THE ACTING DIRECTOR:

Licensee pleads non vult to a charge alleging that on
December 31, 1962-January 1, 1963, it conducted a "50-50 Club"
raffle on its licensed premises, in violation of Rule 6 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 Brennan, Bulletin
1336, Item 8.

Accordingly, it is, on this 4th day of February, 1963,

ORDERED that Club License CB-4, issued by the Mayor
and Borough Council of the Borough of Raritan to Veterans Asso.
of Raritan, Inc. for premises 64 West Somerset Street, Raritan,
be and the same is hereby suspended for five (5) days, commencing
at 1:00 a.m. Monday, February 11, 1963, and terminating at
1:00 a.m. Saturday, February 16, 1963.

EMERSON A. TSCHUPP

13. STATE LICENSES - NEW APPLICATION FILED.

Louis L. Epstein and Julius E. Epstein
t/a Stratford International Tobacco Co.
504 Clinton Avenue
Newark, N. J.

Application filed March 8, 1963 for Plenary Wholesale License.


Emerson A. Tschupp
Acting Director