

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
25 Commerce Dr. Cranford, N.J. 07016

BULLETIN 2098

May 3, 1973

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
25 Commerce Drive Cranford, N.J. 07016

BULLETIN 2098

May 3, 1973

1. DISCIPLINARY PROCEEDINGS - SUMMARY OF UNCONTESTED PROCEEDINGS.

In the Matter of Disciplinary
Proceedings Against:

CONCLUSIONS
AND ORDERS

- A. Big Eddie's Bar & Tavern, Inc.
316 Fourteenth Ave., Newark.
Charge: 'Hours' Regulation - fine of \$470 in lieu of 10
day net suspension - Order: March 23, 1973. S-9467
Lic: C-514
- B. Robert Li Soeey t/a Dragon Restaurant
587 Raritan Rd., Roselle
Charge: Mislabeling four bottles - fine of \$500 in lieu of
15 day net suspension - Order: March 26, 1973. S-9487
Lic: C-10
- C. Stanley Raynox t/a Stanley Raynor Liquor Store
325 So. Broad St., Woodbury
Charge: Sale to minor, 19- fine of \$400 in lieu of 10
day net suspension - Order: March 27, 1973. S-9519
Lic: D-1
- D. Edward K. Bott
23 Elmbrook Pl., Bloomfield
Charge: Permittee concurrently employed by retail licensee
in violation of Rule 7, Reg. 14 - Permit suspended 15 days-
Order: March 27, 1973. Solr's Permit
627
- E. Yardville Hotel, Inc.
200 Allentown Rd., Yardville (Hamilton Twp.)
Charge: Mislabeling 1 bottle - fine of \$200 in lieu of 5
day net suspension - Order: March 29, 1973. S-9524
Lic: C-49
- F. Raphael's Lounge (Corp)
942 So. Orange Ave., Newark.
Charge: Mislabeling 7 bottles - fine of \$1,000 in lieu of
25 days net suspension - Order: March 30, 1973. S-9489
Lic: C-666
- G. Mead Woodward Post #1795 VFW, Inc
60 Atlantic St., Bridgeton.
Charge: 'Hours' ordinance- prior similar violation within
10 years- net suspension of 15 days- additional prior similar
violation beyond 10 years - licensee warned of possible future
revocation- Suspension effective Apr. 23, 1973- Order: April 2, 1973. S-9523
Lic: CB-6
- H. Philip & Charles Blatt
483 Orange St., Newark.
Charge: 'Hours' Regulation- net suspension of 15 days -
Effective Apr. 16, 1973- Order: April 2, 1973. S-9539
Lic: C-410
- I. Threadgill Tavern, Inc. t/a Mike's Corner
700 Mt. Vernon St., Camden,
Charge: Permitted premises to be used for gambling in
violation of Rule 4, Reg. 20 - two prior similar violations
within 5 years and dissimilar within 5 years - unusual mit-
igating circumstances - suspension of 90 days -no remission -
Effective date of suspension Apr. 17, 1973- Order: April 3, 1973. S-9378
Lic: C-59
- I. Char-Neil Corp. t/a Emma Mull
2400 Federal St., Camden.
Charge: Mislabeling 2 bottles- fine of \$400 in lieu of 10
day net suspension - Order: April 4, 1973. S-9515
Lic: C-101

- J. Fre-Ling Bar, Inc. t/a Larry's Cotton Club
723 Frelinghuysen Ave., Newark. S-9458
Lic: C-226
Charge: Mislabeling 1 bottle - net suspension of 5 days -
Effective Apr. 16, 1973 - Order: April 5, 1973.
- K. Aloys & Phillis Reminsky t/a Wagon Wheel Tavern S-9527
366 Union Ave., Paterson. Lic: C-73
Charge: 'Hours' Ordinance violation - prior dissimilar record-
fine of \$800 in lieu of 20 days suspension on charge herein and 5
days for prior less remission - Order: April 5, 1973.
- L. Margaret Butelewicz & June Bellew t/a Peg & June S-9550
14 First St., Elizabeth. Lic: C-194
Charge: Mislabeling 7 bottles - prior dissimilar record -
30 days suspension on charge plus five for prior record less
7 for remission - Effective date of suspension April 18, 1973.
Order: April 5, 1973.

ROBERT E. BOWER
DIRECTOR

2. APPELLATE DECISIONS - LONZIE JACKSON'S LOUNGE, INC. v. NEWARK - SUPPLEMENTAL ORDER.

Lonzie Jackson's Lounge, Inc.,)
t/a Jackson's Lounge,)
Appellant,)
v.) On Appeal
Municipal Board of Alcoholic) SUPPLEMENTAL
Beverage Control of the City) ORDER
of Newark,)
Respondent.)

-----)
Leon Sachs, Esq., Attorney for Appellant
William H. Walls, Esq., by Althea A. Lester, Esq., Attorney for Respondent

BY THE DIRECTOR:

On October 22, 1971 Conclusions and Order were entered herein affirming the action of the respondent Municipal Board of Alcoholic Beverage Control of the City of Newark which revoked appellant's 1970-71 plenary retail consumption license and denied renewal of appellant's plenary retail consumption license for the 1971-72 licensing period. By this Order, I also vacated my Order of June 23, 1971 which stayed the Board's order of revocation and denial of appellant's application for renewal, pending the determination of the said appeal. Re Lonzie Jackson's Lounge, Inc., Bulletin 2016, Item 3.

Upon appeal filed, the Appellate Division of the Superior Court stayed the operation of my order until the determination of the appeal. The court affirmed my order on December 20, 1972. Re Lonzie Jackson's Lounge, Inc., Superior Court of New Jersey, Appellate Division A-392-71, not officially reported, recorded in Bulletin , Item .

On February 27, 1973 the Supreme Court of New Jersey denied the appellant's petition for certification. Re Lonzie Jackson's Lounge, Inc. v. Municipal Board of Alcoholic Beverage Control, of the City of Newark (Supreme Court, September Term 1972).

During the pendency of the appeal the appellant filed an application for renewal of its license for the current licensing period which was denied by the Board. An appeal was thereupon filed from such action with this Division and is presently pending. In view of the final action of the Supreme Court the present appeal from the denial of appellant's application for renewal of its license for the 1972-73 licensing period has become moot. I, shall, therefore, on my own motion dismiss the current appeal, reinstate my order dated October 22, 1971 affirming the action of the local Board and reimpose the revocation.

Accordingly, it is, on this 27th day of March 1973,

ORDERED that the appeal filed by the appellant from the action of the respondent Municipal Board of Alcoholic Beverage Control of the City of Newark in denying renewal of its plenary retail consumption license C-576 for the 1972-73 licensing period for premises 150-152 Springfield Avenue, Newark, be and the same is hereby dismissed; and it is further

ORDERED that my Conclusions and Order dated October 22, 1971 and recited in Bulletin 2016, Item 3, affirming the action of the Board which revoked the subject license, and denied renewal of the said subject license for the 1970-71 licensing period be and the same is hereby reinstated, effective immediately; and it is further

ORDERED that appellant Lonzie Jackson's Lounge, Inc., t/a Jackson's Lounge, be and the same is hereby directed to immediately discontinue its operation under any order or extension of an order granted to it and to surrender forthwith the license and/or permit or order under which it is presently operating its premises at 150-152 Springfield Avenue, Newark, to the respondent Municipal Board of Alcoholic Beverage Control of the City of Newark.

Robert E. Bower
Director

3. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN STORE - CLAIM OF VENDING MACHINE OWNER RECOGNIZED - CLAIM FOR RETURN OF PERSONAL PROPERTY, CASH AND ALCOHOLIC BEVERAGES REJECTED AND THE SAME FORFEITED.

In the Matter of a Seizure : Case No. 12,767
on May 12, 1972 of a quantity :
of alcoholic beverages, fix- : On Hearing
tures, furnishings, equip- :
ment and \$150.00 in cash at : CONCLUSIONS and ORDER
Broadway Record Shop, 149 Broad- :
way in the City of Paterson, :
County of Passaic and State of :
New Jersey. :

J.A.S. Vending Co., t/a Midtowne Amusements, by Angelo Vella, claimant.
Norman J. Chidiac, Esq. appearing for Miguel Vargas, claimant.
Harry D. Gross, Esq., appearing for Division.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to the provisions of N.J.S.A. 33:1-66 and State Regulation No. 28 and further, pursuant to a stipulation dated May 12, 1972, signed by Angelo Vella on behalf of J.A.S. Vending Co., t/a Midtowne Amusements, to determine whether a juke box, a pool table and a pinball machine, alcoholic beverages and \$150.00 cash, as set forth in an inventory attached hereto and marked Schedule "A", seized May 12, 1972 at the unlicensed premises of Broadway Record Shop, 149 Broadway, Paterson, constitute unlawful property and should be forfeited; and, further, to determine whether the sum of \$200.00, deposited with the Director, pursuant to the aforesaid stipulation, under protest, by J.A.S. Vending Co., t/a Midtowne Amusements, representing the appraised value of a juke box, a pool table and a pinball machine, which were returned to claimant, should be forfeited or returned to it.

The seizure was made by ABC agents in cooperation with the officers of the Paterson Police Department. At the hearing Angelo Vella and Joseph Cropanese appeared on behalf of J.A.S. Vending Co., t/a Midtowne Amusements and sought return of the sum of \$200.00 deposited representing the appraised value of articles hereinabove described as claimed.

Reports of ABC agents and the Division file were admitted into evidence with the consent of the parties present; the Division file contained the affidavit of mailing, affidavit of publication, notice of hearing, inventory and an analysis of the alcoholic content of the beverages seized, which analysis revealed an alcoholic content in excess of one and one-half percent alcohol. There was included a certification by the Director that no license or permit for the sale of alcoholic beverages was ever issued for said premises or to Broadway Record Shop or Miguel Vargas, or to anyone at the said premises.

The reports of the ABC agents disclosed the following: ABC Agent R entered premises on May 12, 1972 with two one-dollar bills in "marked" money. The premises consisted of a store room in front with inventory of records, magazines, clothes and sundries and an open room in the rear which contained a pool table, juke box and cigarette machine. Entering the rear room, he noticed beer being served male patrons. He ordered and received a can of beer, for

which he paid fifty cents with a "marked" bill. The male selling the beer, Miguel Vargas, pocketed the bill and gave Agent R change. Other agents entered, seized a quantity of alcoholic beverages and the equipment found in the rear room.

The seized alcoholic beverages are illicit because they were intended for sale without a license in violation of N.J.S.A. 33:1-1(i). Such illicit alcoholic beverages and the personal property with cash seized constitute unlawful property and are subject to forfeiture. N.J.S.A. 33:1-2, 66.

Angelo Vella, president of and appearing on behalf of J.A.S. Vending Co., t/a Midtowne Amusements testified that: At the request of Vargas, whom he knew in the area, placed the seized equipment in the premises sometime in March, 1972. These machines were serviced once every two weeks. At no time did he or his employees see any evidence of alcoholic beverages on the premises nor was there any beer or other facility indicating that such illicit beverages were present.

Joseph Cropanese, also appearing on behalf of said claimant, testified that as these premises had been serviced before ownership by Vargas, there was no reason to believe that Vargas would manage the business differently than his predecessor.

Miguel A. Vargas testified that he had only recently purchased the premises and had beer on the premises for his own use. While the illicit sale to the agent was undenied, he claimed the "marked" dollar was commingled with moneys he had withdrawn from the bank for his father and for the rent, hence it was not part of the business operation.

In furtherance of the claim made by vending equipment operators the Director has recently promulgated a policy imposing on such claimants the obligation of making personal periodic and meaningful inspections and they may not rely on the presumed inspection of other persons or agencies, including those of law enforcement. See Seizure Case No. 12,252, Bulletin 1919, Item 5.

The prior knowledge of Vargas by the vending equipment operators, and the periodic visits made, together with the past operation of a similar business in the same premises gave no indication that illicit alcoholic beverage sales were being made or that the claimant vending operators should have known of such illicit sales. It is recommended that the claim of J.A.S. Vending Co., t/a Midtowne Amusements be recognized, and that the sum of \$200.00, deposited with the Director, representing the appraised value of the juke box, pool table and pinball machine be returned to it. (See Seizure Case No. 12,477, Bulletin 2042, Item 6)

The claim of Vargas for the return of the sum of \$150.00 found cannot be viewed in the same manner. Vargas elected to commingle the "marked" money with other funds of his, and while such funds may not have been the fruit of the illicit sale, the addition to that fund of the "marked" money destroys the coloration of the moneys as being separate and apart from the business. Seizure Case No. 12,367, Bulletin 2047, Item 8, in which the Director ordered return of commingled funds may be distinguished from the instant matter in that the commingling was there done by the agents while here Vargas claimed a commingling by his own act. Such claim is purely self-servicing for which the claimant can derive no benefit. It is, therefore, recommended that the claim of Miguel Vargas, individually and trading as the Broadway Record Shop for the return of the seized cash in the sum of \$150.00 be denied, and that the said cash be forfeited.

It is further recommended that the seized alcoholic beverages and the balance of the miscellaneous personal property as set forth in Schedule "A", be forfeited.

Conclusions and Order

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

After carefully considering the entire matter herein, including the transcript of testimony, the exhibits and the Hearer's Report, I concur in the findings of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 19th day of March, 1973

DETERMINED and ORDERED that the claim of J.A.S. Vending Co., t/a Midtowne Amusements, be and the same is hereby recognized; and the sum of \$200.00 deposited by J.A.S. Vending Co., t/a Midtowne Amusements, under the aforesaid stipulation, be returned to it; and it is further

DETERMINED and ORDERED that the balance of the seized property, including the alcoholic beverages and cash, in the amount of \$150.00, as more fully set forth in Schedule "A" attached hereto, constitutes unlawful property and the same be and is hereby forfeited in accordance with the provisions of N.J.S.A. 33:1-66, and the said alcoholic beverages be and the same shall be retained for the use of hospitals and State, county or municipal institutions or destroyed, in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Robert E. Bower,
Director

SCHEDULE "A"

27 - containers of alcoholic beverages
Miscellaneous personal property
\$150.-- cash

4. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN STORE - CLAIM OF VENDING MACHINE OWNER RECOGNIZED - CLAIM FOR RETURN OF PERSONAL PROPERTY, CASH AND ALCOHOLIC BEVERAGES REJECTED AND THE SAME FORFEITED.

In the Matter of Seizure)	Case No. 12,799
on August 1, 1972 of a)	On Hearing
quantity of alcoholic)	CONCLUSIONS and ORDER
beverages, fixtures,)	
furnishings, equipment,)	
two pool tables, one juke)	
box and a coin shuffle)	
machine and \$41.55 in cash)	
at 441½ Bergen Street, in)	
the City of Newark, County)	
of Essex and State of New)	
Jersey.	

 Allan Waldor, Appearing for Claimant, A.B.C. Distributing Company.
 John Moore, Appearing for Claimant, Moore Moving Co.
 Harry D. Gross, Esq., Appearing for Division.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to the provisions of N.J. S.A. 33:1-66 and State Regulation No. 28 and, further, pursuant to stipulations dated August 1, 1972, signed by Allan Waldor on behalf of A.B.C. Distributing Company and John Moore, t/a Moore Moving Co., to determine whether 112 containers of alcoholic beverages, personal properties and \$41.55 cash, as set forth in inventory attached hereto and marked Schedule "A" seized on August 1, 1972 at the unlicensed premises 441½ Bergen Street, Newark constitute unlawful property and should be forfeited; and, further, to determine whether the sum of \$200.00 deposited with the Director, pursuant to said stipulation, under protest, by Allan Waldor on behalf of A.B.C. Distributing Company representing the appraised value of two pool tables, one juke box and a coin shuffle machine as set forth in the aforesaid Schedule "A" should be forfeited or returned to it; and, further, to determine whether the sum of \$25.00 deposited with the Director pursuant to said stipulation, under protest, by John Moore, t/a Moore Moving Co. representing the appraised value of a couch, ice box and foodstuffs as set forth in the aforesaid Schedule "A" should be forfeited or returned to him.

The seizure was made by ABC agents in cooperation with the officers of the Newark Police Department. At the hearing, Allan Waldor appeared on behalf of A.B.C. Distributing Company and sought return of the sum of \$200.00 deposited, representing the appraised value of articles hereinabove described as claimed. John Moore appeared on behalf of Moore Moving Co. and sought return of the sum of \$25.00 deposited, representing the appraised value of articles hereinabove described as claimed.

Reports of ABC agents and the Division file were admitted into evidence with the consent of the parties present; the Division file contained the affidavit of mailing, affidavit of publication, notice of hearing, inventory and an analysis of the alcoholic content of the beverages seized which analysis revealed an alcoholic content in excess of ½ of 1%. There was included a certification by the Director that no license or permit for the sale of alcoholic beverages was ever issued for said premises or to John Moore or to the Moore Moving Co.

The reports of the ABC agents disclosed the following: ABC Agent P entered a grocery store owned by Moore, fortified with "marked" money, and purchased a can of beer, which they paid for with the "marked" money. The beer, "marked" money, 72 other cans of beer and other alcoholic beverages were seized, and in the adjoining store, also operated by Moore, the agents seized a couch, two pool tables, juke box and coin shuffle machine. Allan Waldor, appearing on behalf of A.B.C. Distributing Company testified as follows: Six months prior to the date of seizure, the claimant company installed two pool tables, juke box and coin shuffle machine in a store owned by Moore, at his request and for the benefit of the employees of the Moore Moving Co. A prior investigation revealed Moore to have both good credit and reputation. Alongside the store where the installation was made, Moore operated a grocery store, connected by an open doorway. The machines were serviced once a month, mornings about 9:00 A.M. At that time no one was present in the store where the machines were kept and the employees who serviced the machines, who were required to report the presence of any illegal activity, made no such report. The machines were serviced in such location as to be beyond the view of any activities in the grocery store alongside.

John P. Moore appearing on behalf of himself, trading as the Moore Moving Co., testified that he rents two adjoining stores, one is a place for his employees in the moving business to congregate and the other is a grocery store. He keeps beer for his employees and usually does not sell it. He admitted the sale to the agent which was done in the grocery store.

The seized alcoholic beverages are illicit because they were intended for sale without a license in violation of N.J.S.A. 33:1-1-1(i). Such illicit alcoholic beverages and the personal property with cash seized constitute unlawful property and are subject to forfeiture. N.J.S.A. 33:1-2,66.

In furtherance of the claim made by vending equipment operators, the Director has recently promulgated a policy imposing on such claimants the obligation of making personal, periodic and meaningful inspections and they may not rely on the presumed inspection of the other persons or agencies, including those of law enforcement. See Seizure Case No. 12,252, Bulletin 1919, Item 5.

From the description of the premises here involved and the testimony of all of the witnesses, it is apparent that the illicit sale of alcoholic beverages took place in the grocery store portion of Moore's premises where the beer was stored. It is further apparent that the installed equipment, located in the adjoining store, could be serviced without knowledge that illicit sales were made. Prudent observation by the employees of the A.B.C. Distributing Company failed to reveal any illegal activity.

Under the circumstances herein, I am satisfied that claimant, A.B.C. Distributing Company, relying on the personal inspection of its employees neither knew nor reasonably should have become aware of the illicit beverage activity taking place on the premises. See Seizure Case No. 12,477, Bulletin 2042, Item 6.

I am further satisfied that, as the illicit sale was admitted by claimant Moore, and the contention that the alcoholic beverages stored in the premises was intended as gifts to the employees is implausible, it is recommended that the seized property and the alcoholic beverages be forfeited.

Accordingly, it is recommended that the claim of the claimant herein, A.B.C. Distributing Company, be recognized and that an Order be entered returning the monies deposited by it under the aforesaid stipulation.

It is further recommended that the claim of John Moore, on behalf of himself and the Moore Moving Co. be denied and the sum of \$25.00 posted by him, together with cash, personalty and alcoholic beverages, as listed in Schedule "A" be forfeited.

Conclusions and Order

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

After carefully considering the entire matter herein, including the transcript of testimony, the exhibits and the Hearer's Report, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 22nd day of March 1973,

DETERMINED and ORDERED that the claim of A.B.C. Distributing Company be and the same is hereby recognized; and the sum of \$200.00 deposited by A.B.C. Distributing Company, under one of the stipulations aforesaid, shall be returned to it; and it is further

DETERMINED and ORDERED that the sum of \$25.00 representing the appraised retail value of certain personalty listed in Schedule "A" attached, paid under protest under one of the aforementioned stipulations, by John Moore on behalf of Moore Moving Company, to the Director to obtain return of said items, constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of N.J.S.A. 33:1-66 to be disposed of in accordance with law; and it is further

DETERMINED and ORDERED that the balance of the seized property including the alcoholic beverages and cash, as more fully set forth in Schedule "A", attached hereto, constitutes unlawful property, and the same be and is hereby forfeited in accordance with the provisions of N.J.S.A. 33:1-66; and the said alcoholic beverages be and the same shall be retained for the use of hospitals and State, County or Municipal institutions or destroyed, in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Robert E. Bower,
Director

SCHEDULE "A"

112 - containers of alcoholic beverages
 1 - couch; 1 - ice box; foodstuffs;
 2 - pool tables; 1 - juke box;
 1 - coin shuffle machine
 \$41.55 - Cash

5. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN UNLICENSED CLUB - CLAIM OF VENDING MACHINE OWNER AND CLAIM FOR PERSONAL PROPERTY, CASH AND ALCOHOLIC BEVERAGES REJECTED AND THE SAME FORFEITED.

In the Matter of the Seizure :
 on May 12, 1972 of a quantity : Case No. 12,766
 of alcoholic beverages, furnishings, :
 equipment and foodstuffs and \$177.75 : On Hearing
 in cash at Arecibeno Social Club, at :
 256 Grand Street, in the City of : CONCLUSIONS and ORDER
 Paterson, County of Passaic, and State :
 of New Jersey.

 Abraham Perez, Appearing for claimant, Arecibeno Social Club.
 Herminio Rosa, Appearing pro se.
 Harry D. Gross, Esq., Appearing for Division.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to the provisions of N.J.S.A. 33:1-66 and State Regulation No. 28 and further pursuant to stipulations dated May 12, 1972, signed by Abraham Perez, on behalf of Arecibeno Social Club to determine whether 141 containers of alcoholic beverages, miscellaneous personal property and \$177.75 cash, as set forth in the inventory attached hereto, made part hereof and marked Schedule "A", seized on May 12, 1972 at the unlicensed premises of the Arecibeno Social Club, 256 Grand Street, Paterson, N.J. constitute unlawful property and should be forfeited; and further to determine whether the sum of \$150.00 deposited with the Director, pursuant to said stipulation under protest by the Arecibeno Social Club representing the appraised value of chairs, tables, refrigerators and foodstuffs as set forth in the aforesaid Schedule "A" should be forfeited or returned to it; and further to determine whether the sum of \$150.00 deposited with the Director pursuant to said stipulation under protest by Herminio Rosa representing the appraised value of a pool table, juke box and cigarette machine owned by him as set forth in the aforesaid Schedule "A" should be forfeited or returned to him.

The seizure was made by ABC agents in cooperation with the officers of the Paterson Police Department.

At the hearing, Abraham Perez appeared on behalf of Arecibeno Social Club and sought return of the sum of \$150.00 deposited representing the appraised value of articles hereinabove described as claimed, and Herminio Rosa appeared pro se and sought return of the sum of \$150.00, deposited, representing the appraised value of his pool table, juke box and cigarette machine, which were returned to him.

Reports of ABC agents and the Division file were admitted into evidence with the consent of the parties present. The Division file contained the affidavit of mailing, affidavit of publication, notice of hearing, inventory and an analysis of the alcoholic content of the beverages seized, which analysis showed an alcoholic content above one and one-half percent. There was included a certification by the Director that no license or permit for the sale of alcoholic beverages was ever issued for said premises or to Arecibeno Social Club or Abraham Perez.

The reports of the ABC agents disclosed the following: On May 12, 1972, ABC Agent R entered premises consisting of a meeting room with small counter, fortified with "marked" money, he ordered and received a can of beer for which he paid with the "marked" money. Following the sale, other agents of this Division entered and seized the alcoholic beverages and other contents of the premises.

The seized alcoholic beverages are illicit because they were intended for sale without a license in violation of N.J.S.A. 33:1-1(i). Such illicit alcoholic beverages and the personal property with cash seized constitute unlawful property and are subject to forfeiture. N.J.S.A. 33:1-2,66.

Abraham Perez, appearing on behalf of Arecibeno Social Club, testified that: A can of beer was given to the agent without charge and the \$1.00 of "marked" money was accepted to make change so that the agent could play the machine. He described the club as an organization of about 25 members, each of whom pay \$20.00 monthly and may drink all they choose. Both whiskey and beer are available each afternoon and evening. His testimony taken with the aid of an interpreter, recounted vague and informal fiscal arrangements concerning the purchase and sale of alcoholic beverages for the members as to be ludicrous.

Herminio Rosa, appearing on behalf of himself as owner of certain equipment, hereinabove listed, testified that he is employed by the city as liaison between the Spanish speaking citizens and the city government. He purchased for the club the pool table, juke box and cigarette machine at an initial cost of over \$750.00, none of which had thus far been repaid. He had no knowledge of any sale of alcoholic beverages but admitted such beverages were kept for members' use.

In furtherance of the claim made by vending equipment operators, the Director has recently promulgated a policy imposing on such claimants the obligation of making personal, periodic and meaningful inspections and they may not rely on the presumed inspection of other persons or agencies, including those of law enforcement. See Seizure Case No. 12,252, Bulletin 1919, Item 5.

Perez's testimony clearly indicates that the management of claimant Arecibeno Social Club was so loose and unconcerned with the statutes and regulations limiting the sales of alcoholic beverages to licensed premises that it represented a complete disregard of the law. His denial that a sale was made to the agent who obtained "change" for the "marked" dollar bill is incredible.

Claimant Rosa's testimony was forthright and credible and I am persuaded that his actions as leader of the club as well as its advisor, his investment in the equipment seized was laudably intended. However, he should have known that his advice and directions were flagrantly disregarded at risk of his own investment and in consequence should have either seen to it that the illegal practices were stopped, or he should have removed his equipment. Not having done either, he has subjected the funds posted under the stipulation to forfeiture. (See Seizure Case No. 12,251, Bulletin 1902, Item 2; Seizure Case No. 10,444, Bulletin 1391, Item 5.)

Considering all of the evidence and the circumstances, it is recommended that the claim of the Arecibeno Social Club for return of \$150.00 deposited under the aforesaid stipulation be rejected and the said sum of \$150.00 as deposited be forfeited.

It is further recommended that the claim of Herminio Rosa for return of \$150.00 deposited under the aforesaid stipulation be rejected and the said sum of \$150.00 as deposited be forfeited; and that the alcoholic beverages, the balance of the seized personal property, and the seized cash, listed in Schedule "A" be forfeited.

Conclusions and Order

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

After carefully considering the entire matter herein, including the transcript of testimony, the exhibits and the Hearer's Report, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 20th day of March 1973,

DETERMINED and ORDERED that the sum of \$150.00 deposited by Arcibeno Social Club pursuant to one of the aforesaid stipulations, be rejected and the said sum of \$150.00 be and the same is hereby forfeited in accordance with the provisions of N.J.S.A. 33:1-66; and it is further

DETERMINED and ORDERED that the sum of \$150.00 deposited by Herminio Rosa under the remaining stipulation, be and the same is forfeited in accordance with the provisions of N.J.S.A. 33:1-66; and it is further

DETERMINED and ORDERED that the balance of the seized property

including the alcoholic beverages and cash, as more fully set forth in Schedule "A" attached hereto, constitute unlawful property and the same be and is hereby forfeited in accordance with the provisions of N.J.S.A. 33:1-66; and the said alcoholic beverages be and the same shall be retained for the use of hospitals, State, county or municipal institutions or destroyed, in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Robert E. Bower,
Director

SCHEDULE "A"

141 - containers of alcoholic beverages
Miscellaneous personal property
\$177.75 - cash

6. ACTIVITY REPORT FOR MARCH 1975

ARRESTS:		
Total number of persons arrested - - - - -		29
Licensees and employees - - - - -	7	
Bootleggers - - - - -	9	
Minors - - - - -	13	
SEIZURES:		
Distilled alcoholic beverages - gallons - - - - -		3.80
Wine - gallons - - - - -		.50
Brewed malt alcoholic beverages - gallons - - - - -		39.80
COMPLAINTS AND INVESTIGATIONS:		
Inspections & visits made on assigned investigations - - - - -		1,460
Complaints assigned for investigation - - - - -		371
Investigations completed - - - - -		376
Investigations pending - - - - -		407
Premises where alcoholic beverages were gauged - - - - -		601
Bottles gauged - - - - -		10,660
Premises where violations were found - - - - -		196
Number of violations found - - - - -		253
License applications investigated - - - - -		8
Contacts made with other law enforcement agencies - - - - -		559
LABORATORY:		
Analyses made - - - - -		162
Refills from licensed premises - bottles - - - - -		132
Bottles from unlicensed premises - - - - -		9
IDENTIFICATION:		
Criminal fingerprint identifications made - - - - -		4
Persons fingerprinted for non-criminal purposes - - - - -		69
Identification contacts made with other enforcement agencies - - - - -		80
DISCIPLINARY PROCEEDINGS:		
Cases instituted at Division - - - - -		37
Violations involved - - - - -		40
Sale to minors - - - - -	7	Fail to keep true books of a account - - - - - 1
Sale during prohibited hours - - - - -	5	Employ holder solicitor permit - - - - - 1
Possession liquor not truly labeled - - - - -	15	Aiding & Abetting - - - - - 1
Sale to non-member - - - - -	2	Lewd & immoral activity - - - - - 2
Gambling - - - - -	3	Nuisance - - - - - 1
Fraud & front - - - - -	2	
Cases brought by municipalities on own initiative and reported to Division - - - - -		20
Violations involved - - - - -		22
Sale to minors - - - - -	9	Nuisance - - - - - 2
Sale during prohibited hours - - - - -	3	Act of violence - - - - - 1
Permitting brawl on premises - - - - -	1	Gambling - - - - - 1
Possess & storage of stolen firearm - - - - -	1	Alter prem w/o approval of Iss. Auth. - - - - - 1
No identification card - - - - -	1	Fail to report employment to Chief of Police - - - - - 1
Employee convicted of a crime - - - - -	1	
Fines in lieu of disciplinary proceedings - - - - -		64
Total amount of fines paid - - - - -		\$1,655.00
HEARINGS HELD AT DIVISION:		
Total number of hearings held - - - - -		21
Appeals - - - - -	7	Eligibility - - - - - 1
Disciplinary proceedings - - - - -	9	Tax Revocations - - - - - 4
STATE LICENSES AND PERMITS:		
Total number issued - - - - -		1,006
Licenses - - - - -	5	Wine permits - - - - - 7
Solicitors' permits - - - - -	58	Miscellaneous permits - - - - - 155
Employment permits - - - - -	34	Transit insignia - - - - - 147
Disposal permits - - - - -	55	Transit certificates - - - - - 18
Social affair permits - - - - -	549	
OFFICE OF AMUSEMENT GAMES CONTROL:		
Licenses issued - - - - -	144	
Enforcement files established - - - - -	3	

ROBERT E. BOWER
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

Dated: April 9, 1975

7. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN RESTAURANT - CLAIM FOR RETURN OF SUMS DEPOSITED BY OWNER OF PERSONALTY REJECTED - ALCOHOLIC BEVERAGES, CASH AND MISCELLANEOUS PERSONAL PROPERTY ORDERED FORFEITED.

In the Matter of the Seizure on) Case No. 12,740
 April 19, 1972 of a quantity of)
 alcoholic beverages, fixtures,) On Hearing
 furnishings, equipment, miscel-)
 laneous personal property and) CONCLUSIONS and ORDER
 \$272.25 in cash at the unlicensed)
 premises of 67 Broadway, in the)
 City of Jersey City, County of)
 Hudson and State of New Jersey.)

 Russell & McAlevy, Esqs., by John P. Russell, Esq.,
 Attorneys for claimant, Nicholas Nardone.
 Harry D. Gross, Esq., Appearing for Division.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to the provisions of N.J.S.A. 33:1-66 and State Regulation No. 28 and further pursuant to a stipulation dated April 19, 1972 entered into by Nicholas Nardone, t/a Casa Nicola, to determine whether alcoholic beverages, fixtures, furnishings, equipment and \$272.25 cash, as set forth in inventory attached hereto and marked Schedule "A", seized on April 19, 1972 at the unlicensed premises of Nicholas Nardone, t/a Casa Nicola, 67 Broadway, Jersey City, constitutes unlawful property and should be forfeited; and further to determine whether the sum of \$800.00, deposited with the Director, under protest, pursuant to a stipulation entered into by Nicholas Nardone, t/a Casa Nicola, representing the appraised value of the fixtures, furnishings, equipment and miscellaneous personal property which were returned to claimant, should be forfeited.

The seizure was made by ABC agents in cooperation with the officers of the Jersey City Police Department.

At the hearing, John P. Russell, Esq., appeared on behalf of the claimant and by stipulation the reports of the ABC agents were admitted into evidence. The Division file contained the affidavits of mailing and publication notices of hearing, inventory and an analysis of the alcoholic content of the beverages seized, which content exceeded one and one-half percent of alcohol by volume. There was included a certification by the Director that no license or permit for the sale of alcoholic beverages was ever issued to Nicholas Nardone and/or Casa Nicola or to any person at and for said premises.

Claimant's counsel candidly offered an admission on behalf of claimant that (a) alcoholic beverages were illegally sold at the unlicensed premises and (b) the valuation of the property seized, made by agents of this Division was not in excess of the true value of the articles seized. Claimant's major and only contention at the hearing was a plea in mitigation of the penalty with request that the cash seized, i.e. \$272.25 be returned.

In view of the admission of the illicit sale, a review of the contents of the Division file will not be here set forth. The seized alcoholic beverages are illicit because they were sold or intended for sale without a license in violation of N.J.S.A. 33:1-1. Such illicit alcoholic beverages and the personal property and cash seized constitute unlawful property and are subject to forfeiture. N.J.S.A. 33:1-2, 66. Seizure Case No. 11,182, Bulletin 1568, Item 5.

Property subject to seizure may not be returned unless the person whose property has been seized has established to the satisfaction of the Director that he has unknowingly violated the Act N.J.S.A. 33:1-66(e).

The Division file discloses the presence of varied bottles of liquor found on the premises including bottles of champagne, rum vodka, cointreau, anisette, brandy and beer. Such collection would belie any claim of single bottle possession. In fact, the contention that claimant had no knowledge of the unlawful possession of the numerous bottles found on the premises was not advanced.

Considering the totality of the evidence and circumstances including the claimant's forthright admission, it is recommended that the claim of Nicholas Nardone, t/a Casa Nicola for return of \$800.00 or deposited under the aforesaid stipulation, be denied, and that the said sum of \$800.00 together with the alcoholic beverages and cash seized in the amount of \$272.25, as set forth in Schedule "A", be forfeited. Seizure Case No. 12,040, Bulletin 1834, Item 2; Seizure Case No. 11,156, Bulletin 1557, Item 5.

Conclusions and Order

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

After carefully considering the entire matter herein, including the transcript of testimony, the exhibits and the Hearer's Report, I concur in the findings and recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 23rd day of March 1973,

DETERMINED and ORDERED that the sum of \$800.00, representing the appraised retail value of certain personalty listed in Schedule "A" attached hereto, paid under protest by Nicholas Nardone to the Director to obtain return of said items, constitutes unlawful property, and the same be and is hereby forfeited in accordance with the provisions of N.J.S.A. 33:1-66 to be disposed of in accordance with law; and it is further

DETERMINED and ORDERED that the balance of the seized property including the alcoholic beverages and cash, as more fully set forth in Schedule "A", attached hereto, constitutes unlawful property and the same be and is hereby forfeited in accordance with the provisions of N.J.S.A. 33:1-66; and the said alcoholic beverages be and the same shall be retained for the use of hospitals and State, county or municipal institutions or destroyed, in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Robert E. Bower,
Director

SCHEDULE "A"

17 - containers of alcoholic beverages
Miscellaneous personal property,
fixtures, furnishings and equipment
\$272.25 - cash

8. DISCIPLINARY PROCEEDINGS - ORDER.

In the Matter of Disciplinary Proceedings against)
)
 Albert Mikuli, Helen Mikuli,)
 Audrey Ann Costa)
 t/a The Foursome Tavern)
 264 Ferry Street)
 Newark, N.J.,)
)
 Holder of Plenary Retail Consumption License C-272, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

O R D E R

Licensees, Pro se

BY THE DIRECTOR:

On March 15, 1973, I entered an order staying the suspension heretofore imposed upon the subject license pending my consideration of the licensees' application to pay a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971. Re Mikuli, Bulletin , Item .

By letter dated March 19, 1973, Audrey A. Costa, a co-licen-see herein, advised that because of a fire which partially destroyed the said premises, the licensees are presently unable to operate and are, therefore, unable to pay any fine.

I shall, therefore, reimpose the suspension but defer the effective dates thereof until the licensees have resumed operation on a substantial full-time basis.

Accordingly, it is, on this 23rd day of March 1973,

ORDERED that my order dated March 15, 1973 be and the same is hereby vacated; and it is further

ORDERED that the ten (10) days suspension heretofore imposed by Conclusions and Order dated March 5, 1973 by the Municipal Board of Alcoholic Beverage Control of the City of Newark, upon Plenary Retail Consumption License C-272, issued to Albert Mikuli, Helen Mikuli, Audrey Ann Costa, t/a The Foursome Tavern, for premises 264 Ferry Street, Newark be and the same is hereby reimposed, the effective dates of which shall be deferred until the licensees resume operation under the said license on a substantial full-time basis and until the entry of a further order herein.

ROBERT E. BOWER
DIRECTOR

9. STATE LICENSES - NEW APPLICATIONS FILED.

Crosse & Blackwell Vintage Cellars, Inc., t/a National Wine & Liquor, Beringer Bros. & Crosse & Blackwell Vintage Cellars
733 Third Ave., New York, N. Y.

Application filed April 30, 1973 for new wine wholesale license.

Luis Estenoz and Oton Baro, t/a B.E.S.T. Wine Distributors,
224 Rahway Avenue, Elizabeth, N. J.

Application filed May 2, 1973 for limited wholesale license.

Robert E. Bower
Robert E. Bower
Director