

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

BULLETIN 1448

May 15, 1962

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1100 Raymond Blvd.      Newark 2, N. J.

BULLETIN 1448

May 15, 1962

1. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION  
NO. 38 - FOUL LANGUAGE - FAILURE TO POSSESS COPY OF LICENSE  
APPLICATION - ALLEGED MITIGATING CIRCUMSTANCES - LICENSE SUSPENDED  
FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

JEANETTE FRIEDMAN  
t/a FRIEDMAN'S BAR & GRILL  
194 Passaic Street  
Passaic, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption  
License C-116, issued by the Board of  
Commissioners of the City of Passaic.

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Robert W. Wolfe, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1 and 2) on Sunday, November 19, 1961, at 1:40 a.m., and on Sunday, December 3, 1961, at 12:10 a.m., she sold on the first occasion a pint bottle of whiskey and on the second a pint bottle of gin for off-premises consumption, in violation of Rule 1 of State Regulation No. 38; and on December 3, 1961 (3) permitted foul, filthy and obscene language on the licensed premises (directed by the manager toward the investigating agents), in violation of Rule 5 of State Regulation No. 20, and (4) failed to have on the licensed premises a copy of the application for license, in violation of Rule 16 of State Regulation No. 20.

The licensee has a previous record of license suspension by the municipal issuing authority for one day effective March 9, 1948 for failure to afford view of the interior of the licensed premises as required by local "hours" regulation. Since this violation occurred more than ten years prior to the instant violations, it will be disregarded in fixing the penalty herein.

In attempted mitigation, it is urged in behalf of the licensee that at the time of violation she and her husband were both under serious medical and physical disability. However, it is pointed out that the public impact of the violations is the same whether they be committed on premises of disabled licensees or those otherwise hale.

The license will be suspended on charges 1 and 2 for fifteen days (Re Nan-Max Co., Inc., Bulletin 1435, Item 7), on charge 3 for ten days (Re DiNatale, Bulletin 1422, Item 8) and on charge 4 for ten days (Re Kalasarines, Bulletin 1211, Item 3), or a total of thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days.

Accordingly, it is, on this 29th day of March, 1962,

ORDERED that Plenary Retail Consumption License C-116,

issued by the Board of Commissioners of the City of Passaic to Jeanette Friedman, t/a Friedman's Bar & Grill, for premises 194 Passaic Street, Passaic, be and the same is hereby suspended for thirty (30) days, commencing at 3:00 a.m. Monday, April 9, 1962, and terminating at 3:00 a.m. Wednesday, May 9, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

2. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE BETS) -  
LOTTERY (NUMBERS AND HORSE RACE POOL) - LICENSE SUSPENDED FOR  
25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

HILLSIDE BOWLING, INC.  
t/a HILLSIDE LANES  
1386 Liberty Avenue  
Hillside, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption  
License C-3, issued by the Municipal  
Board of Alcoholic Beverage Control of  
the Township of Hillside.

Weiner, Weiner & Glennon, Esq., by John T. Glennon, Esq.,  
Attorneys for licensee.

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

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on January 6, 13 and 17, 1962 it permitted the acceptance of horse race and numbers bets and conducted a horse race pool, in violation of Rules 6 and 7 of State Regulation No. 20.

Reports of investigation indicate employee participation in the violations.

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. Cf. Re Kelty, Bulletin 1403, Item 5; Re Gavenas, Bulletin 1374, Item 3.

Accordingly, it is, on this 27th day of March, 1962,

ORDERED that Plenary Retail Consumption License C-3, issued by the Municipal Board of Alcoholic Beverage Control of the Township of Hillside to Hillside Bowling, Inc., t/a Hillside Lanes, for premises 1386 Liberty Avenue, Hillside, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. Tuesday, April 3, 1962, and terminating at 2:00 a.m. Monday, April 23, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

3. ALCOHOLIC BEVERAGES - "THIN MAN BITTERS" DEEMED TO BE ALCOHOLIC BEVERAGES

MINIMUM STANDARDS OF FILL - "THIN MAN BITTERS" REQUIRED TO COMPLY WITH STANDARD FOR PRINCIPAL ALCOHOLIC BEVERAGE INGREDIENT.

MINIMUM CONSUMER RESALE AND WHOLESALE PRICES - "THIN MAN BITTERS" REQUIRED TO BE PRICE FILED.

Mr. Boston Distiller Inc.  
Boston, Mass.

On May 4, 1962 your State Manager, Mr. David Maurer, accompanied by Mr. Alfred Bourassa, conferred with Mr. Meyer and me in connection with your plan to introduce into the New Jersey market 1/10 pint glass tubes of various products labeled "bitters". Each tube was labeled "Thin Man" and the various products were identified as follows:

Thin Man Old Mr. Boston Rocking Chair Bitters, 70 Proof, made with Kentucky Bourbon Whiskey a Blend

Thin Man Old Mr. Boston Canadian River Bitters, 70 Proof, made with Imported Canadian Whisky

Thin Man Pinch Bitters Old Mr. Boston, 70 Proof, made with Kentucky Bourbon Whiskey a Blend

Thin Man Old Mr. Boston Five Star Bitters, 70 Proof, made with genuine Brandy.

Thin Man Old Mr. Boston Bitters, 70 Proof, made with genuine Vodka

Thin Man Old Mr. Boston Extra Dry Bitters 70 Proof, made with Distilled Dry Gin

Thin Man Old Mr. Boston Blackberry Bitters 70 Proof

The question was raised whether these products labeled "bitters", but apparently containing either distilled spirits, or brandy, or vodka, are to be considered alcoholic beverages subject to price filing and, further, whether any of these products could be sold in containers of 1/10 pint.

These products have now been analyzed by the Division chemist and, in each case, have been found to contain various types of distilled spirits, i.e., Kentucky Bourbon Whiskey, Canadian Whisky, gin, brandy, vodka, or liqueur. Taste test proves that they are alcoholic beverages fit for beverage purposes. In fact, they are merely alcoholic beverages of various types, as hereinabove indicated, with added artificial color and flavored with aromatic compounds and herbs.

Under the circumstances, each type must be viewed as being the type of alcoholic beverage which constitutes the principal ingredient thereof and, in each case, must be price filed in sizes not less than the minimum standard of fill prescribed by State Regulation No. 23.

Under the circumstances, these 1/10 pint "Thin Man" tubes may not be introduced into the New Jersey Market.

WILLIAM HOWE DAVIS  
DIRECTOR

Dated: May 9, 1962

4. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN STORE - APPLICATION OF CLAIMANT FOR RETURN OF PERSONAL PROPERTY DENIED - FREEZER RETURNED TO INNOCENT LIENOR - ALCOHOLIC BEVERAGES AND OTHER PERSONAL PROPERTY SEIZED ORDERED FORFEITED.

In the Matter of the Seizure on	)	Seizure Case No. 10,6
September 22, 1961 of a quantity of	)	
alcoholic beverages, a refrigerator	)	ON HEARING
and three fans in a grocery store at	)	CONCLUSIONS
Railroad and Harding Avenues, in	)	AND ORDER
Landisville, Borough of Buena, County	)	
of Atlantic and State of New Jersey.	)	

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 Lipman and Casella, Esqs., by Americo B. Antonelli, Esq.,  
 Attorneys for the claimant, Santos Colon.  
 Sears, Roebuck & Co., by Joseph Haver, Assistant Credit Manager.  
 I. Edward Amada, Esq., Appearing for the Division of Alcoholic  
 Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This matter came on for hearing pursuant to R.S. 33:1-66 and State Regulation No. 28, to determine whether 456 cans of beer, three bottles of whiskey, a freezer, a refrigerator and three fans, described in a schedule attached hereto and made part hereof, seized on September 22, 1961, on premises occupied by Santos Colon on Railroad and Harding Avenues, Landisville, Borough of Buena, Atlantic County, constitute unlawful property and should be forfeited.

"Santos Colon appeared and sought return of the seized personal property. Joseph Haver appeared on behalf of Sears, Roebuck & Co. which sought the return of a freezer, sold by the said company to Colon and which was taken at the time of the said seizure.

"Reports of ABC agents and other documents in the file, admitted into evidence with the consent of the claimants, disclose the following facts: As the result of a continuing investigation of reports of illegal sales of alcoholic beverages at the said premises on which Santos Colon operated a grocery store, a raid was made on these premises on July 22, 1961 by ABC agents and State troopers, which resulted in the arrest of Colon for possessing alcoholic beverages with intent to sell the same without a license. Re Seizure Case No. 10,633. Information then obtained disclosed that Colon was operating a speakeasy in the vicinity of the aforesaid premises and that he stored alcoholic beverages used at the speakeasy at the subject premises. On September 3, 1961, in the company of a State Trooper, unidentified at that date to Colon, Colon drove from the subject premises to the speakeasy in an automobile in which he was carrying alcoholic beverages from the speakeasy.

"On September 22, 1961, by pre-arrangement with the State Police, simultaneous raids were made on the speakeasy and at the subject premises after a buy was made by a State Trooper. The raid commenced and at that time 26 persons were observed drinking cans of beer. After reading a search warrant to the occupants, a search and seizure was made at the premises in question. These premises consist of a grocery store, in the rear of which were a combination dining room-bedroom and kitchen. In the dining room-bedroom the agents found two large refrigerators filled with 456 12-ounce cans of beer. In the kitchen that adjoins said room the agents found three bottles of whiskey. Also located in the kitchen, and seized by the agents, were a chest-type freezer, a Philco refrigerator and the other personal

property described in the inventory. Simultaneously with the raid being conducted at the store, agents conducted a search at the residence of Santos Colon on Railroad Avenue, Landisville, and seized a quantity of beer and liquor.

"Colon was thereupon arrested, charged with sale of alcoholic beverages without a license and possession of alcoholic beverages with intent to sell same under R.S. 33:1-2 and R.S. 33:1-50, was held in \$5,000.00 bail for this and a related charge for arraignment in the Municipal Court of the Borough of Buena. He was released thereupon under bail for action by the Atlantic County Grand Jury. The property described in the inventory was thereupon seized.

"An analysis by the Division chemist of the contents of a twelve-ounce can of Ballantine light lager beer seized in the case discloses that it is a malt alcoholic beverage fit for beverage purposes with an alcoholic content of 4.1 percent. An analysis by the said Division chemist of the other six-ounce bottle containing five ounces of alleged whiskey a sample from a glass purchased by a state trooper indicates that it is a blended whiskey, fit for beverage purposes, with an alcoholic content by volume of 43 percent.

"The records of this Division do not disclose any license authorizing the sale of alcoholic beverages to have been issued to Santos Colon or for the premises where the violation took place.

"Santos Colon, testifying in support of his claim admitted on direct examination that his premises were raided on July 22, 1961, and that alcoholic beverages were found therein. He further admitted that this raid was the result of a sale made to an ABC agent on that date and that there were other patrons who were drinking beer on the premises at that time. On cross-examination he admitted that on September 22nd, immediately prior to the raid on above described premises, he had made several sales of alcoholic beverages to a State trooper, and that he transported beer from his home to the grocery store in his truck for the purpose of sale. He further conceded that he had no license authorizing the sale of alcoholic beverages on these premises.

"Colon explained the sale of alcoholic beverages by stating that he dispenses beer to roomers and that these are included in the charge made for meals.

"I am persuaded by the clear and convincing evidence, substantially undenied by this claimant, that alcoholic beverages were illegally sold on the premises on the date charged herein; that this claimant possessed alcoholic beverages on these premises and unlawfully intended to sell them. Since he is an active wrong-doer he cannot obtain the return of the said alcoholic beverages or the other personal property which was seized at this time. Seizure Case No. 10,647, Bulletin 1433, item 6; Seizure Case No. 9382, Bulletin 1179, item 5: R.S. 33:1-2, R.S. 33:1-66. I therefore recommend that the claim of Santos Colon for return of the alcoholic beverages in question and the other personal property, as set forth in Schedule 'A', attached hereto, be denied, and an Order be entered forfeiting the said property.

"Joseph Haver appeared on behalf of the claimant, Sears, Roebuck & Co. and stated that he is an assistant night manager of the Sears corporation. He testified that Colon had an open account with this claimant since 1954 and on the basis of his past record he approved the purchase of a freezer on September 7, 1961. This freezer was purchased by Colon on a conditional sales contract for \$280.00

on which he paid a \$50.00 deposit. No other payments were made before the seizure and that the account is now in arrears, and there is presently a balance due thereon in the sum of \$315.28, which includes carrying and service charges. On cross-examination, this witness admitted that there was no independent investigation made immediately prior to the sale of this item to determine Colon's financial condition, his ability to pay, or his employment. This claimant assumed that because he was operating a grocery store and had a satisfactory paying record that he was a satisfactory risk.

"Although this merchandise was sold to Colon after the July 22, 1961, raid, the witness denied that he had any information relating thereto, nor did he have any knowledge at the time of sale, that Colon had been engaged in illegal liquor sales activity. The freezer is valued by this witness at the present time, at \$248.00.

"Under all the circumstances of the case, I am satisfied that this claimant acted in good faith and did not know or have any reason to believe that illicit alcoholic beverages were being sold on these premises. I, therefore, recommend that his claim under R.S. 33:1-66(f) be recognized. Seizure Case No. 10,416, Bulletin 1384, Item 4."

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 I adopt them as my conclusions herein.

Accordingly, it is on this 23rd day of March, 1962,

DETERMINED and ORDERED that if on or before the 4th day of April, 1962, Sears, Roebuck and Co. pays the costs of seizure and storage of its freezer, said freezer will be returned to it; and it is further

DETERMINED and ORDERED that the balance of 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 shall be retained for the use of hospitals and state, county and municipal institutions or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS  
DIRECTOR

SCHEDULE "A"

- 456 - cans of beer
- 3 - bottles of whiskey
- 1 - freezer
- 1 - refrigerator
- 3 - fans



5. SEIZURE - FORFEITURE PROCEEDINGS - UNLAWFUL TRANSPORTATION AND POSSESSION OF ALCOHOLIC BEVERAGES - SEIZURE WITHOUT SEARCH WARRANT - APPLICATION OF CLAIMANT FOR RETURN OF ALCOHOLIC BEVERAGES AND MOTOR VEHICLE DENIED - MOTOR VEHICLE ORDERED RETURNED TO INNOCENT LIENOR UPON PAYMENT OF COSTS - ALCOHOLIC BEVERAGES SEIZED HEREIN ORDERED FORFEITED.

In the Matter of the Seizure on )  
November 3, 1961 of 300 cans of )  
beer and a Mercury sedan on a lot )  
at Railroad Avenue and Harding )  
Avenue, in Landisville, in Buena )  
Borough, County of Atlantic and )  
State of New Jersey. )

Seizure Case No. 10,701

ON HEARING  
CONCLUSIONS  
AND ORDER

Lipman and Casella, Esqs., by Americo B. Antonelli, Esq., Attorneys  
for claimant, Santos Colon.

Hammonton Investment and Mortgage Company of Hammonton, New Jersey,  
by Israel Finkelstein, Esq.

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

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This matter came on for hearing, pursuant to provisions of R.S. 33:1-66 and State Regulation No. 28, to determine whether 300 cans of beer and a Mercury sedan, described in an inventory referred to hereinafter as 'Schedule A', seized on November 3, 1961, on a lot at Railroad and Harding Avenues, Landisville, Buena Borough, Atlantic County, constitute unlawful property and should be forfeited.

"This case was heard simultaneously with Seizure Case No. 10,674 decided together herewith, involving the same claimant, with respect to a seizure made of certain property owned by him on a prior date. Since these seizures were made on different dates, they are treated in separate and independent reports.

"Santos Colon appeared and sought return of the alcoholic beverages and the motor vehicle.

"Stanley A. Price and Frank A. Scaltrito appeared on behalf of the Hammonton Investment and Mortgage Company of Hammonton, the assignee of a conditional sales contract on the said motor vehicle purchased by Santos Colon, and sought the return of the said seized vehicle.

"Reports of ABC agents and other documents in the file, admitted into evidence with the consent of claimants herein, disclose the following facts: On Friday, November 3, 1961, at about 8:30 p.m. Santos Colon purchased five cases of Ballantine beer in twelve-ounce cans and two six-packs of Ballantine beer in twelve-ounce cans from the Joseph Viola liquor store on Central Avenue, in Minotola, New Jersey, and transported the same in his motor vehicle to a lot adjacent to and in the rear of his home. The motor vehicle was registered in the name of Santos Colon and bore New Jersey license plates. Acting upon information received that Colon was transporting alcoholic beverages, State troopers proceeded to the said lot and observed that the rear end of the said motor vehicle was weighted down beyond its normal position, due to apparent excess weight in the trunk. They proceeded to the grocery store operated by Colon and questioned him with respect to the ownership of the said parked motor vehicle. Colon admitted that he was the owner and operator of the motor vehicle and agreed to accompany



them for an inspection and examination thereof. He denied at that time that there was any beer in the trunk of the car.

"An inspection of the car disclosed five cases of Ballantine beer in twelve-ounce cans and two six-packs of beer in the car. It was noted that the beer was still cold and had moisture on it indicating recent refrigeration. Colon explained that he had purchased four cases of beer for his brother and the rest for himself at the Joseph Viola liquor store and admitted that he had no transportation license or a permit issued by this Division authorizing the transportation of alcoholic beverages in the State of New Jersey. The State trooper thereupon took possession of the alcoholic beverages and the automobile, which were later turned over to ABC agents.

"Upon further questioning, Colon stated that he operates a rooming house which adjoins the lot in question and that his roomers pay him \$10.00 a week for breakfast, lunch and dinner; at the time and date in question some of the roomers were having some food and were served a bottle of beer which was included in his charge for the food. Colon was thereupon arrested, charged with the unlawful transportation and possession of alcoholic beverages under R.S. 33:1-50, arraigned in the Municipal Court of Buena Borough, and released under bail for action by the Atlantic County Grand Jury. The property described in the inventory was thereupon seized, both from the trunk of the car and from the premises in question.

"An analysis by the Division chemist of the contents of a twelve-ounce can of Ballantine light lager beer seized at this time indicates that it is a malt alcoholic beverage fit for beverage purposes with an alcoholic content by volume of 4.1 percent.

"Santos Colon, testifying in support of his claim, stated that he purchased six cases of beer on the date and time set forth hereinbefore 'Four for my brother and two for me', and after parking his car in the rear lot, removed two six-pack bottles of beer from the car and proceeded into the store. Immediately thereafter, a State trooper came into the store and questioned him with respect to any alcoholic beverages in his motor vehicle. He admitted that he had beer in the car and volunteered to go with the trooper to the car. He gave the keys to the trooper who opened the trunk and discovered the cases of beer.

"On cross-examination, Colon admitted that he had signed a confessional statement which truthfully stated the facts, but he declared he signed when the trooper stated, 'You have to sign it'. He admitted that the statement was read to him and that he signed it voluntarily. No other witnesses were produced in support of this claim.

"In summation of the conclusion of the case, supported by a written brief, counsel for this claimant energetically advocates the following postulates (1) the evidence in this case was obtained by an unlawful search and seizure, without first obtaining a warrant, in violation of the Federal Constitution, and therefore should be suppressed; (2) since there was unlawful search and seizure, the claimant's confessional statement was insufficient to 'convict' (sic) 'when there is no independent proof regarding establishing a corpus delicti'; and (3) the claim herein should be recognized because the claimant 'acted in good faith and unknowingly violated the provision of NJSA 33:1-2'. Counsel sets forth, in support of his argument on the first postulate, the Fourth Amendment to the Federal Constitution, which states 'the right of the people to be secure in their person, houses, papers and effects against unlawful searches and seizures

should not be violated and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized'.

"It has long been the fundamental rule that a search warrant is not necessary with respect to moving objects. A search without a warrant of such objects as motor vehicles and vessels is an exception to the constitutional prohibition of unreasonable searches, and is rooted in necessity. Thus it was sanctioned in Carroll v. United States, 267 U.S. 132, 69 L. ed. 543, 45 S. Ct. 280, 39 ALR 790 on the ground that 'it is not practicable to secure a warrant because the vehicle can be quickly moved out of the locality or jurisdiction in which the warrant must be sought'. 267 U.S. at p. 153. As the court stated in that case, the Constitution does not forbid search, but it does forbid unreasonable search, and a search without a warrant is permitted in many State Court decisions, especially in the enforcement of liquor legislation. Said the Court,

'On reason and authority the true rule is that, if the search and seizure without a warrant are made upon probable cause, that is, upon a belief reasonably arising out of circumstances known to the seizing officer, that an automobile or other vehicle contains that which by law is subject to seizure and destruction, the search and seizure are valid. The Fourth Amendment is to be construed in the light of what was deemed an unreasonable search and seizure when it was adopted, and in a manner which will conserve public interest as well as the interest and rights of individual citizens.'

"In U.S. v. Rabinowitz, 339 U.S. 56 at 66, 94 L. ed. 660 (1949) the Court stated that the crucial test is reasonableness of the search; 'that criterion in turn depends upon the facts and circumstances -- the total atmosphere of the case'. In the case at bar, the facts must be examined in this context. State troopers were acting upon information that alcoholic beverages were being transported by this claimant and it was observed that the trunk of the car was abnormally weighted at the time that they first observed it. This fortified their suspicion that the information received was credible, particularly in view of the past conduct of the claimant, which resulted in several prior raids because of his illegal liquor activity. Seizure Case No. 10,633; Seizure Case No. 10,674.

"When the officers went into the premises, they observed several persons drinking beer although it is admitted by the claimant that no authorization for the sale and consumption of alcoholic beverages was obtained for the same in this commercial establishment. In addition thereto, upon questioning the claimant, he admitted that he had illegally transported the alcoholic beverages in his motor vehicle and in 'unknowing violation' of the pertinent State statute, and voluntarily produced these beverages for the inspection by the State troopers.

"In this posture it is clear that the officers had a right to search and seize the motor vehicle without first obtaining a search warrant. The character of the vehicle and the surrounding circumstances make it clear that the violation of the liquor laws was committed in the presence of the officers, and thus, no search warrant was necessary. The Atlantic (C.C.A. New York) 68 Fed. 2nd 8; Leinbach v. U.S. (C.C.A. Pa.) 30 Fed. 2nd 442, Cert. den. S. Ct.,

466, 281, U.S. 767, 74 L. ed. 1175. Counsel cites Taylor v. U.S. 286, U.S. 1 and Johnson v. U.S. 333, U.S. 10 in support of his first contention. These cases are brought up-to-date by the decision in Chapman v. U.S. 81 S. Ct. 776, (1961). In that case Georgia law enforcement officers acting without a warrant but with the consent of the petitioner's landlord entered through an unlocked window and searched petitioner's rented house in his absence and there found and seized an unregistered distillery. This case was clearly distinguishable from the case at issue because it involved a permanent residence, and not a moving vehicle, and took place in the absence of the petitioner. The Court stated that here, the officers had abundant opportunity to obtain a warrant and that there was no probability of any material change in the situation during the time to secure such warrant.

"This situation similarly prevailed in the Johnson case, where State narcotic agents in the hallway of a hotel recognized a strong odor of burning opium coming from a bedroom. This is not true in cases of moving vehicles.

"It is clear that when the officers entered the commercial premises and observed the violations of the liquor laws it was not necessary for them to obtain a search warrant in order to search the premises. A search and seizure without a warrant is justified where the officer has direct knowledge through his hearing, sight or other senses of the violation of the liquor laws or where it is in his presence and he can observe such violation. Re Helen 72 Fed. 2nd, 772; Carvalho v. United States, 54 Fed. 2nd, 232; 48 Corpus Juris Secundum, Sec. 394 at p. 631. See also Re Tricoli, Bulletin 164, Item 9 and Seizure Case No. 10,009, Bulletin 1391, Item 4.

"Finally, the alcoholic beverage law provides that it shall be unlawful to transport alcoholic beverages without a license, except inter alia, beer for personal consumption not in excess of two cases containing not in excess of twenty-four quarts. R.S. 33:1-2. Any alcoholic beverage unlawfully transported is illicit. R.S. 33:1-1(i). All illicit beverages and the vehicle used to transport them are unlawful property. R.S. 33:1-1(y). All unlawful property must be seized by any officer knowing or having reasonable cause to believe it to be unlawful property. R.S. 33:1-66(a).

"Therefore, I must reject the first contention of counsel for this claimant that a search warrant was necessary prior to the seizure of claimant's property.

"Counsel refers to a possible 'conviction' of this claimant on the basis of the evidence in this matter. Unlike State v. James, 96 N.J.L. 132, (cited by counsel for this claimant), this is not a criminal proceeding, and defendant is not charged with the commission of the crime herein. This is a forfeiture proceeding, an in rem action, and is directed toward the property in question. It is my conviction, based upon the evidence presented herein, that defendant's action in accompanying the officers to the motor vehicle (despite his original protestation that he had no alcoholic beverages therein) were entirely voluntary, as was his confessional statement, stated in simple English, in question and answer form and made part of this record. However, in view of my finding that the search and seizure was statutorily justified and were executed with valid authority, it is not necessary to rely upon this aspect for the determination as to whether or not this confession is sufficient to sustain the defendant's defense.

"With respect to the third contention, it need only be

re-stated without redundantly citing supporting cases, that the claimant's alleged ignorance of the provision of N. J. Statute 33:1-2 does not obviate his responsibility thereunder.

"I, therefore, recommend that the claim of Santos Colon for the return of the alcoholic beverages in question and the motor vehicle be denied and that an Order be entered forfeiting the said property.

"Hammonton Investment and Mortgage Company has presented in evidence a conditional sales contract dated April 28, 1960, signed by Santos Colon, covering the purchase of the Mercury sedan in question. This motor vehicle was purchased from the Pancho Motors and assigned to the Maryland Credit Finance Corporation which in turn assigned it to this claimant. The present balance due to claimant on such contract is \$1179.19.

"This contract was included as part of a bulk purchase by the present claimant from the assignor, Maryland Credit Finance Corporation and the investigation with respect to the credit standing, financial employment status of the purchaser was made by the said Maryland Credit Finance Corporation. According to the testimony, this application was approved by them and the finance contract covering the said motor vehicle accepted after they ascertained that, at the time of the purchase, both Colon and his wife were employed, earning a total of \$97.00 per week and had satisfactory prior credit relationships with the Pancho Motors and other companies. In addition, the Maryland Credit Finance Corporation checked with the local police department and did not receive any unfavorable information regarding Colon's activities. The present claimant relied upon the investigation and reports of the assignor hereof, as is customarily done in bulk purchases of this nature.

"I therefore recommend a finding that this claimant acted in good faith, and did not know, or have any reason to suspect that the said motor vehicle would be used for the purpose of unlawfully transporting alcoholic beverages. Seizure Case No. 10,436, Bulletin 1392, Item 5. I therefore recommend that the lien of Hammonton Investment and Mortgage Company upon the motor vehicle in question be recognized to the extent of \$1179.19.

"It appears that the appraised retail value of the Mercury sedan does not exceed the amount of the lien claim and the costs of the seizure and storage of the motor vehicle. I therefore recommend that the said motor vehicle shall be returned to the Hammonton Investment and Mortgage Company upon payment of the costs of its seizure and storage."

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 23rd day of March, 1962,

DETERMINED and ORDERED that, if on or before the 4th day of April, 1962, the Hammonton Investment and Mortgage Company pays the costs of seizure and storage of its Mercury sedan, said Mercury sedan will be returned to it; and it is further

DETERMINED and ORDERED that the balance of 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 shall be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS  
DIRECTOR

SCHEDULE "A"

- 300 - cans of beer
- 1 - Mercury sedan, Serial Number 41967, New Jersey Registration FOW890.

6. DISCIPLINARY PROCEEDINGS - HINDERING INVESTIGATION - CHARGE DISMISSED.

In the Matter of Disciplinary  
Proceedings against

WILLIAM MIHAL  
t/a BILL'S BAR & GRILL  
161 Passaic Street  
Passaic, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption  
License C-105, issued by the Board of  
Commissioners of the City of Passaic.

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Joseph M. Keegan, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Licensee pleaded not guilty to the following charge:

"On December 22, 1961, you, through one Mary Mihal, a person in charge of your premises at the time, failed to facilitate and hindered and delayed and caused the hindrance and delay of an investigation, inspection and examination at your licensed premises then and there being conducted by an investigator of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety of the State of New Jersey; in violation of R.S. 33:1-35."

To substantiate the charge, the Division called as its witness the ABC agent who investigated defendant's licensed premises.

Succinctly stated, his testimony shows that he entered defendant's premises at about 11:30 a.m., Friday, December 22, 1961, and identified himself to Mary Mihal, wife of the licensee, who was tending bar; that he asked for and received defendant's license application and proceeded with his inspection; that he found a locked drawer in the back bar and asked Mrs. Mihal if it could be opened; that she replied, "Well, no. That is my husband's personal things in there, and he has the key in his possession"; that she told him her husband was upstairs; that he did not ask her to summon her husband and that he left the premises at approximately 12:10 p.m.

Mrs. Mihal's testimony respecting the material facts is in accord with that of the agent. She further testified that during

the investigation, she was busy serving drinks and sandwiches to some factory workers and didn't interfere with the agent; that her husband, who tends bar at night, was sleeping upstairs; that he kept money in the drawer to cash checks and that he has the only key to the drawer.

Considering the evidence adduced herein, I cannot find that Mrs. Mihal was uncooperative or that she hindered the agent in his investigation.

Accordingly, it is, on this 27th day of March, 1962,

ORDERED that the charge herein be and the same is hereby dismissed.

WILLIAM HOWE DAVIS  
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - SALE TO INTOXICATED PERSON - SERVICE TO WOMEN AT BAR - INTOXICATED EMPLOYEE - FOUL LANGUAGE - BRAWLS AND DISTURBANCES - HOSTESS ACTIVITY - NUISANCE - LICENSE SUSPENDED FOR 90 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

JOHN LESNIEWSKI  
t/a JOHNNY'S CAFE  
1135-37 S. 4th Street  
Camden, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-191, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden.

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Robert Wilinski, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on February 9-10, 1962, he (1) sold drinks of alcoholic beverages to an 18-year-old minor, in violation of Rule 1 of State Regulation No. 20, (2) sold alcoholic beverages to intoxicated persons, in violation of Rule 1 of State Regulation No. 20, (3) served beverages to women at the bar, in violation of municipal ordinance, (4) permitted an intoxicated person to work on the licensed premises, in violation of Rule 24 of State Regulation No. 20, (5) permitted foul language on the licensed premises, in violation of Rule 5 of State Regulation No. 20, (6) permitted brawls and disturbances on the licensed premises, in violation of Rule 5 of State Regulation No. 20, (7) permitted a female employed on the licensed premises to accept drinks at the expense of patrons, in violation of Rule 22 of State Regulation No. 20, and (8) permitted the conduct of the licensed business as a nuisance, in violation of Rule 5 of State Regulation No. 20.

Although licensee individually has no previous record, Division records and application for license disclose that licensee was an officer and stockholder of Golden Gate, a Corp., t/a Jan's Golden Gate, whose license for premises 27-29 South Missouri Avenue, Atlantic City, was suspended for ten days in September 1954 by the municipal issuing authority for sale to a minor, and for fifteen days

in February 1955 by the Director of this Division for sale to a minor. Re Golden Gate, & Corp., Bulletin 1052, Item 12.

The prior record considered, as well as the number and variety of violations, the license will be suspended for ninety days, with remission of five days for the plea entered, leaving a net suspension of eighty-five days. Cf. Re Dressler, Bulletin 1189, Item 3.

Accordingly, it is, on this 9th day of April 1962,

ORDERED that Plenary Retail Consumption License C-191, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to John Lesniewski, t/a Johnny's Cafe, for premises 1135-37 S. 4th Street, Camden, be and the same is hereby suspended for the balance of its term, effective at 2 a.m. Monday, April 16, 1962; and it is further

ORDERED that any renewal license that may be granted for the 1962-63 licensing year shall be and remain under suspension until 2 a.m. Tuesday, July 10, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ORDER POSTPONING EFFECTIVE DATES OF SUSPENSION.

In the Matter of Disciplinary  
Proceedings against

JOHN LESNIEWSKI  
t/a JOHNNY'S CAFE  
1135-37 S. 4th Street  
Camden, N. J.

ORDER

Holder of Plenary Retail Consumption  
License C-191, issued by the Municipal  
Board of Alcoholic Beverage Control of  
the City of Camden.

-----  
Robert Wilinski, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for the Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

On April 9, 1962, Conclusions and Order were entered herein suspending the license for eighty-five days commencing at 2:00 a.m. Monday, April 16, 1962 and terminating at 2:00 a.m. Tuesday, July 10, 1962.

It now appears that in disciplinary proceedings conducted by the municipal issuing authority on a charge other than the charges herein, by its resolution and order of April 3, 1962, it suspended the license for forty days commencing at 2:00 a.m. Monday, April 9, 1962 and terminating at 2:00 a.m. Saturday, May 19, 1962.

Since by order of the municipal issuing authority the license was under suspension when the suspension imposed herein was to take effect, the effective date of the suspension herein will be postponed to take effect at the end of the municipal suspension.



Accordingly, it is, on this 12th day of April, 1962,

ORDERED that Plenary Retail Consumption License C-191, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to John Lesniewski, t/a Johnny's Cafe, for premises 1135-37 S. 4th Street, Camden, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m. Saturday, May 19, 1962; and it is further

ORDERED that any renewal license that may be granted for the 1962-63 licensing year shall be and remain under suspension until 2:00 a.m. Sunday, August 12, 1962.

WILLIAM HOWE DAVIS  
DIRECTOR

9. STATUTORY AUTOMATIC SUSPENSION - ORDER STAYING SUSPENSION.

Auto. Susp. #210	)	
In the Matter of a Petition to	)	
Lift the Automatic Suspension	)	
of Plenary Retail Consumption	)	ON PETITION
License C-41, issued by the	)	ORDER
Board of Commissioners of the	)	
City of New Brunswick to	)	
VIENNA CAFE (A CORP.)	)	
12 Easton Avenue		
New Brunswick, N. J.		

-----  
Adler, Mezey, & Pressler, Esqs., by Samuel M. Adler, Esq.,  
Attorneys for Petitioner

BY THE DIRECTOR:

Petition herein discloses that on March 26, 1962, Alex Fulop, Jr., an officer and stockholder of the petitioner herein, was fined \$100 in the New Brunswick Municipal Court after pleading guilty to a complaint alleging sale of alcoholic beverages to a minor on March 20, 1962, in violation of R.S. 33:1-77. The conviction resulted in the automatic suspension of its license for the balance of its term. R.S. 33:1-31.1. Because of the pendency of this proceeding, the statutory automatic suspension has not been effectuated.

Petition further discloses that Alex Fulop, Jr. was not represented by counsel and that reopening and rehearing of the case is being sought. In fairness to petitioner, I conclude that at this time the effect of the automatic suspension should be temporarily stayed pending outcome of the proceedings before the municipal court.

Accordingly, it is, on this 5th day of April, 1962,

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

WILLIAM HOWE DAVIS  
DIRECTOR

## 10. STATE LICENSES - NEW APPLICATIONS FILED.

Katharina Lee

t/a Jacob Lee

n/s of N. J. Highway No. 130

Mansfield Township

PO RFD #1, Bordentown, N. J.

Application filed 5/8/62 for 1962-63 Plenary Winery License  
(Formerly holder of Limited Winery License)

National Distillers Products Company Division of

National Distillers and Chemical Corporation

Application filed 5/8/62 for 1962-63 Plenary Wholesale License  
for premises 380 Tucker Avenue, Union, N. J.

(formerly premises at Madison Avenue at Route 22, Union, N. J.).

Vincent Buonocore & Sons, Inc.

148 Ferry Street

New Haven, Conn.

Application filed May 7, 1962 for 1961-62 Wine Wholesale License

Camden County Beverage Company

Fillmore and Bulson Streets

Camden, N. J.

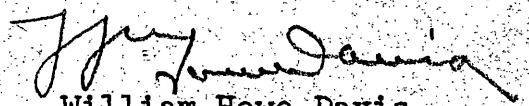
Application filed May 9, 1962 for place-to-place transfer  
of 1961-1962 Limited Wholesale License WL-60 from  
747-749 South 11th Street, Newark, N. J.

All State Beverage Distributing Co., Inc.

218 River Drive

Garfield, N. J.

Application filed May 10, 1962 for person-to-person transfer  
of 1961-1962 State Beverage Distributor's License SBD-209 from  
Emily Valluzzi, John J. & Frank P. Zullo, t/a All State Beverage  
Distributing Company.

  
William Howe Davis  
Director

New Jersey State Library