

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

BULLETIN 1902

April 3, 1970

TABLE OF CONTENTSITEM

1. APPELLATE DECISIONS - RUSSO v. PATERSON.
2. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN CLUB PREMISES - SUM DEPOSITED REPRESENTING RETAIL VALUE OF CERTAIN EQUIPMENT ORDERED RETURNED TO INNOCENT OWNER - BALANCE OF SEIZED PERSONAL PROPERTY, CASH AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.
3. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN CANDY STORE - MONEY DEPOSITED ON STIPULATION ORDERED RETURNED TO INNOCENT CLAIMANT - BALANCE OF PERSONAL PROPERTY, CASH AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.
4. DISCIPLINARY PROCEEDINGS (Jersey City) - SALE DURING PROHIBITED HOURS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
5. DISCIPLINARY PROCEEDINGS (Madison Township) - GAMBLING (WAGERING) - FOUL LANGUAGE - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.
6. DISCIPLINARY PROCEEDINGS (Long Branch)-SALE TO MINORS - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.
7. DISCIPLINARY PROCEEDINGS (Westville) - SALE TO MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
8. DISCIPLINARY PROCEEDINGS (Paterson) - FAILURE TO HAVE LICENSED PREMISES CLOSED IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.
9. STATE LICENSES - NEW APPLICATIONS FILED.

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1. APPELLATE DECISIONS - RUSSO v. PATERSON.

ALICE P. RUSSO)
t/a STAR LITE BAR)
Appellant,) ON APPEAL
) CONCLUSIONS
) AND ORDER
v.)
BOARD OF ALCOHOLIC BEVERAGE)
CONTROL FOR THE CITY OF)
PATERSON,)
Respondent.

Bruno L. Leopizzi, Esq., Attorney for Appellant
Joseph L. Conn, Esq., by Samuel K. Yucht, Esq., Attorney
for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This appeal is from the action of respondent (hereinafter Board) which by unanimous vote of its members on June 25, 1969, denied the application of appellant for renewal of her plenary retail consumption license for 1969-70 for premises 48 North Main Street, Paterson. The resolution adopted by the Board reads as follows:

"WHEREAS, application has been made to this Board for the renewal of Plenary Retail Consumption License C-52, heretofore issued to Alice P. Russo, the Star Lite Bar, for premises situated at 48 North Main Street, Paterson, New Jersey; and,

"WHEREAS, this Board having heard the testimony of witnesses and having reviewed the history of these premises based on the records of the Paterson Police Department; and,

"WHEREAS, it appears that the premises sought to be licensed constitute a public nuisance and a detriment to the health and safety of the people of the City of Paterson; NOW, THEREFORE,

"BE IT RESOLVED, that the renewal of Plenary Retail Consumption License C-52 be and the same is hereby denied."

Appellant in her petition of appeal alleges that the action of the Board was erroneous because "There was no basis either in law or in fact in the revoking of said license and that said revocation was arbitrary, capricious and an abuse of the discretion of the City of Paterson and further that said act constitutes a violation of appellant's constitutional rights

in that said action by the City of Paterson was a denial of due process."

The answer filed on behalf of the Board denies the aforesaid allegations contained in appellant's petition of appeal.

At the time of filing this appeal the Director entered an order dated July 1, 1969, extending the term of the appellant's 1968-69 license pending determination of the appeal.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded the attorneys for the respective parties to present testimony and cross-examine witnesses.

Police Lieutenant Urban Giardino testified that he is the commanding officer of the vice division of the Paterson Police Department and had been requested by the Police Chief to conduct an investigation of various taverns in the City; that among the taverns in question was that of the appellant herein; that, as part of the assignment, he was made custodian of the official records before him which disclosed that police were summoned to appellant's tavern during the years 1967, 1968 and 1969 as follows:

On February 18, 1967, called by the bartender who stated that an unidentified man cut him during the course of an argument;

On March 4, 1967, called by the bartender when a female patron was cut with a knife under the left ear by a man who sat beside her at the bar;

On March 18, 1967, summoned when a shotgun went off while the bartender was removing it from a shelf and, when the police arrived, there was a man on the floor who had been injured on his right side;

On May 21, 1967, called when two men engaged in a fight over a girl;

On May 26, 1967, called when the bartender was threatened with a knife by a patron;

On January 28, 1968, at 3:30 a.m., while cruising in the vicinity of appellant's premises, a group of people was seen outside of the premises and the crowd was dispersed; that they looked into the premises and observed eight persons seated at tables and the bartender was told to order the people out of the premises;

On February 16, 1968, arrested a minor, age 20, as he came out of the premises carrying a can of Schaefer beer;

On May 20, 1968, at 2 a.m., police called because of a fight in front of appellant's tavern; that, while attempting to disperse crowd, a police officer was struck in the face;

On June 30, 1968, called when a man assaulted the bartender and, after arrest, struck a police officer;

On November 29, 1968, called when a patron stated he was held up at the appellant's tavern by a group of boys;

On February 14, 1969, called when a patron was assaulted by another patron with a pool stick and then the victim was taken to the hospital;

On February 22, 1969, called when a man was assaulted;

On March 9, 1969, called to arrest a disorderly person;

On March 24, 1969, called by constable employed by appellant to assist him when a minor refused to leave the premises;

On March 27, 1969, called to get money taken by brother from his sister (the brother being in the premises at the time);

On April 27, 1969, called when person carrying a rifle and bag of bullets entered the place;

On May 4, 1969, called and, upon arrival, spoke to a man in front of appellant's premises who had been shot and took the injured person to the hospital.

Lieutenant Giardino further testified as to his personal knowledge of the conditions in the immediate area of the appellant's licensed premises and described it as "It is an impossible situation. It is an area the center of which is the Star Lite [appellant's tavern] is located where numerous persons, I would say, sometimes in excess of a hundred -- we did make a count. I did make an actual count of 117 such individuals not only cluttering the sidewalk but spilling over into the street making actual automobile passage impossible." Lieutenant Giardino further stated that most of the people in the area are wine drinkers, and "once the bottle of wine is consumed, the bottles are tossed everywhere in the street and on the sidewalk." Lieutenant Giardino added that on one occasion, as a result of speaking to eighteen people outside of appellant's premises, he ascertained that sixteen of them did not reside in the neighborhood. In answer to a question relating to his opinion of the establishment, Lieutenant Giardino said, "Well, I would say that it is one of the causes that we have to eradicate in the area to eliminate some of the conditions that we have in that particular area."

On cross-examination Lieutenant Giardino testified that, although he did not personally participate in on-the-spot investigations concerning the appellant's tavern, he "did become a participant in what we call a follow-up investigation."

Officer Casper Morelli testified that on numerous occasions he personally came in contact with situations arising at the appellant's licensed premises; that every time he was in the area of appellant's tavern he observed people sitting in front of the establishment and, when an incident took place, "it was necessary to block off the street, and we directed the traffic around because it was impossible to get through the street;" that on June 20, 1968, while a fight was in progress at the appellant's premises, he (Officer Morelli) solicited assistance from the bartender but was told by him that he knew nothing and walked away; that, when conditions became worse, he (Officer Morelli) "yelled to the bartender to call headquarters for some help. He turned his head on me again, disappeared into the background."

No witnesses were called on behalf of appellant. The attorney for appellant stated that the husband of the appellant (an employee in the licensed premises) would be more aware of what happened than his wife. The attorney said that Mr. Russo, however, has been ill and has not been at appellant's licensed premises since January 1969. The attorney for appellant also said:

"...my position now is this: That first of all, the Board had no right to refuse the renewal without a hearing and we have established that no hearing was had. Secondly, that these reports contained in R-6 are not admissible because they are hearsay and the only way that the contents could be proved competently by the City would be to bring in the officer who prepared them because without my having the benefit of cross-examination of the person who prepared them, the reports are not evidential, and I might just as well rest. As a matter of fact, I will rest on that right now. I will just rest on the objections that we have: That they are not admissible. Then, as far as I am concerned, the case is finished."

In so far as the argument by the attorney that although appellant neither received notice of, nor attended, a hearing before the respondent at the time the respondent failed to renew her license, the denial of the renewal of appellant's license was unreasonable. There is no provision in the Alcoholic Beverage Law or the rules and regulations of this Division which requires a local issuing authority to conduct a hearing under the circumstances appearing in the instant matter. In disciplinary proceedings, of course, charges must be prepared and served upon the licensee and the licensee must be given an opportunity to be heard. Therefore, the action taken by the respondent constituted no error since no such hearing was required. Lipman v. Newark, Bulletin 356, Item 6, and cases cited therein.

Rule 8 of State Regulation No. 2 provides:

"No hearing need be held if no such objections shall be lodged (but this in no wise relieves the issuing authority from the duty of making a thorough investigation on its own initiative), or if the issuing authority, on its own motion, after the requisite statutory investigation, shall have determined not to issue a license to such applicant. In every action adverse to any applicant or objector, the issuing authority shall state the reasons therefor."

The number of calls to the Police Department, as enumerated above, and in addition thereto the testimony of the two police officers, disclose that appellant's licensed premises was a trouble spot and a public nuisance in the area of said premises. Appellant elected to rest her case without in any manner presenting evidence to explain the reasons why the police were called so frequently to the licensed premises over the course of the past several years. It is obvious that appellant's licensed premises lacked proper supervision because no responsible person was on the premises, especially since January 1969. Although the licensee may not have had any knowledge of the occurrences aforementioned this in itself does not excuse her. Thus she, as the licensee, cannot escape responsibility for the acts of her agents or employees. Rule 33 of State Regulation No. 20. Cf. Re Filippone, Bulletin 875, Item 6; Re Schumacher, Bulletin 901, Item 5.

The privilege of selling alcoholic beverages at retail to the public is one granted to the few and denied to the many (Paul v. Gloucester, 50 N.J.L. 585) and must be exercised in the public interest.

It was appellant's responsibility to see that the establishment was conducted in a manner conducive to the best interests of the liquor industry.

Judge Jayne, speaking for the court in In re 17 Club, Inc., 26 N.J. Super. 43, 52 (App. Div. 1953), said:

"The governmental power extensively to supervise the conduct of the liquor business and to confine the conduct of that business to reputable licensees who will manage it in a reputable manner has uniformly been accorded broad and liberal judicial support."

I am convinced that the Board took seriously its official duty in the public interest, to limit the issuance and renewal of liquor licenses to those persons who are clearly worthy of the privilege. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 36 N.J. Super. 512, aff'd 20 N.J. 373 (1956). In the area of licensing as distinguished from disciplinary proceedings the determinative consideration is the public interest and the creation or continuance of licensed operation, not the fault or merit of the licensee. In issuing or renewing licenses, the responsibility of a local issuing authority is "high", its discretion "wide" and its guide "the public interest." Lublinter v. Paterson, 33 N.J. 428, 446 (1960). It has been consistently held that the Director's function on appeal is not to substitute his personal opinion for that of the issuing authority, but merely to determine whether reasonable cause exists for its opinion and, if so, to affirm irrespective of his personal view. Broadley v. Clinton and Klingler, Bulletin 1245, Item 1.

After careful consideration of the evidence presented, I am satisfied that respondent exercised its discretion properly, reasonably and in the best interests of the community in refusing to renew appellant's license for the current licensing year. I am further satisfied that appellant has failed to sustain the burden of proof as required by Rule 6 of State Regulation No. 15. Thus it is recommended that respondent's action in denying appellant's application for renewal be affirmed, and that the appeal herein be dismissed.

Conclusions and Order

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

Having carefully considered the entire record herein, including the transcript of the testimony, the exhibits and the Hearer's report, I concur in the findings and conclusions of the Hearer and adopt his recommendation.

Accordingly, it is, on this 16th day of February, 1970,

ORDERED that the action of respondent be and the same is hereby affirmed, and that the appeal herein be and the same is hereby dismissed.

Richard C. McDonough
Director

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

In the Matter of the Seizure on September 13, 1969 of a quantity of alcoholic beverages, equipment and \$70.93 in cash at the unlicensed premises of Ponce Athletic Club, located at 200 Adams Street, in the City of Hoboken, County of Hudson and State of New Jersey.

Case No. 12,251

On Hearing CONCLUSIONS and ORDER

Aquiliano Candelaria, claimant. Playit Amusement, Inc., claimant. I. Edward Amada, Esq., and Harry D. Gross, Esq., appearing for the Division.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey and State Regulation No. 28 and further pursuant to a stipulation dated October 14, 1969 signed by Dominic Capuzzi, Agent for Playit Amusement, Inc., to determine whether a quantity of alcoholic beverages, equipment, miscellaneous personal property and \$70.93 in cash, as set forth in an inventory attached hereto, made part hereof and marked Schedule "A", seized on September 13, 1969 at the unlicensed premises of the Ponce Athletic Club, located at 200 Adams Street, Hoboken, N.J. constitute unlawful property and should be forfeited; and further, to determine whether the sum of \$300.00, representing the appraised retail value of certain equipment, exclusive of the miscellaneous personal property, \$70.93 in cash and the alcoholic beverages, deposited by Dominic Capuzzi, agent for and on behalf of Playit Amusement, Inc., with the Director under protest, and which was returned to the said Playit Amusement, Inc., should be forfeited or returned to him.

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

When the matter came on for hearing pursuant to R.S. 33:1-66 the Playit Amusement, Inc. entered a claim for the return of the monies deposited in its behalf under the aforesaid stipulation.

Aquiliano Candelaria, Vice-President of the Ponce Athletic Club, sought the return of the seized cash.

Reports of ABC agents and other documents in the file admitted into evidence with the consent of the claimants herein was supplemented by the testimony of Agent D at this hearing and disclosed the following facts: On September 13, 1969 three ABC agents visited the said premises which are known as the Ponce Athletic Club at the above stated address.

Agent D entered the said premises at about 7:00 P.M. and sat himself at a makeshift counter which served as a bar. The room contained a juke box, a pool table, a pinball machine and a refrigerator which was located behind the counter. He observed Aquiliano Candelaria behind the counter serving alcoholic beverages to numerous

males. He ordered and was served alcoholic beverages for which he paid Candelaria. He left the premises and returned at 8:25 P.M. and again observed a person, later identified as Manuel Martinez, serve a bottle of beer for which he received payment. Other agents then entered the premises, identified themselves and made a search and seizure of the property, which included \$70.93 in cash.

Candelaria was thereupon arrested, charged with the unlawful sale of illicit alcoholic beverages in violation of R.S. 33:1-50 (e) and Martinez was charged with the purchase of alcoholic beverages in violation of R.S. 33:1-49; they were held for arraignment in the Hoboken Municipal Court.

The report of the Division chemist, certified by the Director on September 26, 1969 shows that one six-ounce bottle containing six ounces of Miller High Life Beer, seized by the agents was analyzed and found to be an alcoholic beverage, fit for beverage purposes, with an alcoholic content, by volume, of 4.42%.

The Division records do not disclose the issuance of any license or permit to Candelaria, or to any one at the premises or for the premises at 200 Adams Street, Hoboken. Since Candelaria did not have a license authorizing him to sell alcoholic beverages, the alcoholic beverages intended for sale are illicit. The alcoholic beverages, the personal property and the cash, as set forth in Schedule "A" thus constitute unlawful property and are subject to forfeiture. R.S. 33:1-2; R.S. 33:1-66; Seizure Case No. 11,431, Bulletin 1644, Item 3.

The file contained the inventory, the affidavit of mailing, affidavit of publication, copy of the cash receipt, the original stipulation and the certification that no permit or license was issued to any person or for the premises aforementioned.

Aquiliano Candelaria, testifying in support of his claim for the return of the money seized on his person, gave the following account: He is the vice-president of the Ponce Athletic Club and admitted serving beer to Manuel Martinez. All members of the Club are permitted to take beer from the refrigerators and are not required to pay therefor. He admitted that there is a cash box behind the counter, but it is used merely for holding change for the convenience of the members. He was in charge of the cash box "because I was vice-president".

He denied receiving any payment for the sale of alcoholic beverages. The money that was seized from his person came as a result of collections from the club members and this amounted to approximately \$50.00. He also stated that there was no fixed amount that each member would contribute for purchases of alcoholic beverages, some giving \$1.00, \$5.00 or even \$10.00.

It should be noted further that prior to the entry of the agents into these premises, a vehicle was observed to pull up in front of the premises and unload several cases of beer. It is further noted that when Candelaria received the money from Martinez, he placed the money in his pocket.

From my analysis and examination of the evidence herein, I am satisfied that the seized cash was money received from the unlawful sale of alcoholic beverages.

Accordingly, the claim of Candelaria for the return of the said cash will be denied.

Dominic Capuzzi, testifying in support of the claim of the Playit Amusement, Inc., for the return of money deposited by him in its behalf, testified as follows: He is a mechanic employed by the claimant and serviced the pool table, juke box and pinball machine installed by the said claimant on these premises. They had been installed a long time prior to the date of the seizure, and, about two or three weeks before the date of the seizure, Candelaria informed him that he was now the new operator of these premises.

He states that he visited these premises infrequently since Candelaria informed him that the premises were only opened on Fridays, Saturdays and Sundays. He visited the premises during the daytime and did not observe any alcoholic beverage activity nor did he see any alcoholic beverages on the said premises.

Michael Borelli, the vice-president of the corporate claimant, and a former Police Commissioner of Hoboken, testified that the claimant relied upon the investigation made by the Police Department of Hoboken prior to their issuance of a license for the operation of the said machines.

No investigation was made of Candelaria since he was only in control of the premises for about two weeks prior to the date of the seizure.

John Cappiello, the president of Playit Amusement, Inc., testified that the machines were originally installed with the previous owner and that he had met the new owner on only one occasion. He had no knowledge or any information which led him to believe that alcoholic beverages were being sold or consumed on the said premises.

I am convinced that although this claimant did not make any background investigation of the operator of the premises in question, it relied in good faith upon the investigation made by the Hoboken Police Department. Since the present operator had been at these premises for only two or three weeks, it is understandable that no complete independent investigation had been made of his background.

Under the circumstances, I conclude that there is no evidence of bad faith and I find that the claimant did not know or had any reason to believe that alcoholic beverages were being sold at these premises.

The money deposited by Dominic Capuzzi, Agent for and on behalf of Playit Amusement, Inc., will therefore be ordered returned to him. Seizure Case No. 11,821, Bulletin 1742, Item 5.

A Hearer's Report in this case has been expressly waived by the claimants.

Accordingly, it is DETERMINED and ORDERED that the claim of Aquiliano Candelaria for the return of the seized cash is hereby denied; the said cash constitutes unlawful property, and the same is hereby forfeited in accordance with law; and it is further

DETERMINED AND ORDERED that the claim of Playit Amusement, Inc. be and the same is hereby recognized and the cash in the sum of \$300.00 deposited on its behalf by Dominic Capuzzi, Agent, under the aforementioned stipulation, be and the same shall be returned to him; and it is further

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

DETERMINED and ORDERED that the alcoholic beverages be and the same are hereby forfeited, and the same shall be retained for the use of hospitals and State, county and municipal institutions, or destroyed, in whole, or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Dated: February 13, 1970

Richard C. McDonough,
Director

SCHEDULE "A"

- 98 - containers of alcoholic beverages
- 1 - Bally-pin machine; 1 juke box;
- 1 - pool table; miscellaneous personal property;
- \$70.93 - cash

3. SEIZURE- FORFEITURE PROCEEDINGS - SPEAKEASY IN CANDY STORE - MONEY DEPOSITED ON STIPULATION ORDERED RETURNED TO INNOCENT CLAIMANT - BALANCE OF PERSONAL PROPERTY, CASH AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure	:	Case No. 12,253
on September 16, 1969 of a	:	
quantity of alcoholic beverages,	:	On Hearing
a pinball machine, a pool table,	:	CONCLUSIONS and ORDER
a juke box, two refrigerators,	:	
one cash register and \$84.38 in	:	
cash at the unlicensed premises	:	
of a store located at 32 Garside	:	
Street, in the City of Newark,	:	
County of Essex and State of New	:	
Jersey.	:	

.....
Allan Waldor, claimant, Pro Se.
Harry D. Gross, Esq., appearing for the Division.

BY THE DIRECTOR

This matter comes before me pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes of New Jersey and State Regulation No. 28 to determine whether three containers of alcoholic beverages, a pinball machine, a pool table, a juke box, miscellaneous personal property, and \$84.38 in cash, as set forth in an inventory attached hereto, made part hereof and marked Schedule "A", seized on September 16, 1969 at a candy store located at 32 Garside Street, Newark, New Jersey constitute unlawful property and should be forfeited; and, further, to determine whether the sum of \$400.00, deposited by Allan Waldor, partner of and on behalf of the A.B.C. Distributing Co., with the Director, under protest, representing the appraised retail value of certain equipment which was returned to the said A.B.C. Distributing Co., should be forfeited or returned to it.

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

When the matter came on for hearing, pursuant to R.S. 33:1-66, the A.B.C. Distributing Co., represented by Allan Waldor, a partner, appeared and sought return of the money deposited under the aforesaid stipulation. No one appeared or entered a claim for the return of the alcoholic beverages or the seized cash.

Reports of ABC agents and other documents in the file, admitted into evidence with the consent of the claimant herein, disclose the following facts: At about 9:00 P.M. on Tuesday, September 16, 1969 ABC agents entered the subject premises which consisted of a candy store in which were located a pool table, juke box, pinball machine, two refrigerators, a cash register and some counters. They observed a male behind the counter, later identified as Pedro Juan Rivera, serving alcoholic beverages to patrons.

The agents ordered and were served by Rivera cans of Rheingold beer for which they paid 40¢ per can. After consuming a portion of the said beer, they identified themselves to Rivera and conducted a search and seizure of the said premises. Rivera was thereupon arrested, charged with possession of alcoholic beverages with intent to sell the same in violation of R.S. 33:1-50(b) and selling without a license under R.S. 33:1-50(a). He was released in bail for arraignment in the Newark Municipal Court.

A sample of the unconsumed beer purchased by the agent was analyzed by the Division chemist whose report, certified by the Director on September 29, 1969, established that it is an alcoholic beverage, fit for beverage purposes with an alcoholic content by volume of 4.71%.

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

The A.B.C. Distributing Co. presented its claim for the return of the monies deposited in its behalf under the aforesaid stipulation through the testimony of Allan Waldor, a partner in the said company, and John T. Schreiner, a vending machine collector employed by the said claimant.

Allan Waldor gave the following account: This claimant is the owner of a pool table, juke box and pinball machine, which were returned to it upon deposit of \$400.00 made by Allan Waldor, under the aforementioned stipulation. He testified that these machines were first installed on these premises about two or three months prior to the date of the seizure herein. Prior to the installation of these machines, licenses were issued by the local licensing authority after an investigation and approval by the Newark Police Department.

Under these circumstances, he assumed that a full investigation was made by the police authorities which established that Rivera had not previously engaged in any unlawful liquor activity.

John Schreiner testified that he visited these premises once weekly, usually on Thursday afternoon and on all of his visits, he never observed any evidence of alcoholic beverage activity, nor did he see any alcoholic beverages anywhere on the premises.

I am persuaded that although this claimant did not make an independent background investigation of the operator of the premises, or of the premises in question, it relied in good faith upon the investigation presumably made by the Newark Police Department.

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

The file of this Division indicates that the two refrigerators, a cash register and other furnishings seized by the agents were in such a dilapidated condition that they were forthwith abandoned.

Accordingly, it is on this 16th day of February, 1970

DETERMINED and ORDERED that the claim of the A.B. C. Distributing Co. be and the same is hereby recognized; and that the cash in the sum of \$400.00, deposited by Allan Waldor on behalf of the said claimant under the aforementioned stipulation be and the same shall be returned to him; and it is further

DETERMINED and ORDERED that the cash and the alcoholic beverages, as set forth in Schedule "A", constitute unlawful property and the same are hereby forfeited in accordance with law; and it is further

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

Richard C. McDonough,
Director

SCHEDULE "A"

- 3 - containers of alcoholic beverages
- 1 - pinball machine; 1 - pool table;
- 1 - juke box; 2 - refrigerators;
- 1 - cash register
- \$84.38 - cash

4. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS -
LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

PROMELL CORP.)
596 1/2 Grove St.)
Jersey City, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption)
License C-201, issued by the Municipal Board)
of Alcoholic Beverage Control of the City)
of Jersey City)

Licensee, by Morris Proper, President, Pro se
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on Saturday, December 6, 1969 it sold a pint bottle of gin for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of license by the municipal issuing authority for five days, effective September 20, 1952, for sale of alcoholic beverages during prohibited hours in violation of Rule 1 of State Regulation No. 38.

The prior record of suspension for similar violation occurring more than ten years ago disregarded, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Critelli, Bulletin 1892, Item 5.

Accordingly, it is, on this 10th day of February, 1970,

ORDERED that Plenary Retail Consumption License C-201, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Promell Corp. for premises 596 1/2 Grove St., Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Monday, February 16, 1970, and terminating at 2:00 a.m. Thursday, February 26, 1970.

5. DISCIPLINARY PROCEEDINGS - GAMBLING (WAGERING) - FOUL LANGUAGE - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Boysen's Sunset Tavern, Inc. Sunset Avenue Madison Township PO Old Bridge, N.J., Holder of Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Madison.

CONCLUSIONS and ORDER

Benjamin Kleinberg, Esq., Attorney for licensee. Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non-vult to charges alleging that it permitted on the licensed premises (1) on October 3 and 4, 1969, gambling (pool game for money stakes), in violation of Rule 7 of State Regulation No. 20, and (2) on October 3, 1969, foul language by patrons, in violation of Rule 5 of State Regulation No. 20.

Licensee has a previous record of suspension of license (1) by the Director for forty-five days effective November 28, 1955, for permitting indecent conduct, foul language and hostess activity, and sale to an intoxicated person and to minors; (2) by the municipal issuing authority for thirty days effective September 3, 1957, for permitting a brawl and sale during prohibited hours; (3) by the Director for fifty-five days effective February 10, 1959, for sale to an intoxicated person, employing a minor and false statement in the license application; (4) by the Director for ten days effective July 20, 1959, for false statement in the license application (Re Boysen's Sunset Tavern, Inc., Bulletin 1090, Item 1; Bulletin 1266, Item 1; Bulletin 1292, Item 6); (5) by the Municipal issuing authority for ten days effective May 9, 1966, for sale to minors; and (6) by the Director for forty days effective October 4, 1967 for possession of alcoholic beverages not truly labeled and for false statement in the license application. (Re Boysen's Sunset Tavern, Inc., Bulletin 1766, Item 3.)

In the Conclusions and Order of the last mentioned suspension, the licensee was pointedly warned "that future similar violation, or any dissimilar substantial violation, may well result in outright revocation of the license." Being mindful of that warning but also that the present alleged violations may be deemed not to come entirely within the framework of the warning, the licensee will be given "one more chance" with imposition this time of a suspension of its license but with added pointed warning that, since this is its seventh suspension, any future violation, regardless of kind or nature, will result in outright revocation of the license.

The prior record of suspension of license in 1955 for similar violation of permitting foul language on the premises occurring more than ten years ago and for dissimilar violations in 1957 and 1959 occurring more than five years ago disregarded, the license will be suspended on the charges herein for twenty-five days (Re Norato and Norato, Bulletin 1807, Item 3), to which will be added

ten days by reason of the record of two suspensions of license for dissimilar violations within the past five years (Re Nazario, Bulletin 1840, Item 5), and thirty days by reason of the record of the six prior suspensions of the license (Re Kellner, Bulletin 1859, Item 8), or a total of sixty-five days, with remission of five days for the plea entered, leaving a net suspension of sixty days.

Accordingly, it is, on this 16th day of March 1970,

ORDERED that Plenary Retail Consumption License C-2, issued by the Township Committee of the Township of Madison to Boysen's Sunset Tavern, Inc. for premises Sunset Avenue, Madison Township, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. Thursday, April 2, 1970 and terminating at 2:00 a.m. Monday, June 1, 1970.

Richard C. McDonough
Director

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

In the Matter of Disciplinary Proceedings against

Koolou Corp.
t/a Springdale Cafe
527 Springdale Avenue
Long Branch, N.J.,

)
) CONCLUSIONS
) and
) ORDER
)

Holder of Plenary Retail Consumption License C-19, issued by the City Council of the City of Long Branch)
)

Potter and Gagliano, Esqs., Attorneys for Licensee
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non-vult to a charge alleging that on February 6, 1970 it sold drinks of alcoholic beverages to four minors, ages 17, 18, 20 and 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior record, the license will be suspended for twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days. Cf. Re Pallamkier, Inc., Bulletin 1600, Item 6.

Accordingly, it is, on this 18th day of March 1970,

ORDERED that Plenary Retail Consumption License C-19, issued by the City Council of the City of Long Branch to Koolou Corp., t/a Springdale Cafe, for premises 527 Springdale Avenue, Long Branch, be and the same is hereby suspended for twenty (20) days, commencing at 2 a.m. Wednesday, April 1, 1970, and terminating at 2 a.m. Tuesday, April 21, 1970.

Richard C. McDonough,
Director.

8. DISCIPLINARY PROCEEDINGS - FAILURE TO HAVE LICENSED PREMISES CLOSED IN VIOLATION OF LOCAL ORDINANCE - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

G & J Lounge, Inc.)
138 Fifth Avenue)
Paterson, N.J.,)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-257, issued by the Board of Alcoholic Beverage Control for the City of Paterson.)
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Robert P. Alliegro, Esq., Attorney for licensee.
Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to the following charge:

"On Sunday, October 5, 1969, between 12:00 o'clock noon and 12:20 p.m., you failed to have your entire licensed premises closed; in violation of Section 2:4-2 of Title 2, Chapter 4 of Revised Ordinances of the City of Paterson, adopted by the Board of Alcoholic Beverage Control for the City of Paterson on February 16, 1968."

Absent prior record, the license will be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Lauterio, Bulletin 1475, Item 8.

Accordingly, it is, on this 16th day of March 1970,

ORDERED that Plenary Retail Consumption License C-257, issued by the Board of Alcoholic Beverage Control for the City of Paterson to G & J Lounge, Inc. for premises 138 Fifth Avenue, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. Monday, March 23, 1970 and terminating at 3:00 a.m. Thursday, April 2, 1970.

Richard C. McDonough
Director

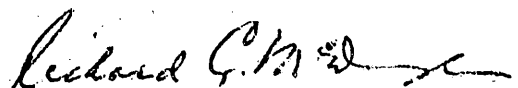
9. STATE LICENSES - NEW APPLICATIONS FILED.

Hammonton Distributing Co., Inc.
96 S. White Horse Pike
Hammonton, New Jersey

Application filed March 30, 1970 for person-to-person transfer of Wine Wholesale License WW-12 from Alfred Renzi.

The Brotherhood Corporation
34 North Street
Washingtonville, New York

Application filed March 31, 1970 for wine wholesale license.



Richard C. McDonough
Director