

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

BULLETIN 2087

FEBRUARY 21, 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

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FEBRUARY 21, 1973

1. DISCIPLINARY PROCEEDINGS - SUMMARY REPORT OF UNCONTESTED PROCEEDINGS.

In the Matters of Disciplinary Proceedings against the following licensees:	CONCLUSIONS AND ORDERS/
A. South of the Border Restaurant, Inc. N.J.-N.Y. State Line River Road, Montague Township PO Port Jervis, RD#1- New York	S-9355 Lic: C-4
Charge: Sale to two minors, both 18. Suspension 15 days. Order : December 12, 1972 - suspension effective 1/2/73	
B. The Back Street Lounge Inc. 11 Lafayette St. Newark	S-9340 Lic: C-711
Charge: 'Front' - Failure to keep books - License suspended for balance of term with leave to correct after 32 days. Order : December 12, 1972- suspension effective 12/18/72.	
B. Abraham Cohen t/a El-Rio Route 17 Mahwah	S-9400 Lic: C-8
Charge: "Hours" Regulation - failure to disclose suspension in license application - two prior similar violations suspension of 36 days. Order : December 13, 1972- suspension effective 1/2/73	
D. New Berkeley Corp. t/a Berkeley Carteret Hotel 101 Sunset Avenue Asbury Park	S-9387 Lic: C-3
Charge: Mislabeling of 2 bottles - suspension of 10 days. Order : December 13, 1972 - suspension effective 1/2/73	
E. Joseph & Margaret Valler t/a Liberty Grill 125 French St. New Brunswick	S-9405 Lic: C-5
Charge: Sale to minor, 16 - suspension for 20 days. Order : December 13, 1972 - suspension effective 1/2/73	
F. Halde Corporation 56 Third St. Hoboken	S- 9386 Lic: C-52
Charge: Sale to minor, 19- prior dissimilar record - license suspended 15 days. Order: December 14, 1972- suspension effective 1/5/73	
G. Michael Sabeh t/a Sabu's Village Inn 327 East Main St. Tuckerton,	S-9408 Lic: C-1
Charge: Sale to minor, 16- suspension of 20 days Order : December 14, 1972- suspension effective 1/2/73	

- H. Celso Padilla t/a Club 296
296 Mulberry St.
Newark
S-9389
Lic: C-41
Charge: "Hours" regulation - prior similar and dissimilar offense - suspension of 28 days -
Order: December 15, 1972- suspension effective 1/2/73.
- I. Gold Star, Inc. t/a O'Donnell's Pub
202 Webster Ave.
Seaside Heights
S-9376
Lic: C-14
Charge: Sale to minor, 18- fine of \$200 in lieu of 10 day suspension.
Order: December 20, 1972.
- J. The Zamborn Corporation t/a Green Lantern
473 Rahway Ave
Woodbridge
S-9396
Lic: C-58
Charge; "Hours" regulation - prior similar violation - fine of \$1,000 in lieu of 25 day suspension.
Order: December 20, 1972.
- K. Norkal Inc. t/a New Golden Peacock
258 Clinton Ave.
Newark
S-9370
Lic: C-681
Charge: Failure to have employee list (Rule 16-c Reg. 20) - fine of \$220 in lieu of 5 day suspension.
Order: December 22, 1972.
- L. Little Joe's Tavern Corp.
180-182 Jackson Ave.
Jersey City
S-9433
Lic: C-298
Charge: Gambling (numbers game) - suspension of 72 days.
Order: December 27, 1972- suspension effective 1/15/73.
- M. Nehoc Tavern, Inc. t/a Jay's Corner
27 Paterson St.
Paterson
S-9395
Lic: C-140
Charge: "Hours" regulation - prior dissimilar offense - suspension of 15 days.
Order: December 27, 1972- suspension effective 1/15/73.
- N. M & Z Liquors, Inc.
29 Jackson Ave.
Jersey City
S-9380
Lic: D-6
Charge: Sale to minor, 17- suspension of 15 days.
Order: December 28, 1972- suspension effective 1/15/73.
Amended Order: 1/2/73 - change of suspension date - effective 1/4/73.
- O. Keltim, Incorporated t/a Red Barn Liquors
11 Bridge St.
Milford
S-9251
Lic: D-1
Charge: Failure to disclose non-resident owners of corporate stock in licensee corporation -unlawful situation corrected - suspension of 25 days.
Order: December 28, 1972- suspension effective 1/15/73.
Order: 1/22/73 - Fine of \$1,000. in lieu of 25 days suspension.
- P. Kroghs Restaurant, Inc.
23 White Deer Plaza (Lake Mohawk)
Sparta
S-9069
Lic: C-16
Charge: Gambling (football bets) -prior dissimilar record- suspension of 76 days.
Order: December 29, 1972- suspension effective 1/4/73.

- Q. Commodore of Hackensack, Inc.
206 Main St.
Hackensack
Mun. Rev. 5503
Lic: C-23
Charge: "Hours" ordinance- fine of \$500 in lieu of 3 days
municipal suspension.
Order: December 29, 1972.
- R. L & L Bar, Inc. t/a La Libera Lounge
1150 East State St.
Trenton
S-9352
Lic: C-120
Charge: Sale to minor, 16- suspension of 20 days.
Order : December 29, 1972- suspension effective 1/16/73.
- S. Duffy's Irish House Inc.
50-52 Bray Ave
PO East Keansburg
Middletown Township
S-9406
Lic: C-1
Charges: Intoxicated employee- foul language- hindered investigation
prior dissimilar violations- suspension of 36 days.
Order : December 29, 1972 - suspension deferred to reopening of
business and further Order.
- T. Longview Restaurant Inc.
2467 Lemoine Ave
Ft. Lee
S-9407
Lic: C-17
Charge: Sale to minor, 17- fine of \$800 in lieu of 20 day
suspension
Order : December 29, 1972.

ROBERT E. BOWER
DIRECTOR

2. APPELLATE DECISIONS - TWIN MANOR, INC. v. ASBURY PARK.

Twin Manor, Inc.,)
Appellant,)
v.)
City Council of the City) On Appeal
of Asbury Park,)
Respondent.)
CONCLUSIONS and ORDER

Ira D. Dorian, Esq., Attorney for Appellant
Norman H. Mesnikoff, Esq., Attorney for Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from action of respondent City Council of the City of Asbury Park (hereinafter Council) which by resolution adopted July 25, 1972 denied appellant's application for a new plenary retail consumption license for hotel premises located at 207-209 Third Avenue, Asbury Park.

The appeal was heard de novo pursuant to Rule 6 of State Regulation No. 15, with full opportunity afforded counsel to produce testimony and cross-examine witnesses.

At the outset of the hearing counsel stipulated that the hotel for which the license was sought has been in existence for more than fifty years in an area in which hotels may lawfully be operated, and that the hotel would otherwise qualify for a plenary retail consumption license under the statute which excludes hotels from population restrictions. N.J.S.A. 33:1-12.20. It was further stipulated that the complete text of the denying-resolution adopted by the Council was as follows:

"That the application of Twin Manor, Inc. for a plenary retail consumption license for the hotel premises at 207-209 Third Avenue, be and is hereby denied."

In its petition of appeal appellant contended that, as its hotel complied with all statutory and municipal regulations concerning a hotel license, the denial without expressed reasons for rejection was arbitrary, unreasonable and constitutes an abuse of discretion. In its answer Council denied the unreasonableness of its action and stressed that appellant's operation of the hotel resulted in noise violations.

Varjan Arslanyan testified that he and his wife are the sole stockholders of appellant corporation which owns the hotel consisting of two sections connected by a porch. One section contains seventy rooms and the other sixty rooms. The hotel has been in existence about seventy years, can accommodate about three hundred guests, and is the third largest in the city. Its patronage is drawn from major eastern cities and consists mainly of persons of Armenian extraction who, by tradition, are not heavy drinkers. The purpose of the application was to permit the service of alcoholic beverages with meals. Entertainment is provided on week-ends and advertisements describing Armenian programs were offered into evidence. That entertainment on Saturdays in the late evening hours resulted in complaints from neighbors, in deference to which the sound levels were modified.

An Asbury Park police officer, James Bernard, testified that during his off-duty hours on the night of July 4 he was employed by appellant in a guard capacity. There was singing and music at that time but, while standing outside on the porch of the hotel, he could not hear it. The hotel has no off-street parking and there were some guests entering their cars parked nearby at the close of the entertainment.

Larry E. Dickerson, a police officer of Asbury Park, testified that he was on duty during the week-end of July 4 and responded to a complaint of noise emanating from appellant's hotel. His visit to the premises about 1 a.m. disclosed no particular noise or reason for a complaint. An unidentified complainant heard alleged fire-cracker noises but the officer heard none and found only conversational noises from people sitting on the hotel porch.

Vahak Hovanian, a New Jersey builder, testified that appellant had done substantial remodeling to the hotel. As the witness is a nearby resident, he has not resided in the hotel but has visited it at the opening night and thereafter. The music and entertainment were not noisy. People did congregate on the porch and sidewalk following the close of the entertainment; such congregation and conversation came about because of the meeting of old friends after long absence.

The Council presented the testimony of Jacob Zimmerman who resides at the Powhatan hotel which is directly across the street from appellant's premises. In the immediate area is that hotel which contains sixty-five rooms, a rooming house and two other hotels. All these residences cater particularly to senior citizens.

John Kawas, owner of the Brighton Hotel which is located immediately adjacent to appellant, testified that he has forty-three units housing senior citizens, most of which units are occupied for the full year. He complained of the drums, music and singing from appellant's hotel, describing the music as noise continuing until almost two o'clock in the morning. He complained particularly of the long conversations of people on the porch of the hotel following the conclusion of the entertainment.

The manager of the Ambassador Hotel (Harold Fish) testified that his hotel is located on the same side of the street as appellant's and that he heard noises coming therefrom, particularly on the July 4 week-end. Most of the Ambassador Hotel guests are aged people.

It was stipulated that, if a Mrs. Ferguson and a Mrs. Sullivan testified, their testimony would be corroborative of the other Council witnesses. Helen M. Verwilt (a resident of a building directly across the street from appellant, testified that, while most of the noise in the area came from the boardwalk, since appellant reactivated the business in the hotel the noise had increased appreciably.

Councilman Ray Kramer testified that the Council held a hearing on appellant's application and heard a number of witnesses who objected to the issuance of the new license to appellant. Those objectors related that they had been annoyed by the noise coming from appellant's hotel. The Council presumed that, as the immediate area houses so many elderly people, any abnormal noise would affect their sleep. In essence, the Councilman related that no new licenses had been issued in the City for some time and, conversely, an ordinance had been adopted permitting the municipality to purchase six existing licenses annually until the total number was in more manageable proportion to the population. There are presently sixty-nine licenses serving a population of 17,000.

In addition, the Council unanimously felt that the issuance of an additional license to appellant would not be in the best interest of the community, particularly in view of the probability of additional noise. The overall philosophy of the Council was that the officials were attempting to develop the character of the City as a residential resort area as well as extending the all-year-round residential character for senior citizens. The area of appellant's hotel is one in which the predominant population consists of senior citizens.

Counsel for appellant contended orally, and by extensive memoranda, that appellant was entitled to a license in that it had established compliance with municipal and statutory regulations and that large sums of money had been expended in the physical improvement of the building. As "every other" hotel in the City had a license, the denial to appellant was arbitrary. Further, as the Council failed to cite a just cause for its refusal, its action must be presumed to be arbitrary. Lastly, appellant contended that the evidence fails to establish that the level of noise was sufficient to deny the license.

Appellant places great reliance upon N.J.S.A. 33:1-12.20 which relates to the granting of liquor licenses to hotels and motels, and provides as follows:

"Nothing in this act shall prevent the issuance, in a municipality, of a new license to a person who operates a hotel or motel containing 100 guest sleeping rooms or who may hereafter construct and establish a new hotel or motel containing at least 100 guest sleeping rooms";

and attaches to this particular section of the Alcoholic Beverage Law a certain mandatory quality, indicating at least by implication that appellant is entitled as a matter of right to such license because its hotel has more than the requisite number of sleeping rooms. However, "... although an applicant may meet the statutory requirements of a bona fide hotel, this of itself is not sufficient to entitle it to a liquor license as a matter of right." Rauoly, Inc. v. Lakewood, Bulletin 1653, Item 2. Cf. Brush v. Hock, 137 N.J.L. 257 (1948); Re J.R.N. Corporation, Bulletin 1992, Item 7. The determination as to whether or not a new license is to issue for a hotel is entirely within the sound discretion of the issuing authority.

The granting of a license rests within the sound discretion of the issuing authority. Biscamp v. Teaneck, 5 N.J. Super. 172; Passarella v. Atlantic City, 1 N.J. Super. 313.

The municipal issuing authority may not be compelled to issue a license even if the municipality has none at all or to issue a new license where the municipality has several but wants no more. Parkway House, Inc. v. Neptune, Bulletin 1912, Item 6; Bumball v. Burnett, 115 N.J.L. 254 (1935); Fanwood v. Rocco, 33 N.J. 404 (1960).

The contention of counsel for appellant that the investment made would entitle appellant to a license is best answered in Kelley v. Manalapan, Bulletin 531, Item 3:

"The test in the issuance of liquor licenses is the welfare of the entire community and not the interference with the private rights of any individual...."

Or, to be put more succinctly:

"The test in the establishment and issuance of liquor licenses is whether public good requires it."

Paul v. Gloucester, 50 N.J.L. 585 (1888); Blanck v. Magnolia, 73 N.J. Sup. 306, reversed 38 N.J. 484, 491 (1962).

The further contention that "every other" hotel has a license and the appellant is therefore entitled to one is not borne out by the proofs. The seven hotel licensees do not represent all the hotels in the City nor was any proof adduced that these hotels did not obtain their respective licenses by transfer or by issuance during a bygone period.

It can be agreed that the Council, as an issuing authority, should have complied with Rule 8 of State Regulation No. 2 which requires "In every action adverse to any applicant or objector, the issuing authority shall state the reasons therefor." The admitted failure of the Council to cite its reasons for rejection was partially rectified by its answer filed with this appeal.

The deficiency was further corrected at this trial de novo in that the basic question is not whether the evidence before the Council was technically sufficient but whether, under all the evidence, the action of the Council should or should not be affirmed. Cf. Cino v. Driscoll, opinion of New Jersey Supreme Court published in Bulletin 589, Item 2; Nordco v. Newark, Bulletin 1148, Item 2; Borden v. Newark, Bulletin 1148, Item 8; Ritter v. North Bergen, Bulletin 546, Item 2.

The decisive issue in the instant matter is: did the Council err in arriving at its determination. As the Court has stated in Hudson Bergen &c., Assn. v. Hoboken, 135 N.J.L. 502 (1947):

"... in order to meet the burden required by Rule 6 of State Regulation No. 15, appellant must show manifest error and that the action of the Board was clearly against the logic and effect of the presented facts." (underscore added)

Cf. G.E.L.L. Inc. v. Newark, Bulletin 1911, Item 1.

The error of the Council in failing to state its reasons, while manifest error, was unaccompanied by action clearly against the logic and effect of the presented facts. To find that the error in and of itself would vitiate the action of the Council would render impotent the principal issue involved, i.e., whether or not the issuance of a new license to appellant would be to the best interest of the community. The test in granting or withholding a (license) by an issuing authority is public good, not the benefit or detriment to a licensee. Fanwood v. Rocco, supra.

Hence the resultant question: Did the Council take into consideration all of the facts before rendering its decision? "... While the board's reasons might well have been elaborated and incorporated along with factual findings in the formal resolution granting the transfer, we fail to see how the appellants were in anywise prejudiced by the omission...." Lublinter v. Paterson, 33 N.J. 428 (1960).

It is well to note here that appellant does not have quite the same standing in this appeal as it would had a license been previously issued and its renewal denied for the reasons advanced by the Council. In such case "... An owner of a license or privilege acquires through his investment therein, an interest which is entitled to some measure of protection" Lakewood v. Brandt, 38 N.J. Super. 462 (App.Div. 1955). Appellant, having no such license, seeks a privilege the granting of which is entirely discretionary with the issuing authority. Blanck v. Magnolia, supra.

The testimony of the Councilman indicates clearly the desirability of the issuance of the license to appellant was carefully weighed. The Council has established a plan, augmented by ordinance, to reduce the number of licenses in their city, the number of which they feel is excessive. Such plan has been implemented by the allocation of funds for that purpose. The granting of appellant's license application would be in direct opposition to that plan. However, they did nonetheless weigh the advantages and disadvantages of such issuance. In recognition of the characteristic of the residential use of the area, the numerous senior citizens' residences, they determined that the license applied for would not blend well in the area. The numerous objectors to the noise described merely confirmed their opinion.

Hence, in their collective and unanimous opinion the Council determined that appellant's application should be denied.

"Local officials who are thoroughly familiar with their community's characteristics and interests and are the proper representatives of its people, are undoubtedly best equipped to pass initially on such applications.... And their determinations should not be approached with a general feeling of suspicion, for as Justice Holmes has properly admonished, 'Universal distrust creates universal incompetence.' *Graham v. United States*, 231 U.S. 474, 480." *Ward v. Scott*, 16 N.J. 16 (1954).

Attention should be here called to the procedural defects noted in Council's resolution being the direct cause of this appeal. In addition to demanding a specification for its reasons, counsel vigorously urged that stenographic transcription be provided by Council at its hearing. While not a regulatory requirement, stenographic or electronic transcription of the hearing might well have served as a grounding of appellant's further action.

The appellant having failed to sustain the burden of establishing that the action of the Council was erroneous and should be reversed, as required by Rule 6 of State Regulation No. 15, and for the reasons aforesaid, it is recommended that an order be entered affirming the action of Council and dismissing the appeal.

Conclusions and Order

Written exceptions to the Hearer's report with supportive argument were filed by appellant pursuant to Rule 14 of State Regulation No. 15.

The exceptions filed by appellant advance the contention that an opportunity afforded the Council to enlarge on its initial proffer of testimony was contrary to law. Such contention is without merit. The basic and obvious purpose of hearings on the de novo appeal to this Division is to provide full opportunity for the development of all of the facts surrounding an appealable issue. It was glaringly apparent at the conclusion of the initial hearing that all of the pertinent facts were not then in the record and this Division, on its own motion, mandated the additional testimony. Not to have permitted such additional evidence would have prevented this Division, in its appellate capacity, from making a full and impartial determination of the issues.

The appellant further contends that the Council abused its discretion in not granting a license to appellant. This contention is groundless. The appellant considers itself entitled to a license as a matter of right despite the long established principle that the issuance of liquor licenses is a matter of privilege and not an inherent right. So long as the Council arrived at its conclusion on the basis of its own determination based upon all of the circumstances relating to the application, particularly its evaluation of the benefits or detriments to the public good, its determination shall be conclusive absent a clear abuse of its lawful discretion. *Fanwood v. Rocco*, 33 N.J. 404 (1960); *Blanck v. Magnolia*, 38 N.J. 484 (1962). The remaining contentions of appellant have either been considered by the Hearer or are without merit.

Having carefully considered the entire matter herein, including transcripts of the testimony, the exhibits, the Hearer's report and the exceptions filed, I concur in the findings and conclusions of the Hearer and adopt his recommendations.

Accordingly, it is, on this 8th day of January 1973,

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

Robert E. Bower
Director

3. SEIZURE - FORFEITURE PROCEEDINGS - UNLICENSED CLUB - CLAIM FOR RETURN OF SUM DEPOSITED BY CLUB IN LIEU OF SEIZURE REJECTED - CLAIM FOR RETURN OF FUND DEPOSITED BY VENDING MACHINE OPERATOR REJECTED - ALCOHOLIC BEVERAGES, CASH AND MISCELLANEOUS PERSONAL PROPERTY ORDERED FORFEITED.

In the Matter of the Seizure	:	
on January 7, 1972 of a quantity	:	Case No. 12,650
of alcoholic beverages, fixtures,	:	
furnishings, equipment and miscel-	:	On Hearing
laneous personal property and	:	
\$35.90 in cash at State Social	:	CONCLUSIONS and ORDER
Club, 428 State Street, in the City	:	
of Perth Amboy, County of Middlesex	:	
and State of New Jersey.	:	

.....
 Rodriguez & Corodemus, Esqs., by James Corodemus, Esq., Appearing for claimant, State Social Club.
 Cohen, Goceljack and Fitzhenry, Esqs., by Norman A. Cohen, Esq., Appearing for claimant, Universal Amusement Company.
 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 to determine whether 34 containers of alcoholic beverages, one cigarette machine, one juke box, one pool table, two refrigerators, four tables, 22 chairs, one radio, miscellaneous personal property and \$35.90 cash as set forth in inventory attached hereto and marked Schedule "A" seized on January 7, 1972 at the unlicensed premises of State Social Club, 428 State Street, Perth Amboy, N.J. constitute unlawful property and should be forfeited; and further to determine whether the sum of \$250.00 deposited with the Director, pursuant to a stipulation under protest by Harold Saunders on behalf of Universal Amusement Company, representing the appraised value of one National vending machine and one Seeburg juke box, which were returned to claimant as set forth in the aforesaid Schedule "A" should be forfeited or returned to it, and further to determine whether the sum of \$350.00 deposited with the Director pursuant to a stipulation under protest by Richard Quinones, President, on behalf of State Social Club, representing the appraised value of two refrigerators, one pool table, four tables, chairs, bar stools, etc., which were returned to claimant as set forth in the aforesaid Schedule "A" should be forfeited or returned to it.

The seizure was made by ABC agents in cooperation with the officers of the Perth Amboy police department.

At the hearing Harry Saunders appeared on behalf of Universal Amusement Company and sought return of the sum of \$250.00 deposited representing the appraised value of articles hereinabove described as claimed, and Luis Gonzalez appeared on behalf of State Social Club and sought return of the sum of \$350.00 deposited, representing the appraised value of articles hereinabove described as claimed. No one appeared to claim the other personal property seized herein.

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. 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 State Social Club.

The reports of the ABC agents disclosed the following: ABC Agent R on January 7, 1972 entered the premises, approached a bar, ordered a beer and paid in "marked" money. Other apparent patrons were present. Upon being served with a twelve-ounce can of Rheingold beer, ABC Agents B, C, P and Ch entered, retrieved the "marked" money, and seized \$35.90 in cash and the personalty listed in Schedule "A" herein.

Harry Saunders, appearing on behalf of Universal Amusement Company testified that: He placed a cigarette machine and juke box in the premises about a year prior to the seizure and at the request of Richard Quinones. He visited the premises once and his servicemen visited periodically. He admitted making no prior investigation or determined the activities in the interior by the exterior sign "State Social Club". He denied that he or his servicemen had any knowledge of any illegal activity being conducted in the premises but admitted "It is a difficult thing to do to ask somebody to stick his nose into somebody else's business".

Luis Gonzalez, appearing on behalf of the State Social Club, testified that he is a member of the club, visiting the premises two or three times a month. He denied beer was sold in his presence and that such beer as was there was the personal property of the individual members.

It was stipulated that the testimony of three other members who were present at the hearing, Messrs. Gonzalez, Cruiz and Torres, if given, would be merely corroborative of the testimony of Luis Gonzalez.

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). Such illicit alcoholic beverages, the personal property and 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 other persons or agencies, including those of law enforcement. See Seizure Case No. 12,252, Bulletin 1919, Item 5.

In reference to the claim of the Universal Amusement Company, it is an established principle that claimants seeking return of vending machines at unlicensed premises will not be permitted to rely on any presumed investigation of others including law enforcement agencies. Personal inspection by such claimants or their agents at reasonable hours will be required in order to show that the claimant neither knew nor should have known of the illicit activity taking place in such premises. See Seizure Case No. 12,252, supra. The present claimant made no investigation whatever and relies only on his personal lack of knowledge of the illicit activity as grounds for the claim. It is, therefore, recommended that such claim be rejected.

To the claim of State Social Club, it is not clear whether the alcoholic beverages belonged to Quinones personally or was the property of the club. In either event, in the absence of good faith, the Director is without authority to return the property. From all of the evidence it is clear that the claimant sold alcoholic beverages without a license and its organization was clearly inculcated by his unlawful act. See Seizure Case No. 12,127, Bulletin 1879, Item 4.

Considering all of the evidence and the circumstances herein, it is recommended that the claim of the State Social Club for return of \$350.00 deposited under the aforesaid stipulation be denied, and the same be forfeited.

It is also recommended that the claim of Universal Amusement Company for the return of \$250.00, deposited under the aforesaid stipulation, be denied and the same be forfeited.

It is further recommended that the alcoholic beverages, cash and the miscellaneous property seized, and not returned to the claimants, under the aforesaid stipulations, as set forth in Schedule "A" herein, be forfeited.

Conclusions and Order

No exceptions to the Hearer's Report were filed pursuant to Rule 4 of State Regulation No. 28.

Having carefully considered 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 8th day of January, 1973

DETERMINED and ORDERED that the sum of \$350.00 deposited with the Director, representing the appraised value of certain personalty listed in Schedule "A", attached hereto, which was returned to it, paid under protest by the State Social Club, be and the same is hereby forfeited in accordance with law; and it is further

DETERMINED and ORDERED that the claim of the Universal Amusement Company be and the same is hereby denied; and the sum of \$250.00 deposited with the Director, under protest by the Universal Amusement Company, representing the appraised value of a vending machine and juke box which were returned to it, be and the same is hereby forfeited, in accordance with law, and it is further

DETERMINED and ORDERED that the seized cash and alcoholic beverages, as more fully set forth in Schedule "A" herein, constitute unlawful property and the same be and are hereby forfeited in accordance with the provisions of N.J.S.A. 33:1-66; and the said alcoholic beverages shall be retained for 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"

- 34 - containers of alcoholic beverages
- 1 - cigarette machine; 1 juke box;
- 1 - pool table; 2 refrigerators;
- 4 - tables; 22 chairs; 1 radio
- Miscellaneous personal property
- \$35.90 - cash

4. DISCIPLINARY PROCEEDINGS - ORDER.

In the Matter of Disciplinary Proceedings against)

Bob's Club House, A Corporation)
of New Jersey)
879 Broadway)
Bayonne, N.J.,)

O R D E R

Holder of Plenary Retail Consumption License C-149, issued by the Municipal Council of the City of Bayonne.)

Licensee, by Robert Farmer, President

BY THE DIRECTOR:

On December 12, 1972 the Municipal Council of the City of Bayonne entered a resolution and order suspending the subject license for five days effective January 8, 1973 upon the licensee's plea of guilty to a charge alleging the sale of alcoholic beverages to a minor on April 22, 1972, in violation of Rule 1 of State Regulation No. 20. Application has been made by the said licensee to the Director for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971. I shall, therefore, enter an order staying the said suspension until my consideration of the said application.

Accordingly, it is, on this 8th day of January 1973,

ORDERED that the suspension heretofore imposed by order of the Municipal Council of the City of Bayonne upon Plenary Retail Consumption License C-149, issued by the said Municipal Council of the City of Bayonne to Bob's Club House, A Corporation of New Jersey, for premises 879 Broadway, Bayonne, for five (5) days, commencing 12:01 a.m. on Monday, January 8, 1973 and terminating 12:01 a.m. on Saturday, January 13, 1973, be and the same is hereby stayed, pending consideration of its application for the payment of a fine in lieu of suspension, and until the entry of a further order herein.

ROBERT E. BOWER
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - ORDER.

In the Matter of Disciplinary Proceedings against)
)
 Bob's Club House, A Corporation)
 of New Jersey)
 879 Broadway)
 Bayonne, N.J.,)
 Holder of Plenary Retail Consumption License C-149, issued by the Municipal Council of the City of Bayonne.)

O R D E R

Licensee, by Robert Farmer, President

BY THE DIRECTOR:

On January 8, 1973, an Order was entered staying the imposition of a suspension of five days against the licensee by the local issuing authority pending application by the licensee for the imposition of a fine in lieu of suspension, in accordance with the provisions of Chapter 9 of the Laws of 1971. Re Bob's Club House, A Corporation of New Jersey, Bulletin 2087, Item 4 .

The licensee having made such application which has been favorably considered, I have determined to accept an offer in compromise by the licensee to pay a fine of \$200.00 in lieu of the suspension imposed.

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

ORDERED that the payment of a fine of \$200.00 by the licensee be and is hereby accepted in lieu of the suspension of five (5) days heretofore imposed by the local issuing authority.

Robert E. Bower,
 Director

6. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FOR CALENDAR YEAR 1972

	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			Total
	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	
ARRESTS:													
Total number persons arrested	135			146			31			26			338
Licenses and employees	50			53			9			6			118
Bootleggers	27			25			13			13			78
Minors	57			68			9			7			141
A.B.C. Impersonator	1			-			-			-			1
SEIZURES:													
Motor vehicles - cars	1			4			-			1			6
Trucks	-			-			-			1			1
Stillis - 50 gallons or under	1			4			-			-			4
Alcohol - gallons		.25		293				.125		3			296.375
Mash - gallons	-			1,925.50			-			-			1,925.50
Distilled alcoholic beverages - gallons	49.245			15.80			6.35			793.45			864.825
Wine - gallons	35.375			3.53			1.73			32.02			122.655
Brewed malt alcoholic beverages - gallons	322.09			77.53			45.63			154.82			600.07
COMPLAINTS AND INVESTIGATIONS													
Inspections & visits made on assigned investigations	6,140			5,354			5,990			9,863			27,327
Complaints assigned for investigation	1,080			1,140			917			1,004			4,141
Investigations completed	1,054			1,129			905			1,046			4,134
Investigations pending	373			1,157			1,078			958			3,606
Premises where alcoholic beverages were gauged	1,782			2,149			1,400			1,776			7,107
Bottles gauged	28,890			36,495			24,448			30,998			120,829
Premises where violations found	628			722			924			1,482			3,756
Number violations found	925			1,054			1,209			2,005			5,173
License applications investigated	19			43			55			18			115
Contact with other law enforcement agencies	787			1,294			1,295			2,639			6,015
LABORATORY:													
Analyses made	262			240			375			314			1,191
Refills from licensed premises - bottles	137			147			308			259			851
Bottles from unlicensed premises	34			22			18			11			85
Controlled Dangerous Substance	-			-			-			2			2
IDENTIFICATION:													
Criminal fingerprint identification made	143			45			20			24			232
Persons fingerprinted for non-criminal purposes	797			1,582			1,352			809			4,540
Identification contact w/other law enf. agencies	602			1,151			1,092			696			3,541
DISCIPLINARY PROCEEDINGS:													
Cases instituted at Division	98			129			114			136			477
Violations involved	110			146			138			166			560
Sale to minors	33			31			40			21			125
Sale during prohibited hours	9			44			22			25			100
Possess. liquor not truly labeled	13			19			13			19			64
Permit lottery acty on premises	8			4			-			-			12
Fraud and front	9			10			9			5			45
Permit immoral acty on premises	6			5			4			5			20
Permit misc. gambling	4			1			6			10			21
Purchase from improper source	9			6			-			2			17
Hindering	5			1			3			2			11
Possession indecentmatter	1			3			-			-			4
Sale to non-member - club	2			4			8			2			16
Fail to keep true books of account	3			1			3			3			10
Sale to retailer while on non-delivery list	4			-			-			-			4
Hostess activity	1			1			-			-			2
Sale below filed price	-			4			2			-			6
Permit brawl, nuisance, etc.	-			1			2			1			4
Lewdness	-			-			2			10			12
No Form E-141-A	-			-			4			21			25
Fail to reveal previous suspension	-			-			-			3			3
Beverage Tax law non-compliance	-			-			-			22			22
Aiding and abetting	-			-			6			3			9
Employ person convicted of crime	-			-			1			1			2
Single instances of other violations	3			11			18			11			35
Cases brought by municipalities on own initiative	71			98			49			67			285
Violations involved	85			143			59			83			370
Sales to minors	33			61			32			41			167
Sale during prohibited hours	3			10			5			14			32
Fail to close premise during prohibited hours	8			-			-			-			8
Permit brawl etc.	6			9			3			3			21
No copy license application	-			5			-			-			5
Permit gambling	-			8			4			4			16
Nuisance	1			13			2			5			21
Unqualified employees	3			4			-			-			7
Act of violence	4			8			4			3			19
Loiter by minors unaccomp. by adult (local ordinance)	2			-			-			-			2
Narcotics	5			5			-			-			10
Hindering	2			3			-			-			5
Permit immoral activity	4			1			-			-			5
No Form E-141-A	2			4			-			-			6
Permit persons of illrepute on premises	2			3			-			-			5
Permit lottery	3			-			-			-			3
Alter premises w/o approval of Issuing Authority	2			2			-			-			4
Disturbance	-			-			2			-			2

	1st Quarter Jan.Feb.Mar.	2nd Quarter Apr.May June	3rd Quarter July Aug.Sept.	4th Quarter Oct. Nov. Dec	Total
Employ intoxicated person	-	-	1	2	3
Sale to intoxicated persons	-	-	-	2	2
Employee fail to have identification card	-	-	1	2	3
Obstructing view	-	-	-	2	2
Single instances of other violations	5	7	4	4	20
HEARINGS HELD AT DIVISION:					
Total number of hearings held	117	186	134	80	517
Appeals	20	17	23	18	78
Disciplinary	80	147	84	37	348
Eligibility	11	11	27	13	62
Seizures	6	1	-	12	19
Tax revocations	-	6	-	-	6
Application for license	-	4	-	-	4
STATE LICENSES AND PERMITS:					
Total number issued	3,380	21,660	5,493	4,451	34,984
Licenses	12	11	567	8	598
Solicitors's permits	123	2,727	173	183	3,206
Employment permits	542	4,076	1,314	815	6,747
Disposal permits	205	147	219	299	870
Social affair permits	1,206	1,474	1,298	1,438	5,416
Wine permits	44	34	65	404	547
Transit insignia	328	9,745	582	533	11,188
Transit certificates	110	1,460	234	62	1,866
Miscellaneous	810	1,986	1,041	709	4,546
OFFICE OF AMUSEMENT GAMES CONTROL					
Licenses issued	336	241	11	-	588
State Fair licenses issued	-	29	172	-	201
Premises inspected	-	231	781	-	1,012
Premises where violations found	-	16	24	-	40
Number violations found	-	17	28	-	45
Enforcement files established	19	30	58	34	141

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

Dated: January 10, 1973

7. DISCIPLINARY PROCEEDINGS - ORDER.

In the Matter of Disciplinary Proceedings against :

Regis J. Connors :
960 Townley Avenue :
Union, N.J. :

ORDER

Holder of Unlimited Solicitor's Permit No. 253 (for the 1971-72 license period and Unlimited Solicitor's Permit No. 1450, for the 1972-73 license period) issued by the Director of the Division of Alcoholic Beverage Control. :

.....
Arthur J. Timins, Esq., Attorney for Permittee
David S. Piltzer, Esq., Appearing for Division

BY THE DIRECTOR:

On November 29, 1972 I entered Conclusions and Order herein suspending the Unlimited Solicitor's Permit No. 1450 issued to the above-named Solicitor, for the balance of its term, effective Tuesday, January 2, 1973 with leave to the permittee to apply to me by verified petition for the lifting of the suspension whenever the unlawful situation, as set forth in the said Conclusions and Order, has been corrected; such lifting of the suspension of which may be granted on or after twenty days from the commencement of the suspension therein. (Re Connors, Bulletin 2081, Item 3 .)

It appearing from the verified Petition submitted by the permittee that the unlawful situation (undisclosed interest and employment in a retail license and in the business conducted thereunder) has been corrected, I shall grant the Petition requesting termination of the suspension, effective immediately.

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

ORDERED that the said suspension heretofore imposed is hereby terminated, effective immediately.

Robert E. Bower,
Director

8. STATE LICENSES - NEW APPLICATION FILED.

Charles Jacquin et Cie, Inc.
2633 Trenton Avenue
Philadelphia, Pennsylvania
Application filed February 20, 1973
for place-to-place transfer of warehouse
operated under Plenary Wholesale License
W-15 from 215-235 Bergen Boulevard,
Fairview, New Jersey to 735 Commercial
Avenue, Carlstadt, New Jersey.

Robert E. Bower
Robert E. Bower
Director