

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

BULLETIN 2047

JUNE 15, 1972

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

BULLETIN 2047

JUNE 15, 1972

1. COURT DECISIONS - LOMBARDI et al. v. CHATHAM - DIRECTOR AFFIRMED.

ANTHONY J. LOMBARDI and
JAMES MULLIGAN,

Appellants,

v.

BOROUGH COUNCIL OF THE
BOROUGH OF CHATHAM, and
PHILIP LAX and FRANK LAX,

Respondents.

Submitted April 11, 1972 - Decided April 12, 1972.

Before Judges Goldmann, Halpern and Lora.

On appeal from the Division of Alcoholic Beverage Control.

Mr. John Anthony Lombardi, attorney for appellants.

Messrs. Judge, Sheeran, Mascia & Dowd, attorneys
for respondents Lax (Mr. Charles M. Judge, of counsel
and on the brief).

Mr. George F. Kugler, Jr., Attorney General of
New Jersey, filed a statement in lieu of brief for
the Director of the Division of Alcoholic Beverage
Control (Mr. David S. Piltzer, Deputy Attorney General,
of counsel).

PER CURIAM.

(Appeal from the Director's decision in Re Lombardi
v. Chatham, Bulletin 1997, Item 1. Director affirmed.
Opinion not approved for publication by the Court
committee on opinions.)

2. APPELLATE DECISIONS - BRUMMERT v. NEW BRUNSWICK - SUPPLEMENTAL ORDER.

Ronald J. & Anna A. Brummert,)
t/a Ronnie's Tavern,)
Appellants,)
v.)

On Appeal

Board of Commissioners of the)
City of New Brunswick,)
Respondent.)
-----)

SUPPLEMENTAL ORDER

James C. Richardson, Esq., Attorney for Appellants
J. Norris Harding, Esq., Attorney for Respondent

BY THE DIRECTOR:

On March 7, 1972 Conclusions and Order were entered herein reversing the action of respondent and directing respondent to grant renewal of appellants' license for the current license period upon certain specified conditions. The conditions set forth in the said order were an affirmation of the conditions recommended in the Hearer's report. However, it appears that the Hearer recommended that the said license shall be issued upon a person-to-person transfer to a suitable transferee. The said order sets forth that the grant of the transfer shall be made to "other suitable premises in the municipality." Since this was not the true intent of this order, I have determined to enter this supplemental order setting forth the conditions truly intended.

The appellants have by letter dated April 12, 1972 asked for a further extension of time within which to obtain a suitable transferee. I shall grant the request for such extension.

Accordingly, it is, on this 24th day of April 1972,

ORDERED that respondent Board is hereby directed to grant renewal of appellants' license for the current license period upon the following conditions:

- (a) that the license, when renewed, shall not be actually issued to appellants but shall be retained by the Board;
- (b) that proposed transferee of the said license may file prompt application for a lawful person-to-person transfer of the said license;
- (c) that an extension is granted from the order entered on March 7, 1972 to June 30, 1972, wherein the Board may in its lawful discretion grant such application for person-to-person transfer and a renewal of the said license for the 1972-73 license period;
- (d) that, upon the grant of the said application, the said license shall be issued and transferred to the transferee and shall be in full force and effect as soon as the transfer is endorsed on the face of the license certificate;

(e) if the said application for person-to-person transfer is not approved within the above stated period of time as extended by this order, the said license shall be cancelled.

Robert E. Bower
Director

3. DISCIPLINARY PROCEEDINGS - PURCHASE FROM OTHER RETAILERS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against	:	
	:	
	:	
M.M.D. Corporation	:	
t/a Bob McCloskey's	:	
7051 Kennedy Boulevard	:	CONCLUSIONS
North Bergen, N.J.	:	and
	:	ORDER
Holder of Plenary Retail Consumption License C-36 issued by the Municipal Board of Alcoholic Beverage Control of the Township of North Bergen.	:	
.....	:	
Sanford E. Chernin, Esq., Attorney for the Licensee.	:	
Dennis M. Brew, Appearing for Division.	:	

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on October 14, 1971, it obtained alcoholic beverages from other retailers in violation of Rule 15 of State Regulation No. 20.

Absent prior record the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Holiday Lounge, Inc., Bulletin 1958, Item 6. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$1880.00 in lieu of suspension.

Accordingly, it is, on this 19th day of April, 1972,

ORDERED that the payment of a \$1880.00 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Robert E. Bower,
Director

4. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA - APPLICATION FOR IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against

Anne Bock
t/a Guy's Bar & Grill
665 Columbus Avenue
Phillipsburg, N.J.

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-14 issued by the Town Council of the Town of Phillipsburg.

.....1.....
Licensee, Pro Se.
Dennis M. Brew, Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 14, 1972 she sold alcoholic beverages to a minor, age 20, in violation of Rule 1 of State Regulation No. 20.

Absent prior record the license would normally be suspended for ten days, with remission of five days for the plea entered, leaving a net suspension of five days. Re Ivy Spirits, Inc., Bulletin 2029, Item 11. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$200.00 in lieu of suspension.

Accordingly, it is, on this 17th day of April, 1972.

ORDERED that the payment of a \$200.00 fine by the licensee is hereby accepted in lieu of a suspension of license for five days.

Robert E. Bower,
Director

5. DISCIPLINARY PROCEEDINGS - FRONT - FALSE STATEMENTS IN APPLICATION FOR LICENSE - LICENSE SUSPENDED FOR BALANCE OF TERM WITH LEAVE TO APPLY AFTER 25 DAYS FOR LIFTING OF SUSPENSION AFTER CORRECTION OF UNLAWFUL SITUATION.

In the Matter of Disciplinary Proceedings against)

Bar 13, Inc.)
t/a The Office)
13 N. Willow Street)
Trenton, N. J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-5, issued by the City Council of the City of Trenton.)

Edward J. Phelan, Esq., Attorney for Licensee.
Dennis M. Brew, Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to three charges alleging that in its application for a plenary retail consumption license dated May 21, 1971, it failed to disclose a change of corporate stockholders or otherwise indicated that others there unnamed, i.e., Marian Rowland and William Lloyd, both non-residents of New Jersey, exercised the beneficial control of the licensed premises and derived the benefits conducted thereunder, in violation of N.J.S.A. 33:1-25; and to a fourth charge alleging that it aided the said persons to exercise the rights of a licensee under such license, in violation of N.J.S.A. 33:1-52.

Absent prior record, the license will be suspended for thirty days (Re 111 Park St. Corporation, Bulletin 1786, Item 4) with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

However, the unlawful situation has not to date been corrected; hence, the license will be suspended for the balance of its term, with leave granted to the licensee or any bona fide transferee of the license to apply to the Director for lifting of the suspension whenever the unlawful situation has been corrected, but such lifting shall not be granted, in any event, sooner than twenty-five days from the commencement of the suspension herein. (Re M & P Liquor, Inc., Bulletin , Item).

Accordingly, it is on this 19th day of April 1972,

ORDERED that Plenary Retail Consumption License C-5, issued by the City Council of the City of Trenton to Bar 13, Inc., t/a The Office, for premises 13 N. Willow Street, Trenton, be and the same is hereby suspended for the balance of its term, i.e., midnight June 30, 1972, commencing at 2:00 a.m., Wednesday, May 2, 1972, with leave to the licensee or any bona fide transferee of the license to apply to the Director by verified petition for lifting of the suspension whenever the unlawful situation has been corrected, but in no event sooner than twenty-five (25) days from the commencement of the suspension herein.

Robert E. Bower
Director

6. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Arthur I. Dana, t/a Triangle Inn Livingston Ave. & Highway #1 North Brunswick PO RFD #4, New Brunswick, N.J.)

CONCLUSIONS and ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of North Brunswick.)

----- Busch and Busch, Esqs., by Malcolm R. Busch, Esq., Attorneys for Licensee.

Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that on December 8, 1971, he possessed two bottles of alcoholic beverages the labels of which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Licensee, although having no prior violations against this license issued to him, the prior licensee then in the name of Triangle Inn, Inc., of which this licensee was a major stockholder, has a record of two suspensions of license for dissimilar violations within the past five years: (1) for twenty days by the local issuing authority, effective April 1, 1969, for sale to minors; and (2) by the Director for fifteen days effective February 3, 1972 for sale to minors. Re Triangle Inn, Inc., Bulletin 2029, Item 16.

The license will be suspended on the charge herein for fifteen days (Re Club La Ru, A Corp., Bulletin 2008, Item 6), to which will be added ten days by reason of the two dissimilar violations above noted occurring within the past 5 years, making a total of twenty-five days, with remission of five days for the plea entered, leaving a net suspension of twenty days.

Accordingly, it is, on this 19th day of April 1972,

ORDERED that Plenary Retail Consumption License C-9, issued by the Township Committee of the Township of North Brunswick to Arthur I. Dana, t/a Triangle Inn, for premises Livingston Ave. & Highway #1, North Brunswick, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m., Tuesday, April 25, 1972 and terminating at 2:00 a.m., Monday, May 15, 1972.

Robert E. Bower Director

7. DISCIPLINARY PROCEEDINGS - VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against :

Ramon Magan :
t/a Club 64 :
6400 Dewey Avenue :
West New York, N.J. :

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-44 issued by the Board of Commissioners of the Town of West New York. :

.....
Perfilio & Marquet, Esqs., by Joseph P. Perfilio, Esq., Attorneys for the Licensee.
Dennis M. Brew, Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 16, 1972 at 2:10 a.m. it sold alcoholic beverages for off premises consumption in violation of Rule 1 of State Regulation No. 38.

Absent prior record the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Kogut, Bulletin 2031, Item 4. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$400.00 in lieu of suspension.

Accordingly, it is, on this 20th day of April, 1972

ORDERED that the payment of a \$400.00 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Robert E. Bower,
Director

8. SEIZURE - FORFEITURE PROCEEDINGS - SALE OF ALCOHOLIC BEVERAGES FROM UNLICENSED POOL ROOM - APPLICATION FOR RETURN OF CASH POSTED IN LIEU OF SEIZURE OF PERSONALTY AND CASH ON PREMISES GRANTED - ALCOHOLIC BEVERAGES AND VENDING EQUIPMENT AND MISCELLANY ORDERED FORFEITED.

In the Matter of the Seizure :
 on September 6, 1970 of six :
 containers of alcoholic bev- :
 erages, 29 checks totaling :
 \$3,335.11, one pool table, one :
 display refrigerator, miscella- :
 neous fixtures, furnishings, :
 equipment, foodstuffs and \$508.11 :
 in cash seized at 49 Prospect :
 Street, in the City of Newark, :
 County of Essex and State of New :
 Jersey. :

Case No. 12,367

On Hearing

CONCLUSIONS and ORDER

.....
 Carl J. Yagoda, Esq., appearing for claimant, Fieres Realty
 Corp., t/a International Pool Room.
 Harry D. Gross, Esq., appearing for the Division.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to the provisions of N.J.S.A. 33:1-66 and State Regulation No. 28, and further pursuant to three stipulations, dated April 13, 1971 signed by Manuel Torres, to determine whether six containers of alcoholic beverages, 29 checks totaling \$3,335.11, one pool table, one display refrigerator, miscellaneous fixtures, furnishings, equipment, foodstuffs and \$508.11 in cash, as set forth in an inventory attached hereto, made a part hereof and marked Schedule "A", seized on September 6, 1970 at the unlicensed premises of the International Pool Room, 49 Prospect Street, Newark, constitute unlawful property and should be forfeited and further, to determine whether the sum of \$4,085.11, deposited with the Director, pursuant to the said stipulations, under protest, by the said Manuel Torres, as agent for and on behalf of the Fieres Realty Corp., t/a International Pool Room, representing the appraised retail value of the said pool table, display refrigerator, 29 checks and miscellaneous fixtures, furnishings, equipment and foodstuffs, exclusive of the alcoholic beverages and \$508.11 should be forfeited or returned to it.

It should be noted that other items of personalty seized in the instant matter, viz. one juke box and three pinball machines, were the subject of a separate hearing (Bulletin 2008, Item 5), and are not considered herein.

When the matter came on for hearing Manuel Torres, agent for Fieres Realty Corp., represented by counsel, appeared and sought return of the monies deposited pursuant to the aforesaid stipulations, as well as the seized alcoholic beverages and \$508.11 in cash.

At the outset, it should be noted that the claimant, through counsel, stipulated to the admission into evidence of the certification by the Director that no license or special permit of any kind has ever been issued by the Division of Alcoholic Beverage Control to either Manuel Torres, Manuel Riberiu, or to any person at, or for the premises, 49 Prospect Street, Newark. The licensee, further admitted the sale of alcoholic beverages on the unlicensed premises herein.

On behalf of the Division, Agent S testified that he entered the premises, 49 Prospect Street on the morning of Sunday, September 6, 1970 leaving Agents G and R and two Newark police officers outside at a point of contact.

He observed two minors and an adult male, subsequently identified as Manuel Torres, serving patrons at a counter. He approached one of the minors and requested and was served a cup of coffee, into which the minor poured a generous quantity of brandy. He paid for this drink with a \$5.00 bill, the serial number of which had been previously recorded.

The minor placed the \$5.00 bill in the cash register and returned \$4.60 change. He made a second similar purchase and thereafter contacted Agents G and R who, in turn, contacted the local police officers. The four entered the premises; Agent S confronted Torres and identified himself. Detective Toma of the Newark police department proceeded behind the counter to the cash register, Agents R and G took positions at the counter directly opposite from Detective Toma and the cash register.

Agent S then accompanied Torres to a table to question him. Shortly thereafter, the agents and Toma approached with a metal box containing \$508.11, the \$6.00 of "marked" money paid to the minor by Agent S and a number of checks, which totaled \$3,335.11.

Thereafter, with the help of an interpreter, he questioned Torres, the minors, and Manuel Ruberiu, partner of Torres. Torres and Ruberiu were then arrested and charged with the unlawful possession of alcoholic beverages with intent to sell. N.J.S.A. 33:1-50(b). The minors were arrested and charged, as juvenile delinquents, with unlawful sale of alcoholic beverages contrary to N.J.S.A. 33:1-50(a).

On cross-examination, Agent S testified that the "marked" money paid by him to the minors was placed in the cash register. He saw the tin box containing the money and checks when Agents G and R brought it to him at the table at which time he also placed Torres' wallet therein, after having removed an undisclosed amount of money therefrom. That money was also placed in the tin box. He did not see Torres place any money in his wallet during his presence in the premises.

He did not see how the currency got into the box but he did count it and found \$508.11 in cash, exclusive of the "marked" money. The box also contained Torres' wallet and keys. He did not check to determine how much money had been rung on the register.

Agent R testified that upon entering at approximately 11:00 A.M. on September 6, 1970, with Agent G and two Newark police officers, he and Agent G accompanied Toma to the register where they searched through the currency and found the "marked" bills. Thereupon, Toma removed a tin box which was beneath the counter, opened it and Agent R noticed checks and currency therein. Agent R returned the "marked" \$1.00 bill and \$5.00 bill and Toma placed the remainder of the money from the cash register in the box.

Detective Toma removed all the currency from the register, placed it on the counter; the "marked" money was separated therefrom, and the remainder was then placed in the tin box.

Agent G substantially corroborated the testimony of Agent R. He added that, after the money from the register was placed in the tin box, he went behind the counter, and found five bottles of brandy and a gallon of Sauterne wine.

On cross-examination, he testified that the series of checks in evidence were similar to those he observed in the tin box, most of which were payroll checks. He did not observe any one cash any checks while he was at the premises.

On behalf of the claimant, Manuel Torres testified that he and Riberiu are co-owners of the business located at 49 Prospect Street, which is operated under the name of Feries Realty Corp., and have been so engaged for three years.

As part of the business, patrons' payroll and other checks are cashed as an accommodation. At regular intervals one of the co-owners will withdraw approximately \$2,500.00 from the business bank account and return this amount to the premises for the purpose of cashing checks. Thereafter, the checks are returned to the bank for deposit in the business account. The money in the account belonged jointly to himself and Riberiu and was used to conduct the luncheonette business at the licensed premises.

The moneys received from the daily conduct of the luncheonette business is placed in the cash register; the money used for the cashing of checks is kept separately, in the tin box. The checks were also kept in the tin box.

With respect to the money in the wallet removed by Agent S, he testified that it amounted to \$90.00, which he had brought from home.

On cross-examination, he asserted that patrons were not permitted to pay for purchases with checks. Rather, checks would be cashed in their face amount and then all sales were transacted for cash.

He insisted that the check-cashing activity was conducted only as a convenience to his customers, and no charge was made for the service.

Manuel Riberiu substantially corroborated the testimony of Torres.

On cross-examination, he testified that Feries Realty Corp. has one bank account, and the proceeds of the business and of the cash-cashing operation go into the same account.

Certain check stubs entered in evidence by the claimant indicated a regular pattern of withdrawals in the approximate amount of \$2,500.00, expressly for the purpose of cashing checks.

Antonio Esteves Serro testified that, on the date in question, he was employed on the licensed premises as a busboy. On occasions, he did serve coffee to customers. The money received was placed in the register, but never in the tin box. He has seen Torres cash checks for patrons, only from monies in the tin box.

The claimant admitted that the premises are not licensed to sell alcoholic beverages and that sales of alcoholic beverages were made thereon. Thus, the seized alcoholic beverages are illicit because they were intended for sale and sold without a license. N.J.S.A. 33:1-1(i). Such illicit alcoholic beverages, the personal property and cash seized, as set forth in Schedule "A" herein, constitute unlawful property and are subject to forfeiture. N.J.S.A. 33:1-2; N.J.S.A. 33:1-66.

This applies with equal force to the cash in the register, which was clearly commingled with the "marked" bill accepted from the agent in payment for his drink, Seizure Case No. 11,797, Bulletin 1731, Item 4.

Further, the applicable statute states that "All alcoholic beverages, fixtures and personal property located in or upon any premises, building, yard or enclosure connected with a building in which an illicit beverage is found, possessed, stored or kept are hereby declared unlawful property and shall be seized, forfeited, and disposed of in the same manner as other unlawful property seized under this section." N.J.S.A. 33:1-66(b). It follows, therefore, that the entire inventory seized herein is subject to forfeiture.

The claimant asserts that the checks, being a quantity of money kept separate and apart from the monies in the cash register, were not commingled with that cash, and are, therefore, not subject to forfeiture. Claimant takes the position that the "marked" bills were found in the register and were not commingled with the cash and checks until the agents placed them in the tin box. Thus the only commingling of funds was done by the agents and not by the claimant.

"Commingled" is defined as "to mix together...to combine (the funds or property of several individuals) into a common fund or stock" Webster's Third International Dictionary, 1961, or "to put together in one mass", Black's Law Dictionary.

These definitions obviously presuppose the existence of separate funds with separate ownership. The definitions preclude the possibility of commingling funds which are already part and parcel of one unit. The line of cases at the Division which deal with the commingling of funds generally support the proposition that funds innocently involved in the incident shall not, due to an unfortunate set of circumstances, be forfeited as part of the unlawful personality contemplated by N.J.S.A. 33:1-66(b). See Seizure Case No. 11,797, Bulletin 1731, Item 4; Seizure Case No. 12,081, Bulletin 1856, Item 2.

In the instant matter, however, the monies found in the tin box derive from the business itself, and are both the instrumentality and product of the unlawful activity. The testimony of Torres and Riberiu both affirms that the money placed in the tin box is withdrawn at regular intervals from the single business account of Feries Realty Corp. The check stubs placed in evidence by the claimant support this fact.

Furthermore, Torres candidly admits that he charges no fee for cashing checks but does it as part of the business operation for the convenience of his patrons. There is, therefore, no merit to the argument that the money in the tin box was not commingled with the money from the cash register.

The Director has the discretionary authority to return property subject to forfeiture to a claimant who has established to his satisfaction that he had acted in good faith and has unknowingly violated the law. In the absence of such showing, the Director is without authority to return such property. Seizure Case No. 12,118, Bulletin 1867, Item 3: Rule 3(a) of State Regulation No. 28.

Accordingly, it is recommended that the claim of claimant herein be denied, and an order be entered forfeiting the cash, alcoholic beverages, the furnishings, fixtures, equipment, etc. and the monies deposited under the aforesaid stipulations.

Conclusions and Order

No exceptions were filed to the Hearer's Report 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 have determined that the amount of \$3,335.11 deposited with the Director, under protest, by Manuel Torres, representing the value of 29 checks seized on the premises in the instant matter, and the \$508.11 cash seized on the premises, should be returned.

The proceeds from the check-cashing activity were clearly kept separate and apart from the proceeds of the unlawful alcoholic beverage activity. Further, the amount of alcoholic beverages seized, (six containers in all) indicates that the unlawful proceeds from the sale of alcoholic beverages, were so minimal as to negative the inference that they were related to the check-cashing operation.

The \$508.11 cash will be returned to the claimant, since there is no affirmative proof of what portion of it represented the proceeds of the illegal sale. The cash seized from the cash register was thereafter commingled with the cash sequestered in the separate receptacle and became part of the check-cashing operation. Therefore, the amount attributable to the illegal sale is indistinguishable from the cash attributable to the check-cashing operation. In all other respects I accept the findings and recommendations of the Hearer and adopt them as my recommendations herein.

Accordingly, it is, on this 21st day of April, 1972

DETERMINED and ORDERED that the sum of \$3,335.11, deposited with the Director, under protest, by the Fieres Realty Co., a Corp., representing the value of 29 checks seized herein be returned to it; and it is further

DETERMINED and ORDERED that the sum of \$508.11, seized herein be returned to claimant, Fieres Realty Co., a Corp., and it is further

DETERMINED and ORDERED that the sum of \$250.00, representing the appraised retail value of one pool table and one refrigerator and the sum of \$500.00, representing the appraised value of certain miscellaneous fixtures, furnishings and foodstuffs, deposited with the Director, under protest, by the Fieres Realty Co., a Corp., all of which enumerated personalty were retained by the claimant be and the same is hereby forfeited, to be disposed of in accordance with law; and it is further

DETERMINED and ORDERED that the remaining personalty and six containers of alcoholic beverages, more fully set forth in Schedule "A", attached hereto, is hereby forfeited in accordance with the provisions of N.J.S.A. 33:1-66, and they shall be retained for the use of hospitals and State, county or municipal institutions, or destroyed, in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Robert E. Bower,
Director

SCHEDULE "A"

- 6 - containers of alcoholic beverages
- 29 - checks totaling \$3,335.11
- 1 - pool table; 1 display refrigerator
- Miscellaneous fixtures, furnishings, equipment and foodstuffs
- \$508.11 - cash

9. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against
 Broadway Wine & Liquor Co. Inc.
 113 Broadway
 Newark, N.J.
 Holder of Plenary Retail Distribution License D-74 issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

CONCLUSIONS
and
ORDER

.....
 Licensee, Pro Se.
 Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on January 6, 1972 it permitted the sale of alcoholic beverages to a minor, age 19, in violation of Rule 1 of State Regulation No. 20.

Absent prior record the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Franklin House, Inc., Bulletin 2033, Item 7. However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$470.00 in lieu of suspension.

Accordingly, it is on this 21st day of April, 1972

ORDERED that the payment of a \$470.00 fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Robert E. Bower,
Director

10. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary Proceedings against)	
)	
Key Club (A N.J. Corp.))	
t/a The Key Club)	
36-38 William Street)	
Newark, N. J.,)	AMENDED ORDER

Holder of Plenary Retail Consumption License C-624, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.

-----)

Licensee, Pro se
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

On April 13, 1972 I entered an order suspending the license herein for twenty days commencing April 27, 1972. Re Key Club (A N.J. Corp.), Bulletin , Item .

By letter addressed to me by the secretary of the corporate licensee, request was made that the effect of the suspension be deferred until "after May 14, 1972" because of previously arranged commitments for affairs scheduled in the licensed premises. Good cause appearing, I shall grant the request.

Accordingly, it is, on this 21st day of April 1972,

ORDERED that the order dated April 13, 1972, be and the same is hereby amended as follows:

ORDERED that Plenary Retail Consumption License C-624, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Key Club (A N.J. Corp.), t/a The Key Club, for premises 36-38 William Street, Newark, be and the same is hereby suspended for twenty (20) days commencing 2 a.m. Thursday, May 18, 1972, and terminating at 2 a.m. Wednesday, June 7, 1972.

Robert E. Bower,
Director.

11. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - LICENSE
SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA - APPLICATION FOR
IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against :

Villa Del Pino, Inc. :

t/a Villa Del Pino, Inc. :

Route 206 and Medford Lakes Road :

Tabernacle Township :

P O Vincentown, N.J. :

Holder of Plenary Retail Consumption License C-2 issued by the Township Committee of the Township of Tabernacle. :

..... :

Friedman & Smith, Esqs., by Victor Friedman, Esq., Attorneys for Licensee. :

Dennis M. Brew, Appearing for Division. :

CONCLUSIONS
/and
ORDER

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 10, 1971, it sold alcoholic beverages to a minor, age 19, in violation of Rule 1 of State Regulation No. 20.

Absent prior record license would normally be suspended for fifteen days with remission of five days for the plea entered, leaving a net suspension of ten days. Re Franklin House, Inc., Bulletin 2033, Item 7.

However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$800.00 in lieu of suspension.

Accordingly, it is, on this 24th day of April, 1972

ORDERED that the payment of an \$800.00 fine by the licensee is hereby accepted in lieu of the suspension of license for ten days.

Robert E. Bower,
Director

12. STATE LICENSES - NEW APPLICATIONS FILED.

Banfi Products Corporation
200 Sherwood Avenue
Farmingdale, New York
Application filed May 15, 1972
for wine wholesale license.

Fine Wines Unlimited
51 Upper Montclair Plaza, Room 29
Upper Montclair, New Jersey
Application filed May 18, 1972
for place-to-place transfer of
Wine Wholesale License WW-1 from
50 Park Place, Room 725, Newark,
New Jersey.

Circle Beverages, a New Jersey Corporation
921 South Elmora Avenue
Elizabeth, New Jersey
Application filed May 26, 1972 for
person-to-person and place-to-place
transfer of State Beverage Distributor's
License SBD-106 from Arthur M. Credico,
t/a Circle Beverages, 936-938 South Elmora
Avenue, Elizabeth, New Jersey.

Hoffman Import & Distributing Company
396 Veterans Boulevard
Carlstadt, New Jersey
Application filed June 6, 1972 for
place-to-place transfer of Plenary
Wholesale License W-10 from 772-776
Communipaw Avenue, Jersey City, New
Jersey.



Robert E. Bower
Director