

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

BULLETIN 1998

September 9, 1971

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

BULLETIN 1998

September 9, 1971

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY
(PROSTITUTION) - LICENSE SUSPENDED FOR 180 DAYS, LESS
36 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

Leon J. Stefanoni &)
Joseph Stefanoni)
t/a Zackey's Shack)
w/s Fort Dix Road)
Wrightstown, N.J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption)
License C-6 issued by the Borough)
Council of the Borough of Wrights-)
town.)

-----)
Dimon, Haines & Bunting, Esqs., by John E. Dimon, Esq., Attorneys
for Licensee
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensees plead: non vult to a charge alleging that on
February 18, 1971 they permitted solicitation for and assisted
in the procurement for prostitution on the licensed premises,
in violation of Rule 5 of State Regulation No. 20.

Reports of investigation reveal that bartender in the
licensed premises assisted in arranging for procurement and,
further, active "hustling" was common in licensed premises.

Absent prior record, the license will be suspended for 180
days (Re The Lark Lounge Inc., Bulletin 1988, Item 2-), with
remission of 36 days for the plea entered, leaving a net suspension
of 144 days.

Accordingly, it is, on this 19th day of July 1971,

ORDERED that Plenary Retail Consumption License C-6, issued
by the Borough Council of the Borough of Wrightstown to Leon J.
Stefanoni & Joseph Stefanoni, t/a Zackey's Shack, for premises
w/s Fort Dix Road, Wrightstown, be and the same is hereby suspended
for one hundred forty-four (144) days commencing at 2 a.m. Tuesday,
August 3, 1971 and terminating at 2 a.m. Saturday, December 25,
1971.

Richard C. McDonough,
Director

2.

ACTIVITY REPORT FOR JULY 1971

ARRESTS:		
Total number of persons arrested - - - - -		52
Licensees and employees - - - - -	20	
Bootleggers - - - - -	12	
Minors - - - - -	20	
SEIZURES:		
Motor vehicles - cars - - - - -		1
Distilled alcoholic beverages - gallons - - - - -		7.315
Wine - gallons - - - - -		4.85
Brewed malt alcoholic beverages - gallons - - - - -		75.71
RETAIL LICENSEES:		
Premises inspected - - - - -		295
Premises where alcoholic beverages were gauged - - - - -		263
Bottles gauged - - - - -		3,960
Premises where violations were found - - - - -		112
Violations found - - - - -		193
No Form E-141-A on premises - - - - -	34	Disposal permit necessary - - - - - 9
Unqualified employees - - - - -	65	Prohibited signs & practices - - - - - 1
Form E-141-A incomplete - - - - -	25	Other violations - - - - - 47
Application copy not available - - - - -	12	
STATE LICENSEES:		
Premises inspected - - - - -		13
License applications investigated - - - - -		14
COMPLAINTS:		
Complaints assigned for investigation - - - - -		333
Investigations completed - - - - -		354
Investigations pending - - - - -		304
LABORATORY:		
Analyses made - - - - -		80
Refills from licensed premises - bottles - - - - -		47
Bottles from unlicensed premises - - - - -		4
IDENTIFICATION:		
Criminal fingerprint identifications made - - - - -		16
Persons fingerprinted for non-criminal purposes - - - - -		620
Identification contacts made with other enforcement agencies - - - - -		400
DISCIPLINARY PROCEEDINGS:		
Cases instituted at Division - - - - -		40
Violations involved - - - - -		49
Sale to minors - - - - -	14	Perm. lottery acty. on prem. - - - - - 1
Possessing liquor not truly labeled - - - - -	7	Perm. bookmaking on premises - - - - - 1
Sale during prohibited hours - - - - -	5	Perm. misc. gambl. on premises - - - - - 1
Possessing indecent matter - - - - -	2	Fraud in application - - - - - 1
Sale below filed price - - - - -	2	Failure to close prem. during proh. hrs. - - - - - 1
Fraud and front - - - - -	2	Unqualified employees - - - - - 1
Permitting immoral acty. on prem. - - - - -	2	Broad package privilege violation - - - - - 1
Perm. narcotic acty. on prem. - - - - -	2	Possession of contraceptives on prem. - - - - - 1
Possessing lottery tickets on prem. - - - - -	2	Sale to non-members by club - - - - - 1
Employee working while intoxicated - - - - -	1	Perm. foul language on premises - - - - - 1
Cases brought by municipalities on own initiative and reported to Division - - - - -		22
Violations involved - - - - -		29
Sale to minors - - - - -	10	Fail. to afford view into premises
Sale during prohibited hours - - - - -	4	during prohibited hours - - - - - 1
Fail. to close prem. dur. proh. hours - - - - -	3	No Form E-141-A on premises - - - - - 1
Conducting business as a nuisance - - - - -	2	No copy of lic. application on prem. - - - - - 1
Permitting gambling on premises - - - - -	2	Perm. narcotic acty. on premises - - - - - 1
Perm. loitering by minors unaccomp. by adults (local reg.) - - - - -	2	Employment w/o ID card (Local reg.) - - - - - 1
Hindering investigation - - - - -		1
HEARINGS HELD AT DIVISION:		
Total number of hearings held - - - - -		51
Appeals - - - - -	8	Eligibility - - - - - 7
Disciplinary proceedings - - - - -	36	
STATE LICENSES AND PERMITS:		
Total number issued - - - - -		2,406
Licenses - - - - -	556	Wine permits - - - - - 34
Solicitors' permits - - - - -	51	Miscellaneous permits - - - - - 441
Employment permits - - - - -	666	Transit insignia - - - - - 194
Disposal permits - - - - -	56	Transit certificates - - - - - 48
Social affair permits - - - - -	360	
OFFICE OF AMUSEMENT GAMES CONTROL:		
Licenses issued - - - - -	10	Premises inspected - - - - - 321
State Fair licenses issued - - - - -	44	Premises where viol. were found - - - - - 18
Enforcement files established - - - - -	20	Number of violations found - - - - - 20

RICHARD C. McDONOUGH
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

Dated: August 11, 1971

3. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN SOCIAL CLUB - CLAIM OF INNOCENT OWNER OF PREMISES AND OF VENDING EQUIPMENT RECOGNIZED - SEIZED PROPERTY ORDERED RETURNED.

In the Matter of the Seizure	:	
on August 4, 1970 of a quantity	:	
of alcoholic beverages, fixtures,	:	Case No. 12,351
furnishings, equipment, and \$43.50	:	
in cash at the unlicensed premises	:	On Hearing
of the Yabucoa Social Club, at 146	:	
Market Street, in the City of	:	CONCLUSIONS and ORDER
Passaic, County of Passaic and State	:	
of New Jersey.	:	

.....
John S. Wolcko, Esq., appearing for claimant, Yabucoa Social Club.

George G. Tillotson, claimant, Pro Se.

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 R.S. 33:1-66 and State Regulation No. 28 and, further, pursuant to a stipulation dated November 9, 1970 signed by Ophelia Vasquez, Vice-President of and on behalf of the Yabucoa Social Club, to determine whether 260 containers of alcoholic beverages, various fixtures, furnishings, equipment and miscellaneous personal property and \$43.50 in cash seized on August 4, 1970 at the unlicensed premises of the Yabucoa Social Club, 146 Market Street, Passaic, constitutes unlawful property and shall be forfeited, and, further, to determine whether the sum of \$100.00 deposited by Ophelia Vasquez on behalf of the Yabucoa Social Club, under the aforesaid stipulation, representing the retail value of certain fixtures, furnishings and equipment as set forth in the aforesaid stipulation, should be forfeited or returned to the club.

At the hearing the Yabucoa Social Club, represented by Belen Torres and Ophelia Vasquez, respectively President and Vice-President of Yabucoa Social Club, sought the return, deposited in its behalf, under protest, of the \$100.00 cash deposit and the alcoholic beverages. George Tillotson appeared to seek return of one pool table, one juke box and \$43.50 cash contained therein.

The file, admitted into evidence by stipulation of the parties, discloses that on August 1, 1970 Detectives Zipko, Gergats and Sniatkowski of the Passaic police department while investigating an assault with a gun at the Yabucoa Social Club, a New Jersey corporation not for profit, observed a large quantity of canned beer on the premises. The premises contained a bar with two large refrigerators, used to store beer and other drinks. They also noted a number of empty beer cans on tables.

On August 3, 1970 Belen Torres and Ophelia Vasquez, President and Vice-President, respectively, of the Yabucoa Social Club, arrived at the Passaic police headquarters and were interviewed with reference to the alcoholic beverage activity on the premises. Torres stated that the club has 226 members. Both vehemently denied any sale of alcoholic beverages thereon. Torres stated additionally that alcoholic beverages were stored on the premises for consumption by the membership and that each member is permitted to help himself to the beer. He further asserted that members are

assessed dues which are used to defray the expense of rent and other bills which may accrue.

Both Torres and Vasquez were arrested and charged with the sale of alcoholic beverages without a license and with the possession of alcoholic beverages with intent to sell without a license, in violation of R.S. 33:l-50(a) and R.S. 33:l-50(b).

Thereafter, agents of the ABC seized the personal property, more particularly described in Schedule "B", attached hereto and made part hereof.

The file further discloses: the affidavits of mailing and publication of notice of hearing, an inventory of the items seized, the certificate by the Director that no alcoholic beverage license or special permit of any kind has been issued to Belen Torres or Ophelia Vasquez or for the said premises and the report of chemical analysis by the Division chemist, certified by the Director establishing that one twelve-ounce can of Schaefer beer, seized herein, is an alcoholic beverage fit for beverage purposes, with an alcoholic content of 4.42%, by volume.

Michael J. Gergats testified that he is a detective in the Passaic police department. In the company of Detective Zipko and Mrs. Vasquez and with the consent of Torres, Vasquez and counsel for the Yabucoa Social Club, they entered the premises on August 3, 1970. He thereafter corroborated the statements in the ABC file referred to supra. He admitted that he has no knowledge as to how the alcoholic beverages are purchased or who pays for them. He was informed by Torres that each member is assessed dues which monies go toward payment of bills.

On cross-examination he described the bar as being approximately 10' long and having six bar stools; the police had encountered difficulty with the premises during the stay of a prior tenant, but received no complaint with respect to the claimant.

George Zipko testified he is a detective with the Passaic Police and corroborated the direct testimony of Gergats. Further he observed 11 cases of canned beer in two refrigerators behind the bar. He acknowledged that this investigation was initiated because of a shooting and stabbing which had occurred earlier in front of the Yabucoa Social Club.

He stated that one Gilberto Cruz had given a statement to the police with reference to alleged purchases of alcoholic beverages at the premises. It should be noted that the Division file contains a copy of a subpoena sought to be served upon Mr. Cruz to insure his presence at the hearing. The attorney for the Division advised the court that notwithstanding its attempt to do so the Division and local police were unable to serve Cruz.

On cross-examination he testified that he had no knowledge of prior complaints with respect to the Yabucoa Social Club. With respect to Cruz, he stated that Cruz's statement was made through a police interpreter who was not under oath, and to the best of his knowledge Cruz and the interpreter understood each other. He was thereafter asked on cross to read the statement taken from the missing Cruz which statement sets forth essentially that Cruz was on the premises during the evening of August 1, 1970, he had two "nips" of beer for which he paid twenty-five cents each, and he had made a similar purchase on one prior occasion. He did not know the person in charge, nor could he remember the bartender.

Detective Zipko continued that the search of the premises

disclosed 10 cases of twelve-ounce cans of beer and the alcoholic beverages, but no "nips". He added that an attempt to serve a subpoena on Cruz proved unsuccessful.

Ophelia Vasquez testified she is Vice-President of the Yabucoa Social Club. She posted the \$100.00 bond for return of the seized furniture which actually belongs to Torres. She continued that the beer is kept on the premises for members' use generally after athletic events. She does not know Cruz and she has never engaged in or observed the sale of alcoholic beverages at the club.

On cross-examination she testified that the members contribute dues to the club secretary who, in turn, uses these funds to purchase the alcoholic beverages made available to the members. The club has approximately 200 members and social activities are generally confined to weekends when sports events were scheduled.

Belen Torres testified, through an interpreter, that he is President of Yabucoa Social Club which includes women and children as well as men in its membership. The club sponsors a softball and football team. On August 4, the team had won a soft ball game and the beer was available to celebrate the victory, each member having contributed money to Torres earlier for the purchase of the beer. He does not know Gilberto Cruz and he knows of no sale of alcoholic beverages at the club. He usually purchases the beer for their celebrations and he has never purchased "nips".

On cross-examination he testified that he has purchased beer to celebrate victories on only two or three prior occasions; the money used to purchase the beer was donated by the members. Only members of the club are admitted and he is unpaid as president of the club.

George Tillotson testified in support of his claim seeking the return of a juke box and pool table which were on the premises and seized by the agents. He submitted in evidence two invoices which indicate his purchase of one juke box -#161 Phonograph #2516 - and one 7½ foot mahogany pool table, which he identified as his property. The items were placed at the Yabucoa Social Club approximately two months before the seizure; he serviced the equipment personally twice a week; he made no investigation into the background of the club nor did he note particularly its operation.

He continued that he has been in the vending machine business for approximately 35 years and has approximately 50 machines at some 30 different locations. He asserted that he had no regular time schedule for servicing the equipment. He insisted that, at no time, on his morning or evening visits, did he see any evidence that alcoholic beverages were being served.

On the basis of the evidence presented, I am persuaded that the Division has failed to establish a prima facie case of violation of R.S. 33:1-50(a & b).

Clearly, the only evidence which even remotely suggests a "sale" (emphasis mine) is the reference to the statement of the missing Gilberto Cruz. The truth of the statement by itself is subject to question and claimants have been denied the fundamental right to cross-examination. Absent that statement there is no evidence whatever to support the charges of illegal sale or illegal possession with intent to sell. The statement lacks that degree of force or credibility which is necessary to raise more than the suspicion of a sale or an intent to sell. Mere suspicion is never a substitute for credible, affirmative proof. Re Doyle, Bulletin 469, Item 2.

Accordingly, it is recommended that the claim of Yabucoa Social Club be recognized and that the \$100.00 cash deposit posted under protest representing the retail value of fixtures, furnishings and equipment seized herein together with the alcoholic beverages seized herein be returned to it.

Since I have concluded that no violation of the Alcoholic Beverage Law occurred, and that the premises were not operated as a speakeasy, it follows that no duty devolved upon Tillotson to make the required investigation of these premises with respect to his property.

It is, therefore, further recommended that the claim of George G. Tillotson for one juke box, one pool table and the \$43.50 in cash contained therein be returned to him.

Conclusions and Order

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

After carefully considering the facts and circumstances herein, 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 them as my conclusions herein.

Accordingly, it is on this 20th day of July, 1971

DETERMINED and ORDERED that the juke box, pool table and \$43.50 in cash contained therein be returned to the claimant, George G. Tillotson; and it is further

DETERMINED and ORDERED that the \$100.00 cash deposited under protest by the Yabucoa Social Club, under the aforementioned stipulation, representing the retail value of the personal property described in Schedule "A", and the alcoholic beverages set forth therein, be returned to it.

Richard C. McDonough,
Director

SCHEDULE "A"

260 - containers of alcoholic beverages
 40 - cans of soda
 1 - juke box; 1 - pool table; 12 - tables;
 33 - chairs; 2 - fans
 Miscellaneous personal property
 \$43.50 - cash

4. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN LUNCHEONETTE - APPLICATION OF OWNER FOR PROPERTY AND CASH DENIED ABSENT GOOD FAITH - RETURN OF DEPOSIT POSTED IN LIEU OF RETAIL VALUE OF CERTAIN EQUIPMENT DENIED ABSENT GOOD FAITH - CASH, ALCOHOLIC BEVERAGES AND SEIZED PROPERTY ORDERED FORFEITED.

In the Matter of the Seizure :
on September 24, 1970 of a : Case No. 12,373
quantity of alcoholic beverages, :
fixtures, furnishings, equipment, : On Hearing
and \$94.35 in cash at 548 Camden :
Street, City of Camden, County of : CONCLUSIONS and ORDER
Camden and State of New Jersey. :

Blue Ribbon Vending Co., claimant, by Melvin Epstein, Collector.
Model Vending Inc., claimant, by Joseph Goldstach, General
Manager.

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 R.S. 33:1-66 and State Regulation No. 28, and further, pursuant to a stipulation dated November 9, 1970, signed by Joseph J. Levin, President, as agent for and on behalf of the Blue Ribbon Vending Co., Philadelphia, Pennsylvania, to determine whether 56 containers of alcoholic beverages, one coke box, one pool table, one three-piece set sectional furniture, one coin-question box, one television set, two cash registers, one tape recorder, one freezer, miscellaneous personal property and \$94.35 in cash, as set forth in an inventory attached hereto, made a part hereof and marked Schedule "A", seized on September 24, 1970 at the unlicensed premises of 548 Camden Street, City of Camden, County of Camden and State of New Jersey, constitute unlawful property and should be forfeited; and further, to determine whether the sum of \$375.00 representing the appraised retail value of one cigarette machine and one juke box as set forth in the aforesaid Schedule "A", deposited by Richard Lacour, as agent for and on behalf of the Blue Ribbon Vending Co., under protest and which cigarette machine and juke box were returned to Blue Ribbon Vending Co. should be forfeited or returned to it.

The seizure was made by ABC agents in cooperation with members of the Camden Police Department.

When the matter came on for hearing pursuant to R.S. 33:1-66, Melvin Epstein appeared on behalf of the Blue Ribbon Vending Co. to claim the return of the \$375.00 deposited pursuant to the aforesaid stipulation; Joseph Goldstach appeared on behalf of Model Vending Inc., to seek return of one pool table as set forth in Schedule "A"; and a Mr. Pete Dixon appeared to seek return of certain miscellaneous property. It should be noted that Pete Dixon appeared without counsel and requested an adjournment to afford him an opportunity to retain counsel. The request was granted hence the matter was heard in part on December 28, 1970 and concluded on January 15, 1971. It should be further noted that on the adjourned date Pete Dixon made no appearance nor did he communicate with the Division to explain his absence. Thus, his alleged claim should be considered as abandoned.

The reports of ABC agents and other documents in the file,

which file was admitted into evidence with the consent of the claimants herein disclosed the following: Pursuant to an assignment to investigate an alleged speakeasy at the subject premises, Agents G and P in cooperation with Detectives Rivera, Phoenix, Busbee and Spratley of the Camden Police Department arrived in the vicinity of the premises, a luncheonette at 548 Walnut Street, Camden at 5:45 P.M., Thursday, September 24, 1970. A "marked" money list was prepared and retained by Agent G while Agent P entered the premises with the recorded currency in his possession.

Agent G was admitted to the premises by one Charles Edward King. He thereafter had a conversation with one Anna King and at the conclusion of that conversation was asked by Charles King if he would like something to drink.

Upon requesting a can of beer Agent P was advised that the price was 50¢. He gave King the "marked" one-dollar bill which King, in turn, gave to Anna. Anna took a can of Schmidt's beer from the refrigerator, placed the one-dollar bill in a nearby cash register and returned 50¢ change to Agent P along with the can of beer. Shortly thereafter, Agent C and the Camden police detectives entered the premises, identified themselves, recovered the "marked" currency from the cash register, advised Anna and Charles King of their constitutional rights and thereafter completed the seizure.

Charles King was thereafter charged with the unlawful possession and sale of alcoholic beverages in violation of R.S. 33:1-2 and R.S. 33:1-50. Anna King was charged with aiding and abetting in the unlawful possession and sale of alcoholic beverages in violation of R.S. 33:1-52.

The report notes particularly that the premises were leased to Charles and Anna King by one Pete Dixon, who was arrested by the Camden Police on two prior occasions for speakeasy activity at this address.

The Division file also included the Director's certification that no license or special permit of any kind was ever issued to Charles Edward King or Anna King or for anyone at or the premises, 548 Walnut Street, Camden; an inventory of the seized items; affidavit of mailing of notice of hearing; an affidavit of publication of notice of hearing and the certificate of chemical analysis by the Division chemist that one sample bottle containing four ounces of alleged Schmidt's beer seized in the instant matter contained an alcoholic beverage fit for beverage purposes with an alcoholic content of 4.57% by volume.

Melvin Epstein appeared on behalf of the Blue Ribbon Vending Co. and submitted invoices and other company instruments purporting to show ownership of the items in question, namely the juke box and cigarette machine for which the aforesaid \$375.00 was deposited.

He stated that Blue Ribbon Vending Co. had served the premises weekly for several years believing it to be a luncheonette. He generally serviced the equipment in the afternoon, did not pay particular attention to the clientele, and has never seen any alcoholic beverages served. There were generally few, if any, patrons on the premises during his service calls.

He continued that "Because of the very competitiveness of the business we more or less take locations without investigation"... "We originally thought they had a mercantile license. We felt this was a satisfactory basis." He admitted having served Dixon, the

prior proprietor of the premises. He concluded that since the client (King) was a veteran, no police investigation was made.

Joseph Goldstach testified on behalf of claimant, Model Vending Inc., 4830 North Front Street, Philadelphia, Pennsylvania and sought return of one pool table. He identified the pool table by serial number, indicated that it was placed on the premises January 25, 1967 and that he had no personal knowledge of the premises since he personally did not service it.

At this point the matter was adjourned to permit Dixon to obtain counsel and to permit Goldstach to produce the employee who personally served the premises.

On the adjourned date the attorney for the Division advised the Hearer that Dixon had not appeared either in person or by counsel nor had he communicated with the Division in any way.

Albert Jacobson appeared on behalf of the claimant, Model Vending Inc., and testified that he personally had serviced the instant premises for approximately two years prior to his appearance herein. He testified that he had serviced the premises while it was under the control of Mr. Dixon and that he was further aware that Dixon had been arrested on one prior occasion for conducting an illegal liquor activity on the premises.

He continued that he remained on the premises only long enough to count the money taken from the pool table and thereafter distribute a portion thereof to the proprietor. He followed this practice with King and his predecessor, Dixon. He concluded that he did not notify his employer of the arrest of Dixon.

The seized alcoholic beverages are illicit because they were intended for sale and sold without a license R.S. 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. R.S. 33:1-2; R.S. 33:1-66; Seizure Case No. 12,252, Bulletin 1919, Item 5.

The claim of the Blue Ribbon Vending Co. and of the Model Vending Inc. must both fail for precisely the same reasons. Epstein testified on behalf of Blue Ribbon Vending Co. that little or no personal investigation of the premises or of the parties involved was made nor was any investigation made through local enforcement officers. He further testified that he served Dixon, the prior proprietor, who was subsequently arrested for illegal alcoholic beverage activity and that because King was a veteran, no police investigation was made.

Albert Jacobson, service employee of Model Vending Inc. testified similarly. He was aware of the situation involving the prior proprietor, Dixon, he made little, if any, investigation.

The Director has recently promulgated a policy imposing on claimants, particularly those seeking the return of vending machines, the responsibility for making reasonable, personal inspections of premises to the end that they neither knew nor should have known of the illicit alcoholic beverage activity taking place on the premises.

The claimants herein, clearly and by their own admission, made no meaningful inspection.

Further, both claimants have admitted knowledge of the arrest of Dixon several months prior to the instant matter. This knowledge should certainly have alerted the claimants to the possibility of an illicit alcoholic beverage activity. Certainly from that point the claimants should have scrupulously investigated the premises to insure that no such activity was being conducted.

The Director has discretionary authority to return property subject to forfeiture to a party who establishes to the satisfaction of the Director that he has acted in good faith, and did not know or have any reason to suspect that his property would be used in violation of the Alcoholic Beverage Law. R.S. 33:1-66(e), Rule 3(c), State Regulation No. 28. It is clear that in the instant matter the conduct of these claimants displayed a markedly careless indifference to the use to be made of the premises and of their claimed property. Therefore, so far as forfeiture proceedings are concerned, the claimants, Blue Ribbon Vending Co. and Model Vending Inc. cannot be regarded as having acted in good faith.

It is, therefore, recommended that the claim of Blue Ribbon Vending Co. for the return of \$375.00, representing the appraised retail value of one cigarette machine and one juke box, as set forth in Schedule "A" herein, deposited under protest by Ricardo Lacour as agent for and on behalf of said Blue Ribbon Vending Co. be denied and that an order be entered forfeiting same. It is, also, recommended that the claim of Model Vending Inc. for the return of one pool table, as set forth in Schedule "A" herein be denied and an order be entered forfeiting same.

It is further recommended that an order be entered forfeiting the balance of personal property, alcoholic beverages and cash listed in Schedule "A" herein.

Conclusions and Order

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

After carefully considering the facts and circumstances herein, including the transcript of the proceedings, I concur in the recommendations of the Hearer and adopt them as my conclusions herein.

Accordingly, it is on this 22nd day of July, 1971

DETERMINED and ORDERED that the claim of Model Vending Inc. for the return of one pool table seized herein is denied and the same is hereby forfeited; and it is further

DETERMINED and ORDERED that the claim of Blue Ribbon Vending Co., for the sum of \$375.00, representing the appraised retail value of one cigarette machine and one juke box, deposited with the Director, under protest, by said Blue Ribbon Vending Co. is hereby denied and the same is hereby forfeited; and it is further

DETERMINED and ORDERED that the cash in the sum of \$94.35 constitutes unlawful property and the same is hereby forfeited; and the alcoholic beverages and the balance of the personal property referred to in Schedule "A" constitute unlawful property and are hereby forfeited in accordance with the provisions of R.S. 33:1-66; and they 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"

- 56 - containers of alcoholic beverages
- 1 - coke box; 1 - electric fan;
- 1 - cigarette machine; 1 - pool table;
- 4 - tables; 9 - chairs; 1 -sofa;
- 3 - piece sectional furniture; 1 - juke box;
- 1 - coin-question box; 1 - television set;
- 2 - clocks; 2 - lamps; 2 - glass candy cases;
- 3 - cash registers; 1 - tape recorder; 1 - freezer
- Miscellaneous personal property
- \$94.35 - cash

5. DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBERS - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)
 Memorial Post 6763 V.F.W.)
 155 Front Street)
 South Plainfield, N. J.)
 Holder of Club License CB-3 issued by)
 the Mayor and Council of the Borough)
 of South Plainfield.)

CONCLUSIONS
AND ORDER

Licensee, by H. E. Mason, Post Commander.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on May 26, 1971 and June 2, 1971 it sold alcoholic beverages to persons not bona fide members or bona fide guests of any such members, in violation of Rule 8 of State Regulation No. 7.

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 Veterans of Manville, Inc., Bulletin 1981, Item 6.

Accordingly, it is, on this 20th day of July 1971,

ORDERED that Club License CB-3, issued by the Mayor and Council of the Borough of South Plainfield to Memorial Post 6763 V.F.W. for premises 155 Front Street, South Plainfield, be and the same is hereby suspended for ten (10) days, commencing 2:00 a.m. Monday, August 9, 1971 and terminating 2:00 a.m. Thursday, August 19, 1971.

Richard C. McDonough
Director

6. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)

Ernest J. A. Tomaini)
t/a Ernest J. A. Tomaini Bar & Grill)
259-261 Morris Avenue)
Long Branch, N. J.)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-11 issued by the City Council of the City of Long Branch.)

Stanley R. Katz, Esq., Attorney for Licensee.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on June 16, 1971 he sold alcoholic beverages to three minors, aged respectively 16, 18 and 18, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension by local issuing authority for five days effective July 23, 1965 for sale of alcoholic beverages during prohibited hours in violation of Rule 1 of State Regulation No. 38. The prior record for dissimilar violation disregarded as having occurred more than five years ago, the license will be suspended for thirty days (Re Reis Corp., Bulletin 1817, Item 4; Re Gulecki, Bulletin 1639, Item 5) with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 20th day of July 1971,

ORDERED that Plenary Retail Consumption License C-11, issued by the City Council of the City of Long Branch to Ernest J. A. Tomaini, t/a Ernest J. A. Tomaini Bar & Grill for premises 259-261 Morris Avenue, Long Branch be and the same is hereby suspended for twenty-five (25) days, commencing 2:00 a.m. Thursday, August 5, 1971 and terminating 2 a.m. Monday, August 30, 1971.

Richard C. McDonough
Director

7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

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)

Promell Corporation
596½ Grove Street
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.

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Miller, Hochman, Meyerson & Miller, Esqs., by Gerald D. Miller, Esq.,
Attorneys for Licensee.
Walter H. Cleaver, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on Saturday, March 27, 1971 about 11:20 p.m. it sold an alcoholic beverage in original container for off-premises consumption in violation of Rule 1 of State Regulation No. 38.

Licensee has a previous record of suspension of five days by the local issuing authority for State "hours" violation effective September 20, 1952 and by the Director for ten days for similar "hours" violation as charged herein effective February 16, 1970 (Re Promell Corp., Bulletin 1902, Item 4).

The prior record of suspension for similar violation occurring more than ten years ago disregarded but the prior record of suspension for similar violation which occurred within the past five years considered, the license will be suspended for thirty days (Re Angel Luis Rivera, Inc., Bulletin 1982, Item 5) with remission of five days for the plea entered leaving a net suspension of twenty-five days.

Accordingly, it is, on this 20th day of July 1971,

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 Corporation for premises 596½ Grove Street, Jersey City, be and the same is hereby suspended for twenty-five (25) days, commencing 2:00 a.m. Thursday, August 5, 1971 and terminating 2:00 a.m. Monday, August 30, 1971.

Richard C. McDonough
Director

8. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY
Labeled - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA -
APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against

Morris N. Hinkes
t/a Little Joe's
168-170 South Orange Avenue
Newark, N. J.

)
)
) CONCLUSIONS
) AND ORDER
)

Holder of Plenary Retail Consumption License C-145 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:

Licensee pleads non vult to a charge alleging that on February 11, 1971 he possessed alcoholic beverages in two bottles which did not truly describe their contents, in violation of Rule 27 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 Piez, Bulletin 1975, 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 \$440. in lieu of suspension.

Accordingly, it is, on this 20th day of July 1971,

ORDERED that the payment of a \$440. fine by the licensee is hereby accepted in lieu of a suspension of license for ten days.

Richard C. McDonough
Director

9. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED.
FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
Proceedings against)

EDWARD PRAGER)
t/a Ed Prager's Liquors)
73 Broadway)
East Paterson, N. J.)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Distribution)
License D-4 issued by the Mayor)
and Council of the Borough of East)
Paterson.)

Licensee, Pro Se.
Edward F. Ambrose, Esq., Appearing for Division.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on July 10, 1971 he sold alcoholic beverages to a minor, age 17 in violation of Rule 1 of State Regulation No. 20.

Absent prior record the license will be suspended for twenty days with remission of five days for the plea entered, leaving a net suspension of fifteen days (Re Bambas, Bulletin 1984, Item 10).

Accordingly, it is, on this 21st day of July 1971,

ORDERED that Plenary Retail Distribution License D-4 issued by the Mayor and Council of the Borough of East Paterson to Edward Prager, t/a Ed Prager's Liquors for premises 73 Broadway, East Paterson be and the same is hereby suspended for fifteen (15) days, commencing 3:00 a.m. Monday, July 26, 1971 and terminating 3:00 a.m. Tuesday, August 10, 1971.

Richard C. McDonough
Director

10. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - APPLICATION FOR FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against :

Club Avenel, Inc. :
t/a Brennan's Bar :
Highway #1, corner Lord St. :
Woodbridge, N.J. :

CONCLUSIONS
AND
ORDER

Holder of Plenary Retail Consumption License C-35 issued by the Municipal Council of the Township of Woodbridge.
.. .. .

Foley & Gazi, Esqs. by Francis C. Foley, Esq. Attorneys for Licensee Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee was found guilty of a charge preferred by the Municipal Council of the Township of Woodbridge, that on October 24, 1970 it sold alcoholic beverage to a minor (age 17) in violation of Rule 1 of State Regulation No. 20, in consequence of which its license was suspended for a period of three days.

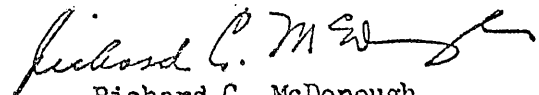
The aforesaid suspension was stayed upon application of the licensee to this Division for the imposition of a fine in lieu of suspension, in accordance with the provisions of Chapter 9 of the Laws of 1971.

It also appears that the local issuing authority adopted a resolution which concurred with the request of the licensee for the imposition of the fine therein.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$600. in lieu of suspension

Accordingly, it is, on this 22nd day of July 1971,

ORDERED that the payment of \$600 fine by the licensee is hereby accepted in lieu of a suspension of three days.


Richard C. McDonough
Director