

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

BULLETIN 1784

March 22, 1968

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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 1784

March 22, 1968

1. NEW LEGISLATION - OTHER MERCANTILE BUSINESS ON PLENARY AND SEASONAL RETAIL CONSUMPTION LICENSED PREMISES.

On February 15, 1968, the Governor approved Senate No. 503 (1967) which thereupon became Chapter 296 of the Laws of 1967, effective immediately.

The Law amends R.S. 33:1-12(1 and 2) so that it now provides, with respect to the conduct of other mercantile business on plenary and seasonal retail consumption licensed premises, as follows (new matter underlined):

"Plenary retail consumption license. 1....this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business (except, subject to such rules and regulations established from time to time by the director, the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons, or the sale of cigars, cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons, or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages, or, in commercial bowling establishments, the retail sale or rental of bowling accessories and the retail sale from vending machines of candy, ice cream and nonalcoholic beverages) is carried on...

"Seasonal retail consumption license. 2....this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business (except, subject to such rules and regulations established from time to time by the director, the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons, or the sale of cigars, cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons, or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages) is carried on..."

JOSEPH M. KEEGAN  
DIRECTOR

Dated: February 20, 1968.

2. OTHER MERCANTILE BUSINESS - HEREIN INTERPRETATIONS OF RECENT AMENDMENT OF LAW PERMITTING SALE OF CERTAIN MERCANTILE ITEMS ON CONSUMPTION LICENSED PREMISES.

March 11, 1968

J. "Whitey" Kayto, President  
New Jersey Licensed Beverage Assn. Inc.  
224 Market Street  
Newark, New Jersey 07102

Dear Mr. Kayto:

I have your letter of February 28, 1968 in which you inquire whether certain items of merchandise and food may now for the first time be lawfully sold by retail consumption licensees in view of the recent passage of amendatory legislation which you refer to as "S-503."

On February 15, 1968, Governor Hughes approved Senate Bill No. 503 which thereupon became Chapter 296 of the Laws of 1967, effective immediately. This Act amends R.S. 33:1-12 (1 and 2) so that it now provides, with respect to the conduct of other mercantile business on plenary and seasonal retail consumption licensed premises, as follows (new matter underlined, deletions bracketed):

"Plenary Retail Consumption License. 1...this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business (except, subject to such rules and regulations established from time to time by the director, the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons, or the sale of cigars, [and] cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons, or the retail sale of non-alcoholic beverages as accessory beverages to alcoholic beverages, or, in commercial bowling establishments, the retail sale or rental of bowling accessories and the retail sale from vending machines of candy, ice cream and nonalcoholic beverages) is carried on...

"Seasonal Retail Consumption License. 2....this license shall not be issued to permit the sale of alcoholic beverages in or upon any premises in which a grocery, delicatessen, drug store or other mercantile business (except, subject to such rules and regulations established from time to time by the director, the keeping of a hotel or restaurant including the sale of mercantile items incidental thereto as an accommodation to patrons, or the sale of cigars, [and] cigarettes, packaged crackers, chips, nuts and similar snacks and ice at retail as an accommodation to patrons, or the retail sale of nonalcoholic beverages as accessory beverages to alcoholic beverages) is carried on..."

The changes effected by this recent legislation vary according to the type of business being conducted by a retail consumption licensee. All such licensees may now sell on their licensed premises "packaged crackers, chips, nuts and similar

snacks and ice at retail as an accommodation to patrons," while those conducting a hotel or a restaurant may also now sell on their licensed premises "mercantile items incidental" to their respective hotel and restaurant businesses, at retail "as an accommodation to patrons." Your inquiry calls for an interpretation of these changes in several respects.

First, it is apparent that "packaged crackers, chips, nuts and similar snacks and ice" may now be sold to take off the licensed premises. The sale of these items is no longer restricted to on-premises consumption.

Second, the phrase "similar snacks" is hereby construed to include pretzels, popcorn, cookies, cocktail onions, olives, cherries and pickles, cheese doodles and similar small food items which are normally considered accessory to the consumption of alcoholic and non-alcoholic beverages. Not included in such phrase are other items such as candy, chewing gum, mints, etc. and cake. Cocktail mixes and flavoring mixes of the powder and crystal types, although also not included in such phrase, are hereby deemed to be permissible "nonalcoholic accessory beverages," notwithstanding prior Division interpretation to the contrary, since they are capable of being converted to a beverage by mixture with an alcoholic beverage. Glassware and baskets continue as prohibited mercantile items of sale.

Next, to constitute a "restaurant" within the meaning of the recent amendment, a licensed business must conform to the following existing statutory definition:

"R.S. 33:1-1(t). An establishment regularly and principally used for the purpose of providing meals to the public, having an adequate kitchen and dining room equipped for the preparing, cooking and serving of foods for its customers and in which no other business, except such as is incidental to such establishment, is conducted."

Such establishments may sell all of the items which a "straight" tavern may sell, plus candy, chewing gum, mints etc., cake, pre-packaged foods and small gifts and toys, provided the sale of these additional items is subsidiary to, and in customary conjunction with, the licensee's restaurant business. Specialty glassware and baskets may be considered to be such gifts, depending upon the particular factual circumstances.

Further, hotels may sell all mercantile items the sale of which is subsidiary to, and in customary conjunction with, the licensee's hotel business. For example, a large resort hotel might operate clothing shops catering primarily to its patrons; a dude ranch hotel might sell riding habits and accessories; or a hotel at a ski center might sell ski clothing and equipment.

It should finally be noted that the statute in question has effected no change in the law which bans the sale of prohibited mercantile items unless such sale takes place in an unlicensed area separate and apart from, and from which there is no direct public access to, the licensed premises of retail consumption licensees. As to these situations, the "buffer zone" criteria set forth in North Central Counties Retail Liquor Stores Association v. Edison, 68 N.J. Super. 351, reprinted in Division Bulletin 1395, Item 1, continue to be applicable.

Very truly yours,

JOSEPH M. KEEGAN  
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - INDECENT LANGUAGE AND CONDUCT - LICENSE SUSPENDED FOR 85 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

ANDREW PRIBULA )  
62 Main Avenue )  
Wallington, N. J. )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-45, issued by the Mayor and Council of the Borough of Wallington. )

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Licensee, Pro se.

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

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on September 22, 1967, he possessed an alcoholic beverage in a bottle bearing a label which did not truly describe its contents, in violation of Rule 27 of State Regulation No. 20, and (2) on December 3, 1967, permitted lewdness and immoral activity (foul, filthy, indecent and obscene language and conduct) on the licensed premises, in violation of Rule 5 of State Regulation No. 20.

With respect to the second charge, reports of investigation disclose that in the full hearing and view of the patrons the licensee and a barmaid indulged in foul and indecent language and conduct, including the engagement of both in acts of simulated sexual intercourse and the announced offer of the licensee to engage in acts of perverted sexual intercourse with the barmaid, all accompanied from time to time with disclosure and display by the licensee of the nether undergarments of the barmaid.

Absent prior record, the license will be suspended on the first charge for ten days (Re Anderson Hotel Incorporated, Bulletin 1767, Item 12) and on the second charge for seventy-five days (Re Fletcher & Kiel, Bulletin 1750, Item 2; Re Parnes, Bulletin 1530, Item 2; Re Feibig, Bulletin 1471, Item 4), or a total of eighty-five days, with remission of five days for the plea entered, leaving a net suspension of eighty days.

Accordingly, it is, on this 29th day of January 1968,

ORDERED that Plenary Retail Consumption License C-45, issued by the Mayor and Council of the Borough of Wallington to Andrew Pribula, for premises 62 Main Avenue, Wallington, be and the same is hereby suspended for eighty (80) days, commencing at 3 a.m. Monday, February 5, 1968, and terminating at 3 a.m. Thursday, April 25, 1968.

JOSEPH M. KEEGAN  
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE BETS AND WAGERING) - LOTTERY (POSSESSION OF NUMBERS SLIPS) - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against	)	
	)	CONCLUSIONS AND ORDER
GANSER'S TAVERN, INC.	)	
378 Broad St.	)	
Bloomfield, N. J.	)	
Holder of Plenary Retail Consumption License C-3 issued by the Town Council of the Town of Bloomfield	)	

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 Joseph D. Lintott, Esq., Attorney for Licensee  
 Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on November 18, 22, 29 and December 1 and 2, 1967, it variously permitted acceptance of horse race bets and bets on sporting events and possessed numbers slips on the licensed premises, in violation of Rule 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for thirty days effective November 9, 1959, for acceptance of horse race bets, possession of sweepstakes tickets and possession of contraceptives. Re Ganser's Tavern, Inc., Bulletin 1313, Item 2.

The license will be suspended for sixty days (Re Park Ave. College Inn, Inc., Bulletin 1779, Item 4), to which will be added five days by reason of the record of suspension for similar violation occurring more than five but less than ten years ago (Re Strand Bar, Inc., Bulletin 1749, Item 7), or a total of sixty-five days, with remission of five days for the plea entered, leaving a net suspension of sixty days.

Accordingly, it is, on this 8th day of February, 1968,

ORDERED that Plenary Retail Consumption License C-3, issued by the Town Council of the Town of Bloomfield to Ganser's Tavern, Inc. for premises 378 Broad Street, Bloomfield, be and the same is hereby suspended for sixty (60) days, commencing at 2:00 a.m. Monday, February 12, 1968, and terminating at 2:00 a.m. Friday, April 12, 1968.

JOSEPH M. KEEGAN  
DIRECTOR

5. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE BETS) -  
PRIOR DISSIMILAR RECORD - LICENSE SUSPENDED FOR 65 DAYS.

In the Matter of Disciplinary  
Proceedings against

ALFRED HILLMAN  
t/a Hillman's Bar  
18 Washington Street  
South River, N. J.

)  
)  
) CONCLUSIONS  
) AND ORDER  
)  
)

Holder of Plenary Retail Consumption  
License C-25 issued by the Borough  
Council of the Borough of South River

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Pincus, Shamy & Sheehan, Esqs., by Jack Pincus, Esq., Attorneys  
for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On March 1, 3, 14, 28, April 26, May 8 and 18,  
1967, you allowed, permitted and suffered gambling,  
viz., the making and accepting of horse race bets,  
in and upon your licensed premises; in violation of  
Rule 7 of State Regulation No. 20."

Inasmuch as it is my view that there appears to be a  
lack of necessary preponderance of the evidence to find the  
licensee guilty of permitting the violations alleged, upon the  
licensed premises, on March 1, 14, 28, April 26, May 8 and 18, I  
shall confine my report to a discussion of the occurrences of  
March 3, 1967.

Trooper Raymond Michael Massaro of the New Jersey State  
Police, who was amply experienced in gambling investigations,  
testified that during the course of the investigation, he visited  
the licensed premises (described as a neighborhood tavern) on  
several occasions between March 1 and May 18, 1967.

On March 3 Trooper Massaro entered the licensed premises  
at approximately 1:00 p.m. and "sat at the bar opposite the  
kitchen door which would be near the far end of the bar." Referring  
to an occurrence between a male known as "John" and the licensee,  
Alfred Hillman, also referred to as "Al", the witness testified  
as follows: "John was motioning to Al and Al walked from behind  
the bar and came out in front of the bar next to me by John at  
which time John gave him a ten dollar bill and he said to Al, to  
win on the entry in the seventh at Hialeah. And again while  
talking with John, he said to me that he had a winner for today and  
his bet was going to win." It was the trooper's opinion that the  
licensee and John had engaged in a horse race bet transaction,  
stating that he "checked the paper to see if there was an entry in  
the seventh of Hialeah running at which time there was."

In defending the charge, Hillman denied that he had ever  
engaged in bookmaking or gambling. On cross examination, he

denied the alleged occurrence of March 3.

It is apparent that the basic issue presented for determination is factual. I, therefore, observe primarily that in evaluating the testimony and its legal impact, we are guided by the firmly established principle that disciplinary proceedings against liquor licensees are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Div. of Alcoholic Beverage Control, 20 N.J. 373 (1956); Freud v. Davis, 64 N.J. Super. 242 (App. Div. 1960); Howard Tavern, Inc. v. Div. of Alcoholic Beverage Control (App. Div. 1962), not officially reported, reprinted in Bulletin 1491, Item 1.

In appraising the factual picture presented herein, the credibility of witnesses must be weighed. Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself. It must be such as the common experience and observation of mankind can approve as probable in the circumstances. Spagnuolo v. Bonnet, 16 N.J. 546 (1954); Gallo v. Gallo, 66 N.J. Super. 1 (App. Div. 1961).

The general rule in these cases is that the finding must be based on competent legal evidence and must be grounded on a reasonable certainty as to the probabilities arising from a fair consideration of the evidence. 32A C.J.S. Evidence, sec. 1042.

In view of the fact that the primary issue presented for determination is factual, I closely observed the demeanor of the witnesses as they testified and made a careful analysis and evaluation of their testimony.

It is my view that the testimony of Trooper Massaro, presented in a direct and detailed manner, was credible and truly depicted the horse race betting activity which he testified to as having occurred on March 3, and that the testimony of Hillman was not.

After carefully considering and evaluating all of the evidence adduced herein, and the legal principles applicable thereto, I conclude that the Division has proved its case by clear and convincing testimony and by a fair preponderance of the credible evidence. I therefore recommend that the licensee be found guilty of so much of the charge which particularly refers to the date of March 3, 1967, and further recommend that there be a finding of not guilty of that part of the charge which refers to the dates of March 1, 14, 28, April 26, May 8 and 18, 1967.

Licensee has a previous record of suspension of license by the municipal issuing authority for ten days effective June 20, 1955 and for fifteen days effective March 9, 1959, both for sale during prohibited hours, and for twenty-seven days effective April 1, 1963, for sale to minors and sale during prohibited hours.

It is further recommended that the prior record of suspensions of license for dissimilar violations in 1955 and 1959 occurring more than five years ago be disregarded, but the prior record of suspension for dissimilar violation in 1963 within the past five years be considered, and that the license be suspended for sixty-five days. Re Sandy, Bulletin 1754, Item 4.

#### Conclusions and Order

No exceptions to the Hearer's report were filed pursuant to Rule 6 of State Regulation No. 16. However, the licensee's

attorneys have informed me, by letter, that they have learned that the State trooper who testified in behalf of the Division in this matter was allegedly recently charged with accepting a bribe (in a matter not related to the matter sub judice) and, therefore, the question of his credibility should be reconsidered.

Obviously, the mere arrest (without indictment and actual conviction) of a witness, on whatever charge, cannot be considered to affect his credibility. A similar request was denied in Re Hala Corporation, Bulletin 1566, Item 3; aff'd Hala Corporation v. Tschupp, App. Div. 1965, not officially reported, recorded in Bulletin 1614, Item 1; certif. den. 45 N.J. 592 (1965). Hence the request herein is likewise denied.

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

Accordingly, it is, on this 31st day of January 1968,

ORDERED that Plenary Retail Consumption License C-25, issued by the Borough Council of the Borough of South River to Alfred Hillman, t/a Hillman's Bar, for premises 18 Washington Street, South River, be and the same is hereby suspended for sixty-five (65) days, commencing at 2 a.m. Wednesday, February 7, 1968, and terminating at 2 a.m. Friday, April 12, 1968.

JOSEPH M. KEEGAN  
DIRECTOR

6. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN GARAGE - CLAIM OF INNOCENT OWNER OF BEER KEGS RECOGNIZED - ALCOHOLIC BEVERAGES, CASH AND PERSONAL PROPERTY ORDERED FORFEITED.

In the Matter of the Seizure )  
on July 3, 1967 of a quantity ) Case No. 11,933  
of alcoholic beverages, still ) ON HEARING  
parts, equipment and \$39.46 in ) CONCLUSIONS  
cash in a garage located on the ) AND ORDER  
north side of Lakewood-Allenwood Road, )  
Wall Township, Monmouth County, )  
and State of New Jersey. )

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James T. Convery, Esq., appearing for Robert Scott and Charles T. Dillon.  
Henry Von Wodtke, Esq., appearing for The F. & M. Schaefer Brewing Co.  
I. Edward Amada, Esq., appearing for the Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1, Revised Statutes of New Jersey and State Regulation No. 28 to determine whether a quantity of alcoholic beverages, still parts, equipment and \$39.46 in cash, as set forth in an inventory attached hereto, made part hereof and marked Schedule "A", seized on July 3, 1967 in a garage located on the north side of Lakewood-Allenwood Road, Wall Township, Monmouth County, N.J. constitute unlawful property and should be forfeited.

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

When the matter came on for hearing pursuant to R.S. 33:1-66, James T. Convery, an attorney, appeared to present claims on behalf of Charles T. Dillon for the return of the seized cash, and Robert Scott who sought the return of a seized Magnavox Transistor Stereo and records. Neither of these claimants appeared at this hearing. Mr. Convery sought an adjournment on behalf of Dillon because criminal proceedings arising out of this action were pending.

When it was explained to him that the criminal proceedings had no bearing on these forfeiture proceedings, he stated that the claim of Dillon would be abandoned.

An adjournment was granted with respect to the presentation of the claim of Scott. However, prior to the adjourned date, this Division was advised by Mr. Convery by letter dated October 11, 1967 that Scott has authorized the withdrawal of his claim.

A claim was also entered by the F. & M. Schaefer Brewing Co. for the return of eight beer kegs seized at the premises on the date hereof.

Reports of ABC agents and other documents in the file, admitted into evidence with the consent of the claimant herein, disclose the following facts: Three ABC agents, in possession of "marked" five-dollar bills, entered the premises in question at about 10:35 p.m. on Monday, July 3, 1967. The premises consisted of a four-car garage in the rear of a large frame house. On the left side of the interior of this garage was a makeshift bar, behind which was an ice bin with 2½ kegs of Schaefer beer. Nearby were several other kegs, some of which were empty.

There were about 200 males and females on the premises, many of whom were served and were consuming alcoholic beverages. The agents approached the bar which was being tended by a bartender, later identified as Charles Dillon and three other bartenders. The agents ordered and were served three beers by Dillon, in payment for which Dillon received the sum of \$6.00; payment was made with one of the "marked" five-dollar bills.

Upon receipt of the \$6.00 Dillon stamped the letters of "COD" on the left hand of each agent to indicate that they were entitled to additional drinks without further charge. Dillon placed the "marked" five-dollar bill in his left trouser pocket and the agent observed that monies received by Dillon in payment of drinks by other patrons were placed in the same pocket.

By pre-arrangement, at 10:50 p.m. another ABC agent, accompanied by local police, entered the premises. The agents identified themselves to Dillon, advised him of the violations, placed him under arrest, and proceeded with the search and seizure of the premises. The "marked" five-dollar bill was found in Dillon's possession.

Dillon was thereafter charged with the sale of alcoholic beverages without a license and possession of alcoholic beverages with intent to sell the same without a license, in violation of R.S. 33:1-50 (a & b) and was arraigned thereon in the Wall Township Municipal Court.

The records of this Division do not disclose any license or permit authorizing the sale of alcoholic beverages to Dillon or for the premises where the violations took place.

The report of the Division chemist certified, in part, that a sample of a six-ounce bottle of Schaefer beer seized therein is an alcoholic beverage, fit for beverage purposes, with an alcoholic content, by volume, of 4.57%.

Since Dillon did not have any license authorizing him to sell alcoholic beverages, the said alcoholic beverages are illicit and constitute unlawful property subject to forfeiture. Such alcoholic beverages are illicit because they were intended for sale without a license. The alcoholic beverages, the personal property and the commingled cash, as set forth in Schedule "A", constitute unlawful property and are subject to forfeiture. R.S. 33:1-2; R.S. 33:1-66; Seizure Case No. 11,431, Bulletin 1644, Item 3; Seizure Case No. 11,860, Bulletin 1749, Item 5.

Henry Von Wodtke, a New York attorney employed as a house attorney for the F. & M. Schaefer Brewing Co., a claimant herein, presented the following testimony in support of its claim for the return of eight beer kegs: This claimant, a major beer manufacturer, distributes its kegs through distributors, including the Shore Point Distributing Co., its primary distributor in Monmouth County. All of its kegs are owned by this claimant, which occasionally leases kegs. However, all kegs having an imprint of this claimant, belong to it. His investigation discloses that no sales were made by this claimant to Dillon, or to anyone at the premises; and all distribution of its kegs in Monmouth County were made through the Shore Point Distributing Co.

Subsequent to this hearing, this claimant submitted a Petition executed by Alvin E. Heutchy, vice-president and secretary of this corporate claimant. The Petition sets forth that the title to the kegs have always been vested in the F. & M. Schaefer Brewing Co. and that they are neither sold nor leased to anyone "although customers of the F. & M. Schaefer Brewing Co. are given temporary possession of the barrels in accord with the laws applicable to the transaction".

The Petition further alleges that so far as this claimant is concerned, it has acted in good faith and did not know of any illegal liquor activity.

It is quite apparent that this claimant did not receive any receipts or benefit from the placement of these kegs through its distributors. Furthermore, it seeks only the return of empty kegs and does not seek the return of any beer, if any, contained therein. Under the unusual factual complex herein, I conclude that there is no evidence of bad faith; I find that, under these special circumstances, this claimant did not know or have any reason to believe that its property was to be used in unlawful liquor activity. The kegs will therefore be ordered returned to this claimant. Cf. Seizure Case No. 10,416, Bulletin 1384, Item 4; R.S. 33:1-66(f).

Accordingly, it is on this 26th day of January, 1968,

DETERMINED and ORDERED that the claim of F. & M. Schaefer Brewing Co. for the return of its eight empty beer kegs be recognized; and that if on or before the 8th day of February, 1968, the F. & M. Schaefer Brewing Co. pays the costs of the

seizure and storage of the said beer kegs, the same will be returned to it; and it is further

DETERMINED and ORDERED that the balance of the seized property, including the cash and the alcoholic beverages, referred to in Schedule "A", attached hereto, constitutes unlawful property and the same be and are hereby forfeited, and 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.

JOSEPH M. KEEGAN  
DIRECTOR

SCHEDULE "A"

tub; beer barrels and beer; beer taps;  
cylinder; lamp; plastic pitchers;  
transistor stereo & records;  
\$39.46 - cash

7. DISCIPLINARY PROCEEDINGS - SALE TO A MINOR - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 50 DAYS - NO REMISSION FOR PLEA ENTERED AFTER PARTIAL HEARING.

In the Matter of Disciplinary Proceedings against

TOM RUSSELL, INC.  
t/a The Liquor Bar  
Rt. 130 and Highland Blvd.  
Gloucester City, N. J.

)  
)  
) CONCLUSIONS  
) AND ORDER  
)

Holder of Plenary Retail Distribution License D-4, issued by the Common Council of the City of Gloucester City. )  
)

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John R. Bennie, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

After partial hearing, licensee pleaded non vult to charges alleging that on October 21, 1967, it (1) sold five six-packs of bottles of beer to a minor, age 16, in violation of Rule 1 of State Regulation No. 20, and (2) hindered investigation then being conducted by Division agents, in violation of Rule 35 of State Regulation No. 20.

With respect to the second charge, reports of investigation disclose that, after apprehension of the minor and identification by the agents, Thomas J. Russell, an officer and stockholder of the licensee corporation, made threats of bodily harm to the minor in the event that the minor appeared and testified in any proceedings that might result.

Absent prior record, the license will be suspended on the first charge for twenty-five days (Re Nace, Inc., Bulletin 1738, Item 6) and on the second charge for twenty-five days (cf. Re Long, Bulletin 1666, Item 2), or a total of fifty days, without remission for the confessional plea entered after partial hearing (Re Callahan, Bulletin 1751, Item 2).

Accordingly, it is, on this 31st day of January 1968,

ORDERED that Plenary Retail Distribution License D-4, issued by the Common Council of the City of Gloucester City to Tom Russell, Inc., t/a The Liquor Bar, for premises Rt. 130 and Highland Blvd., Gloucester City, be and the same is hereby suspended for fifty (50) days, commencing at 9 a.m. Monday, February 5, 1968, and terminating at 9 a.m. Tuesday, March 26, 1968.

JOSEPH M. KEEGAN  
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING PENALTY STAYED DURING APPEAL.

In the Matter of Disciplinary Proceedings against )

ELSIE RUBBINACCIO )  
338 Bloomfield St. and )  
155 Fourth St. )  
Hoboken, N. J. )

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-138, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken. )

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Calligy & Flynn, Esqs., by Thomas P. Calligy, Esq., Attorneys for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

On December 4, 1967, Conclusions and Order were entered herein suspending the license for forty-five days for possession of indecent motion picture films. Re Rubbinaccio, Bulletin 1774, Item 2.

Prior to effectuation of the order of suspension, upon appeal filed, the Appellate Division of the Superior Court stayed the operation of the suspension until the outcome of the appeal.

On January 22, 1968, the appeal was dismissed by consent, and the stay was vacated. The suspension may now be reimposed.

Accordingly, it is, on this 29th day of January 1968,

ORDERED that the forty-five day suspension heretofore imposed, and stayed during the pendency of proceedings on appeal, be reinstated against Plenary Retail Consumption License C-138, issued by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Elsie Rubbinaccio, for premises 338 Bloomfield St. and 155 Fourth St., Hoboken, commencing 2 a.m. Monday, February 5, 1968, and terminating 2 a.m. Thursday, March 21, 1968.

JOSEPH M. KEEGAN  
DIRECTOR

9.

ACTIVITY REPORT FOR FEBRUARY 1968

ARRESTS:

Total number of persons arrested	-----	19
Licensees and employees	----- 14	
Bootleggers	----- 5	

SEIZURES:

Motor vehicles - cars	-----	2
Alcohol - gallons	-----	35
Distilled alcoholic beverages - gallons	-----	52.54
Brewed malt alcoholic beverages - gallons	-----	6.28

RETAIL LICENSEES:

Premises inspected	-----	735
Premises where alcoholic beverages were gauged	-----	579
Bottles gauged	-----	8,653
Premises where violations were found	-----	160
Violations found	-----	220
No Form E-141-A on premises	----- 105	Disposal permit necessary ----- 2
Unqualified employees	----- 65	Prohibited signs ----- 1
Application copy not available	----- 13	Other violations ----- 30
Other mercantile business	----- 4	

STATE LICENSEES:

Premises inspected	-----	14
License applications investigated	-----	6

COMPLAINTS:

Complaints assigned for investigation	-----	401
Investigations completed	-----	470
Investigations pending	-----	201

LABORATORY:

Analyses made	-----	147
Refills from licensed premises - bottles	-----	101
Bottles from unlicensed premises	-----	24

IDENTIFICATION:

Criminal fingerprint identifications made	-----	7
Persons fingerprinted for non-criminal purposes	-----	311
Identification contacts made with other enforcement agencies	-----	196

DISCIPLINARY PROCEEDINGS:

Cases transmitted to municipalities	-----	8
Violations involved	-----	9
Sale to minors	----- 5	Failure to close premises during prohibited hours ----- 1
Sale during prohibited hours	----- 3	
Cases instituted at Division	-----	31*
Violations involved	-----	35
Possessing liquor not truly labeled	----- 13	Failure to file notice of change in license application ----- 1
Permitting lottery activity on prem.	----- 6	Permitting immoral acty. on prem. ----- 1
Sale during prohibited hours	----- 3	Unqualified employee ----- 1
Fraud in application	----- 2	Hindering investigation ----- 1
Fraud and front	----- 2	Permitting gambling on premises ----- 1
Permitting bookmaking on premises	----- 1	Sale beyond scope of special alcohol permit ----- 1
Sale to minors	----- 1	
Beverage Tax Law non-compliance	----- 1	
Cases brought by municipalities on own initiative and reported to Division	-----	18
Violations involved	-----	21
Sale to minors	----- 12	Permitting bookmaking on premises ----- 1
Sale during prohibited hours	----- 3	Possessing indecent matter ----- 1
Failure to close prem. during prohibited hours	----- 2	Permitting loitering by minors unaccomp. by adults (local reg.) ----- 1
Conducting business as a nuisance	----- 1	

HEARINGS HELD AT DIVISION:

Total number of hearings held	-----	36
Appeals	----- 5	Seizures ----- 1
Disciplinary proceedings	----- 19	Tax revocations ----- 6
Eligibility	----- 5	

STATE LICENSES AND PERMITS:

Total number issued	-----	1,100
Licenses	----- 2	Social affair permits ----- 417
Solicitor's permits	----- 30	Miscellaneous permits ----- 121
Employment permits	----- 271	Transit insignia ----- 163
Disposal permits	----- 46	Transit certificates ----- 50

OFFICE OF AMUSEMENT GAMES CONTROL:

Licenses issued	-----	120
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JOSEPH M. KEEGAN  
 Director of Alcoholic Beverage Control  
 Commissioner of Amusement Games Control

Dated: March 6, 1968

\*Includes two cancellation proceedings - license improvidently issued for premises at which sale of foodstuffs is not primary and principal business, and for sale beyond scope of special alcohol permit.

10. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY  
Labeled - FALSE STATEMENT IN LICENSE APPLICATION - LICENSE  
SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

BEB'S, INC. )  
8 West Park Street )  
Newark, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-846 issued by the Municipal )  
Board of Alcoholic Beverage Control )  
of the City of Newark. )

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Jack Trugman, Esq., Attorney for Licensee.  
Leon Chorkavy, Jr., Esq., Appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges alleging that (1) on  
January 17, 1967, it possessed alcoholic beverages in four bottles  
bearing labels which did not truly describe their contents, in  
violation of Rule 27 of State Regulation No. 20, and (2) in its  
1966-67 application for license failed to disclose its record of  
prior license suspension, in violation of R.S. 33:1-25.

Licensee has a previous record of suspension of license  
by the municipal issuing authority for five days effective  
October 16, 1950, for permitting bookmaking on the licensed  
premises, non-disclosure of which being the subject of the second  
charge.

The prior record of suspension of license for dis-  
similar violation occurring more than five years ago disregarded  
in admeasuring the penalty, the license will be suspended on the  
first charge for twenty days (Re Wesnan, Inc., Bulletin 1757,  
Item 2) and on the second charge for ten days (Re Midtown Tavern,  
Inc., Bulletin 1766, Item 8), or a total of thirty days, with  
remission of five days for the plea entered, leaving a net  
suspension of twenty-five days.

Accordingly, it is, on this 13th day of February, 1968,

ORDERED that Plenary Retail Consumption License C-846,  
issued by the Municipal Board of Alcoholic Beverage Control of  
the City of Newark to Beb's, Inc. for premises 8 West Park Street,  
Newark, be and the same is hereby suspended for twenty-five (25)  
days, commencing at 2:00 a.m. Monday, February 19, 1968, and  
terminating at 2:00 a.m. Friday, March 15, 1968.

JOSEPH M. KEEGAN  
DIRECTOR

11. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING PENALTY STAYED DURING APPEAL.

In the Matter of Disciplinary Proceedings against

HECTOR (HARRY) NEIM  
t/a Mata Hari Lounge  
363 Lakeview Avenue  
Clifton, N. J.

SUPPLEMENTAL ORDER

Holder of Plenary Retail Consumption License C-46 issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton

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Louis R. Cerefice, Esq., Attorney for Licensee  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic Beverage Control

BY THE DIRECTOR:

On November 21, 1967, Conclusions and Order were entered herein suspending the license for forty days for sale to minors and permitting hostess activity on the licensed premises. Re Neim, Bulletin 1772, Item 2.

Prior to effectuation of the order of suspension, upon appeal filed, the Appellate Division of the Superior Court stayed the operation of the suspension until the outcome of the appeal.

On January 26, 1968, the appeal was dismissed by consent. The suspension may now be reimposed.

Accordingly, it is, on this 31st day of January, 1968,

ORDERED that the forty-day suspension heretofore imposed and stayed during the pendency of proceedings on appeal be reinstated against Plenary Retail Consumption License C-46, issued by the Municipal Board of Alcoholic Beverage Control of the City of Clifton to Hector (Harry) Neim, t/a Mata Hari Lounge, for premises 363 Lakeview Avenue, Clifton, commencing at 3:00 a.m. Friday, February 2, 1968, and terminating at 3:00 a.m. Wednesday, March 13, 1968.

JOSEPH M. KEEGAN  
DIRECTOR

12. DISCIPLINARY PROCEEDINGS - SALE BELOW FILED PRICE - PRIOR SIMILAR RECORD - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against ANGELO INNOCENTI t/a Angelo's Wines & Liquors 5506 Kennedy Boulevard West New York, N. J. Holder of Plenary Retail Consumption License C-66 issued by the Board of Commissioners of the Town of West New York.

CONCLUSIONS AND ORDER

Licensee, Pro se. Walter H. Cleaver, Esq., Appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Licensee pleads guilty to a charge alleging that on December 6, 1967, he sold three 4/5 quart bottles of whiskey below filed price, in violation of Rule 5 of State Regulation No. 30.

Licensee has a previous record of suspension of license by the Director for ten days effective May 5, 1958, for similar violation. Re Innocenti, Bulletin 1228, Item 7.

The prior record of suspension of license for similar violation occurring more than five but less than ten years ago considered, 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 Mianowski and Kislowski, Bulletin 1620, Item 3.

Accordingly, it is, on this 13th day of February, 1968,

ORDERED that Plenary Retail Consumption License C-66, issued by the Board of Commissioners of the Town of West New York to Angelo Innocenti, t/a Angelo's Wines & Liquors, for premises 5506 Kennedy Boulevard, West New York, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. Tuesday, February 20, 1968, and terminating at 3:00 a.m. Friday, March 1, 1968.

JOSEPH M. KEEGAN DIRECTOR

13. STATE LICENSES - NEW APPLICATION FILED.

Bayside Beer & Soda Distributors, Inc. Rear, Dover Road and South Main Street South Toms River, New Jersey

Application filed March 19, 1968 for person-to-person and place-to-place transfer of State Beverage Distributor's License SBD-66 from Morris Glassman and David Franklin, t/a Ideal Beverage Company, 112 Pine St., Montclair, N. J.

Handwritten signature of Joseph M. Keegan, Director