

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

BULLETIN 1701

November 29, 1966

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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 1701

November 29, 1966

1. COURT DECISIONS - C. & S. TAVERN CORP. v. DIVISION OF ALCOHOLIC BEVERAGE CONTROL - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
A-611-65

C. & S. TAVERN CORP.,  
t/a JACK'S STAR BAR,

Appellant,

vs.

DIVISION OF ALCOHOLIC  
BEVERAGE CONTROL,

Respondent.

-----  
Argued September 12, 1966 - Decided September 20, 1966

Before Judges Conford, Foley and Leonard

On appeal from the Division of Alcoholic Beverage Control, Department of Public Safety.

Mr. Louis R. Cerefice argued the cause for appellant.

Mr. Michael C. Rudolph, Deputy Attorney General, argued the cause for respondent (Mr. Arthur J. Sills, Attorney General of New Jersey, attorney).

PER CURIAM

Appeal from the Director's decision in Re C. & S. Tavern Corp., Bulletin 1667, Item 3. Director affirmed. Opinion not approved for publication by the Court committee on opinions.

2. DISCIPLINARY PROCEEDINGS - ORDER REIMPOSING SUSPENSION STAYED  
DURING PENDENCY OF APPEAL.

In the Matter of Disciplinary  
Proceedings against

C. & S. TAVERN CORP.  
t/a JACK'S STAR BAR  
24 Tichenor Street  
Newark, N. J.

SUPPLEMENTAL  
ORDER

Holder of Plenary Retail Consumption  
License C-143, issued by the Municipal  
Board of Alcoholic Beverage Control  
of the City of Newark.

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

BY THE DIRECTOR:

On February 28, 1966, I entered Conclusions and Order herein suspending the license for eighty days for permitting congregation of apparent homosexuals and foul language on the licensed premises and sale of an alcoholic beverage in original container for off-premises consumption during prohibited hours. Re C. & S. Tavern Corp., Bulletin 1667, Item 3.

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

The court affirmed my action on September 20, 1966. C. & S. Tavern Corp. v. Division of Alcoholic Beverage Control (App.Div. 1966), not officially reported, recorded in Bulletin 1701, Item 1. Mandate on affirmance having now been received, the suspension may be reimposed.

Accordingly, it is, on this 10th day of October, 1966,

ORDERED that the eighty-day suspension heretofore imposed and stayed during the pendency of proceedings on appeal be reinstated against Plenary Retail Consumption License C-143, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to C. & S. Tavern Corp., t/a Jack's Star Bar, for premises 24 Tichenor Street, Newark, commencing at 2:00 a.m. Monday, October 17, 1966, and terminating at 2:00 a.m. Thursday, January 5, 1967.

JOSEPH P. LORDI  
DIRECTOR

3. DISCIPLINARY PROCEEDINGS - AIDING AND ABETTING UNLAWFUL  
TRANSPORTATION - CHARGE DISMISSED.

In the Matter of Disciplinary  
Proceedings against

LOU'S LIQUORS (A CORP.)  
t/a LOU'S LIQUORS  
200-206 Muhlenberg Place  
Plainfield, N. J.

CONCLUSIONS  
AND ORDER

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

Wilentz, Goldman & Spitzer, Esqs., by Warren W. Wilentz, 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 26, 1966, you knowingly aided and abetted  
the transportation of alcoholic beverages in an about  
the City of Plainfield by Israel Whetstone without  
requisite license or permit contrary to R.S. 33:1-2,  
in violation of R.S. 33:1-52."

Testimony with reference to this charge was heard at a  
consolidated hearing which also involved forfeiture proceedings  
(Re Seizure Case #11,670, Bulletin 1701, Item 4,) involving  
alcoholic beverages allegedly unlawfully transported on March 26,  
1966, in a pick-up truck owned by Israel Whetstone. This report  
is being submitted simultaneously with a Hearer's report in the for-  
feiture proceedings; a separate report has been prepared in each  
case in order to delimit the relevant testimony required for an  
impartial consideration of the proceedings and to protect the rights  
of the parties involved.

The following facts were established through the testimony  
of the Division's witnesses: At approximately 9:20 p.m. on March  
26, 1966, pursuant to specific assignment Detective Richard Drake  
of the Plainfield Police Department arrived in the vicinity of the  
licensee's premises and observed a pick-up truck being loaded with  
cases of beer and a quantity of whiskey from the licensed premises.  
Joined shortly thereafter by Sergeant Joseph R. Snyder, they followed  
the truck and stopped it about a half-block away. They questioned  
Israel Whetstone (who identified himself as the owner and operator  
of the said vehicle) and he admitted that he had no transit insignia  
for the said vehicle nor did he have any special permit authorizing  
the transportation of the said alcoholic beverages. After examining  
the truck and finding this to be so, Whetstone was arrested, charged  
with transporting alcoholic beverages without permit and in an  
unlicensed vehicle. During questioning Whetstone stated that he had  
purchased the said alcoholic beverages from the licensee and paid  
about \$180 therefor. He had no invoice or sales slip or other indicia  
of purchase in his possession. He further stated that the purchase  
was made for his personal use, that he was taking it to a party at 901  
Berckman Street, Plainfield.

Later, at police headquarters one William Ryles approached the officers and informed them that the liquor was purchased pursuant to a special permit for a dance to be held under the auspices of Club M in Metuchen, and that Whetstone was acting as its agent in transporting the said liquor to the dance. He produced a Special Permit No. S-17884 issued by this Division on March 9, 1966, for a social affair to be conducted on March 26, 1966, by Club M in Nixon, Edison Township.

At 11:25 on that evening, Detective Drake, Lieutenant Hennessey and Sergeant McColgan of the Plainfield Police Department went to the licensed premises and interrogated Herman Kaminsky (assistant treasurer of the corporate licensee) in the presence of Louis Kaminsky (the corporate president and treasurer). Herman Kaminsky admitted that he sold Whetstone the seized alcoholic beverages for the sum of about \$400; that he was shown a permit which he saw but did not carefully examine, and that on the basis of the permit he felt that the sale was legitimate. Lieutenant Hennessey asked Kaminsky, "Do you have a receipt for the sale?" Kaminsky answered, "No. I may have figured out on a piece of paper what the sale was, but I must have thrown the paper away." He added that this was a cash sale, that it was not reflected on the cash register tape, and that, in any event, if there was any tape it was thrown away in the garbage. Finally he added that, when he was shown the permit, he informed Whetstone that he was too busy to transport the purchased items in the licensee's vehicles and Whetstone thereupon advised him that he would transport the alcoholic beverages in his own vehicle. When the order was prepared, Whetstone and several of his friends loaded the liquor on his truck and the truck was driven away to the point and place of seizure.

Ralph R. Anderson testified on behalf of the licensee that he is the president of Club M, a social club which sponsored a dance in Metuchen on March 26, 1966. Having obtained a special permit from this Division, he called a meeting of several members of the club on the morning of March 26 and gave Henry Atkinson cash and the permit and instructed him to purchase liquor for the dance from the licensee. He designated Edmund Thomas to accompany Atkinson and directed them to have Israel Whetstone (a member of the club who volunteered to make the delivery if necessary) deliver the liquor in his truck if the licensee was unable to deliver it.

Henry Atkinson testified that he was present at the meeting and, following Anderson's instructions, he went to the licensed premises accompanied by Edmund Thomas and made the purchase of the said alcoholic beverages. At that time he showed Kaminsky the special permit and obtained a receipt on a plain piece of paper (not on the licensee's stationery). When he was informed that the licensee could not deliver the said beverages in its vehicles, he gave the permit to Thomas and directed him to go to Whetstone's home and have him pick up the beverages.

On cross examination Atkinson insisted that Whetstone made himself available that evening pursuant to arrangements made earlier in the day. He further insisted that, after the order was placed, he gave the permit to Thomas and that thereafter Thomas had it in his possession. The sale receipt, however, was not signed by Kaminsky or any other agent of the licensee.

Edmund Thomas testified that he was assigned to accompany Atkinson to pick up the order for the dance and was specifically directed to see that the liquor got to the dance. He stated that Whetstone had volunteered to use his truck to deliver the liquor. At 8:50 p.m. in the company of Atkinson he went to the licensed

premises and, after the order was placed by Atkinson, he was given the permit which he kept on him for the balance of the evening. He then left the licensed premises and returned shortly thereafter with Whetstone. After the truck was loaded he sat on the tailgate of the truck and, when the motor vehicle was intercepted by the police, he was told to get off the truck. He then got into an argument with the police and did not tell them he had the permit on him because "No one asked me for anything."

Israel Whetstone testified that he knew that a permit was required but he explained, "I had never had occasion to use a permit before because it was never my job to ... apply for a permit or anything." He felt that, since he was specifically designated to transport the liquor and not to purchase the same, it was not his obligation to obtain the permit. He admitted that he had no permit nor did his motor vehicle have a transit insignia authorizing the transportation of the said alcoholic beverages.

Herman Kaminsky testified as follows: Atkinson and Thomas came into the licensed premises, which consists of a tavern and package store. Atkinson showed him a permit, on the basis of which he ordered a substantial amount of alcoholic beverages to be used at a dance. The witness told Atkinson that he was too busy to make delivery and, after he was paid in cash, he scribbled a receipt on a plain piece of paper. Atkinson and Thomas then left the premises and Thomas returned with Whetstone. Thomas again produced the said permit, which he examined casually and permitted them to load the liquor on Whetstone's truck. He admitted that, when the police officers visited him around midnight that evening, he informed them that the cash register tape was probably thrown out and could not be found.

On cross examination Kaminsky insisted that Thomas had shown him the permit but that he had not made any check to ascertain whether the permit would be carried on Whetstone's truck.

Disciplinary proceedings are purely civil in nature and not criminal, and require proof of guilt by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956); Freud and Pittala v. Davis, 64 N.J. Super. 242 (1960). The accepted gauge of administrative factual finality is whether the factual findings are supported by substantial evidence. By substantial evidence is meant such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. Hornauer v. Division of Alcoholic Beverage Control, 40 N.J. Super. 501 (1956); In re Larsen, 17 N.J. Super. 564 (App.Div. 1952).

No evidence need be believed but, rather, the Hearer must always credit as much or as little as he finds reliable. Wigmore Evidence, § 2100 (3rd Ed. 1940); Greenleaf Evidence, § 201. The accepted standard of persuasion governing the triers of the facts is that the determination be probably founded in truth. Riker v. John Hancock Mutual Life Ins. Co., 129 N.J.L. 508 (1943).

The Division's case was essentially based upon circumstantial evidence. Obviously none of the Division's witnesses was present during the transaction; the testimony of these witnesses was based upon the circumstances and the interrogation of the licensee's corporate officers. Counsel for the Division has taken the position that the defense of the licensee that its agent made the sale after being shown the permit is a complete fabrication, and that licensee knew, or should have known, that the said alcoholic beverages were transported unlawfully.

I have carefully analyzed the testimony herein and have had an opportunity to observe the witnesses as they testified in these proceedings. While I disbelieve the testimony of Thomas, I feel there is some evidence that Atkinson had the permit when he first negotiated the said purchase, which permit admittedly was a valid social affair permit, at the time the sale was negotiated. This permit authorized the permittee to transport the said alcoholic beverages provided the operator of the vehicle had the same in his possession. I am not persuaded that Atkinson turned the permit over to Thomas, as he testified he did, or that Thomas ever had the permit in his possession.

There is some testimony with respect to the amount of money paid for the liquor and there has been some proof that the licensee neither recorded the sale nor filed the proper beverage tax report with respect thereto. However, this appears to me to be entirely extraneous to the issue of whether the licensee aided and abetted the unlawful transportation of these alcoholic beverages and merely reflects some "hanky panky" on the part of the licensee with regard to the regulatory compliance of the said transaction.

Thus we are faced with the circumstantial evidence adduced by the Division as against the direct testimony with respect to the transaction. As the court said in Ciuba v. Irvington Varnish & Insulator Co., 27 N.J. 127, 139 (1958) in discussing circumstantial evidence:

"The determinative inquiry is whether the evidence demonstrates the offered hypothesis as a rational inference, that is to say, a presumption grounded in a preponderance of the probabilities according to the common experience of mankind .... A bare quantitative preponderance is not enough. The evidence must be such in quality as to lead a reasonably cautious mind to the given conclusion. The measure of the weight of the evidence is 'the feeling of probability which it engenders.' Joseph v. Passaic Hospital Association, 26 N.J. 557 (1958)."

In Miller v. New Amsterdam Casualty Co., 94 N.J.L. 508 (E. & A. 1920), the court said at p. 511:

"We may add that it is this preponderance of the aggregate probabilities juridically termed 'the weight of the evidence' which furnishes the legal standard of proof in civil causes, as contradistinguished from the rigid rule applicable in the trial of criminal causes, based on circumstantial evidence, which requires as a basis for conviction the elimination of every other reasonable hypothesis which could afford a rational explanation for the commission of the crime."

Further, as the then Director stated in Re DeSimone, Bulletin 1389, Item 2:

"In general, a finding of guilt may be made only in those cases where the affirmative proof is sufficient to independently and otherwise establish the guilt of the licensee. The present case does not have that affirmative independent proof. The agents did not observe any unauthorized alcoholic beverage activity on the licensed premises .... I must decide cases only on the basis of legal proof."

I believe the testimony herein is insufficient to sustain the contention of the Division that the licensee aided and abetted the unlawful transportation. It is not wholly improbable that Kaminsky was shown the valid permit which authorized the permittee to transport the said alcoholic beverages in his own vehicle provided that permit was in the possession of the operator of the vehicle. I do not think it was the licensee's obligation to pursue his investigation any further under the particular factual complex herein.

Fairness has always been the touchstone of administrative processes; and in the interpretation, application and implementation of the regulations of this Division we have consistently sought to avoid injustice where the factual circumstances demonstrate prejudice to an unwitting licensee. Cf. Eberhard v. Eberhard, 4 N.J. 535 (1950), where the court stated that the proof must have sufficient force to support a legal inference as contrasted with a mere speculation. See Re Anton's Wines & Liquors, Inc., Bulletin 1655, Item 1, p. 12.

I therefore conclude that the evidence to support this charge falls short of the mark, and recommend that an order be entered finding the licensee not guilty and dismissing the said charge.

#### Conclusions and Order

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

After carefully considering the testimony herein, the exhibits, the argument of counsel and the Hearer's report, I concur in the findings and conclusion of the Hearer and adopt his recommendation.

Accordingly, it is, on this 23d day of September, 1966,

ORDERED that the charge herein be and the same is hereby dismissed.

JOSEPH P. LORDI  
DIRECTOR



4. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION IN VEHICLE WITHOUT TRANSIT INSIGNIA OR SPECIAL PERMIT - ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure on	)	Case No. 11,670
March 26, 1966 of 762 bottles of	)	
alcoholic beverages outside of	)	ON HEARING
licensed premises of Lou's Liquors,	)	CONCLUSIONS
Inc., at 200 - 206 Muhlenberg Place,	)	AND ORDER
in the City of Plainfield, County of	)	
Union and State of New Jersey.	)	

-----  
 Wilentz, Goldman & Spitzer, Esqs., by Warren W. Wilentz, Esq.,  
 appearing for Lou's Liquors, Inc.  
 Calvin J. Hurd, Esq., appearing for Club M.  
 Edward F. Ambrose, Esq., appearing for the Division of Alcoholic  
 Beverage Control.  
 I. Edward Amada, Esq., appearing for the Division of Alcoholic  
 Beverage Control.

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 to determine whether 762 bottles of assorted kinds and brands of alcoholic beverages, seized on March 26, 1966, outside of the licensed premises of Lou's Liquors, 200 - 206 Muhlenberg Place, in the City of Plainfield, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing Club M, c/o Ralph R. Anderson, represented by counsel sought the return of the seized alcoholic beverages.

It should be noted that the motor vehicle was released by the Plainfield police to its owner, Israel Whetstone, immediately following the removal by them of the alcoholic beverages from the said vehicle, and is, therefore, not a subject for consideration in these proceedings.

This matter was presented in a consolidated hearing, involving, in addition to this proceeding, a disciplinary proceeding against Lou's Liquors, Inc., a corporation, trading as Lou's Liquors, at premises 200 - 206 Muhlenberg Place, Plainfield, N. J. on the charge that it allegedly knowingly aided and abetted the transportation of the said alcoholic beverages in and about the City of Plainfield by Israel Whetstone without requisite license or permit, contrary to R.S. 33:1-2, in violation of R.S. 33:1-52. (Re Lou's Liquors, Inc., Bulletin 1701, Item 3.) The consolidated hearing of these matters was consented to by counsel representing the parties involved, and was conducted as one hearing because these cases arose out of a common incident, and are interrelated. Separate Hearer's Reports, however, are being prepared in order to delimit the evidence presented, for an impartial consideration thereof and to protect the rights of all the parties.

The affidavits of mailing and publication and the notice of hearing and the inventory, itemizing the seized alcoholic beverages were admitted into evidence.

The established facts presented on behalf of the Division reflect the following: On Saturday, March 26, 1966, at approximately 9:15 p.m. Sergeant Joseph R. Snyder and Detective Richard Drake of the Plainfield Police Department observed a 1961 Chevrolet truck, bearing New Jersey Registration XRM830, parked at the curb in front of Lou's Liquors at the address aforesaid, being loaded with alcoholic beverages by Israel Whetstone, Williams Ryles and Edmund Thomas. After loading the said vehicle, the truck was then driven away from the aforesaid licensed premises and the officers stopped it about a half block therefrom, in front of 659 South 2nd Street, Plainfield. They interrogated the driver, Israel Whetstone, whom they ascertained to be the registered owner of the said vehicle, and he acknowledged that he had no special permit or license authorizing him to transport alcoholic beverages. They also examined the vehicle and determined that there was no transportation insignia affixed thereto authorizing the said transportation.

Whetstone stated that he was transporting this liquor to a party at a friend's house at 901 Berckman Street, Plainfield.

The interrogation was made in the presence of the other two occupants of the vehicle. Thomas who had apparently had some drinks of alcoholic beverages prior to this incident, became unruly and verbally abused the police officers. He was not arrested, however, and was told to leave.

Whetstone was thereupon arrested and charged with transporting alcoholic beverages without a license or permit contrary to R.S. 33:1-2 in violation of R.S. 33:1-50 (a and b). At police headquarters, after Whetstone was booked, he told the police that he had purchased the liquor from Lou's Liquors, Inc. for cash; that the said purchase was for himself and not for anybody else, and that he intended to give it to his friends at a dance to be held in Metuchen. He had no invoice or any other document reflecting payment therefor.

After Whetstone was booked, and while being questioned at police headquarters, William Ryles entered the police station, claimed the liquor as the property of Club M, and presented a permit issued by this Division on March 8, 1966 authorizing the sale and consumption of alcoholic beverages at a dance to be held on March 26, 1966 in Nixon, Edison Township, New Jersey.

The alcoholic beverages were transported in a vehicle which did not have a transit insignia affixed thereto or an inscription painted thereon in violation of Rule 2 of State Regulation No. 17. Furthermore, the operator of the said vehicle did not have in his possession any special permit or license authorizing him to transport said alcoholic beverages. The Alcoholic Beverage Law provides that it shall be unlawful to transport alcoholic beverages without a license except in limited amounts for personal consumption as defined in R.S. 33:1-2. Any alcoholic beverages unlawfully transported are illicit. R.S. 33:1-1(i). All such illicit beverages, therefore are unlawful property. R.S. 33:1-1(y). Such unlawful property must be seized by any officer knowing or having reasonable cause to believe it to be unlawful property; R.S. 33:1-66(a); Seizure Case No. 10,707, Bulletin 1467, Item 4; Seizure Case No. 10,701, Bulletin 1448, Item 5; Seizure Case No. 10,157, Bulletin 1336, Item 6.

In support of its claim for return of the said alcoholic beverages, Club M, through its witnesses, presented the following account: It sponsored a dance in Metuchen to be held on March 26,

1966 and on the morning of March 26, 1966 at a meeting held at Whetstone's house it was decided to purchase alcoholic beverages from Lou's Liquors.

Henry Atkinson, Jr. was given cash and instructed to purchase liquor. At 8:45 of that evening, in the company of Thomas, he went to Lou's Liquors and showed the proprietor the permit for the dance. He then gave the permit to Thomas and they both then left the premises. Thomas testified that he was assigned to pick up the order of the vehicle and contacted Whetstone at his home shortly thereafter. He accompanied Whetstone to the licensed premises in Whetstone's vehicle and they picked up the liquor. Shortly thereafter, they were apprehended by the police officers. Thomas insists that he showed the permit to Mr. Kaminsky, the manager of Lou's Liquors at the time that they picked up the order.

On cross-examination, Thomas was asked why he didn't notify the officers when the truck was stopped that he had a permit authorizing such transportation. He admitted that he had been drinking ("I am no alcoholic but I do have a few drinks"). He insists that he gave the police an argument because the officers stopped the car. "That is why I was giving the argument. He got close. He said I was drinking. He told me to get in the car. When I got in the car I was shooting off my mouth. That is when I got up and made it." He added that the police did not ask him about any permit nor did he volunteer that he had the permit in his possession. He further admitted that he did not make any inquiry as to why the truck was being stopped by the police at that time. Finally, he stated that he went to the dance in Metuchen later that evening and handed the permit back to the president of the club.

Whetstone testified that he told the police at the time that the vehicle was stopped, that he was going to a party at 901 Berckman Street, Plainfield and that he was thereafter going to go to a dance in Metuchen. Whetstone acknowledged that he did not have a permit to transport liquor although he was aware that such permit was required, nor did his truck have the required insignia affixed thereto.

On cross-examination he admitted that he did not tell the police that there was a permit on the truck in the possession of anyone, and further admitted that he did not say anything to the police about a Club M dance in Nixon, Edison Township.

It is clear from my analysis of the entire record herein that a special permit was granted to Club M to sell alcoholic beverages at a social affair to be conducted by it in Edison Township. The permit further provides that the permittee may transport alcoholic beverages which it has purchased for such purpose through any duly licensed transporter in the State of New Jersey or any vehicle owned or controlled by the permittee provided the permit, or a copy thereof, certified by the Director of the Division of Alcoholic Beverage Control be carried by the operator of such vehicle so transporting such alcoholic beverages.

The seized alcoholic beverages, however, were found in a vehicle owned by Whetstone who insisted that the said liquor was being transported to a party of his friends in Plainfield. Thus, the question arises as to whether the said alcoholic beverages found in that vehicle were, in fact, intended for the Club M dance. This, however, need not be decided at this time because the sole and decisive issue is whether this truck had a transportation

insignia authorizing such transportation or whether the operator or driver had a copy of the special permit in his possession in that truck at that time.

Whetstone admits that he did not have any such special permit nor did the truck have any transportation insignia. The claimant contends that Thomas, who was sitting on the tail of the truck, had the special permit in his possession and therefore, his possession can be equated to the possession of the operator.

I have examined Thomas' testimony and have had an opportunity to observe his demeanor as he testified before me. I disbelieve his statement that he had the permit in his possession. It is more realistic to believe that if he, in fact, did have the said permit he would have communicated that fact both to Whetstone and to the police at the time of confrontation. Instead, he engaged in a quarrel with the police and, according to their testimony, verbally abused them. Their failure to arrest him merely reflects their restraint with this unruly character, and does not lend any credence to his assertion that the reason that he did not produce a special permit is that they did not ask him about it. I find that this vehicle did not bear a proper transit insignia nor did the driver have in his possession the special permit as required by Rule 2 of State Regulation No. 18 and accordingly, the vehicle was operated in violation of R.S. 33:1-2. Thus, the said alcoholic beverages constitute unlawful property and should be forfeited. R.S. 33:1-2; R.S. 33:1-1(i and y); R.S. 33:1-66; Seizure Case No. 10,701, supra; Cf. Seizure Case No. 10,707, supra.

I therefore recommend that the claim of Club M for the return of the alcoholic beverages be denied, and that an order be entered forfeiting same.

#### Conclusions and Order

Exceptions to the Hearer's Report were filed by the claimant herein pursuant to Rule 4 of State Regulation No. 28.

Having carefully considered the entire record herein, including the transcript of testimony, the exhibits, the argument of the attorneys of the respective parties, and the Hearer's Report, and the exceptions thereto which I find without merit, I concur in the recommended conclusions in the Hearer's Report and I adopt them as my conclusions herein.

Accordingly, it is, on this 23rd day of September, 1966,

DETERMINED and ORDERED that the seized alcoholic beverages constitute unlawful property, and the same be and are hereby forfeited, in accordance with the provisions of R.S. 33:1-66 and 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.

JOSEPH P. LORDI  
DIRECTOR

#### SCHEDULE "A"

762-bottles of alcoholic beverages

5.

ACTIVITY REPORT FOR SEPTEMBER 1966**ARRESTS:**

Total number of persons arrested	-----	26
Licensees and employees	8	
Bootleggers	18	

**SEIZURES:**

Stillis - 50 gallons or under	-----	1
Alcohol - gallons	-----	.80
Mash - gallons	-----	300
Distilled alcoholic beverages - gallons	-----	16.15
Wine - gallons	-----	38.89
Brewed malt alcoholic beverages - gallons	-----	58.44

**RETAIL LICENSEES:**

Premises inspected	-----	795	
Premises where alcoholic beverages were gauged	-----	655	
Bottles gauged	-----	10,125	
Premises where violations were found	-----	65	
Violations found	-----	139	
Unqualified employees	100	Disposal permit necessary	2
Application copy not available	12	Improper beer taps	1
Reg.#38 sign not posted	6	Other violations	12
Other mercantile business	6		

**STATE LICENSEES:**

Premises inspected	-----	33
License applications investigated	-----	7

**COMPLAINTS:**

Complaints assigned for investigation	-----	353
Investigations completed	-----	393
Investigations pending	-----	204

**LABORATORY:**

Analyses made	-----	91
Refills from licensed premises - bottles	-----	61
Bottles from unlicensed premises	-----	1

**IDENTIFICATION:**

Criminal fingerprint identifications made	-----	10
Persons fingerprinted for non-criminal purposes	-----	380
Identification contacts made with other enforcement agencies	-----	243

**DISCIPLINARY PROCEEDINGS:**

Cases transmitted to municipalities	-----	6	
Violations involved	-----	7	
Sale to minors	3	Failure to close premises during prohibited hours	1
Sale during prohibited hours	2		
Sale to non-members by club	1		

Cases instituted at Division	-----	27
Violations involved	-----	36

Possessing liquor not truly labeled	8	Mislabeled beer taps	1
Sale during prohibited hours	8	Permitting gambling on prem.	1
Sale to minors	2	Possessing pinball mach. on prem.	1
Fraud in application	2	Sale on Primary Election Day	1
Permitting lottery activity on prem.	2	Sale to intoxicated persons	1
Conducting business as a nuisance	2	Permitting foul lang. on premises	1
Consump. by minor in vio. of permit	1	Act or happening	1
Employee working while intoxicated	1	Failure to file notice of change in license application	1
Unqualified employee	1		
Beverage Tax Law non-compliance	1		

Cases brought by municipalities on own initiative and reported to Division	-----	16
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Violations involved	-----	19	
Sale to minors	6	Sale during prohibited hours	2
Permitting brawl on premises	4	Failure to close premises during prohibited hours	1
Conducting business as a nuisance	3	Hindering investigation	1
Permitting gambling on premises	2		

**HEARINGS HELD AT DIVISION:**

Total number of hearings held	-----	44	
Appeals	9	Tax revocations	2
Disciplinary proceedings	16	Applications for license	1
Eligibility	16		

**STATE LICENSES AND PERMITS ISSUED:**

Total number issued	-----	1,401	
Licenses	1	Wine permits	43
Solicitors' permits	55	Miscellaneous permits	211
Employment permits	354	Transit insignia	177
Disposal permits	46	Transit certificates	26
Social affair permits	488		

**OFFICE OF AMUSEMENT GAMES CONTROL:**

Licenses issued	1	Number of violations found	2
State Fair Licenses issued	58	Disciplinary proceedings instituted	1
Enforcement files established	6	Violations involved	2
Premises inspected	68	Fraud and front	1
Premises where violations were found	2	Failure to file notice of change in application	1

JOSEPH P. LORDI

 Director of Alcoholic Beverage Control  
 Commissioner of Amusement Games Control

Dated: October 7, 1966

6. DISQUALIFICATION REMOVAL PROCEEDINGS - CARNAL ABUSE - ORDER  
REMOVING DISQUALIFICATION.

In the Matter of an Application )  
to Remove Disqualification be- )  
cause of a Conviction, Pursuant )  
to R.S. 33:1-31.2 )

CONCLUSIONS

AND

ORDER

Case No. 2053 )

----- )  
BY THE DIRECTOR:

Petitioner's criminal record discloses that on January 13, 1956 he was convicted in the Middlesex County Court for carnal abuse and, as a result thereof, was sentenced to Bordentown Reformatory and paroled on July 18, 1957.

It further appears that on July 7, 1959 and on June 6, 1960 he was convicted in a local magistrate's court under the Disorderly Persons Act (assault and battery) based on complaints made by his wife; that on his first conviction he was fined \$100 or ninety days in jail and placed on probation for one year, and on his second conviction he was fined \$50 or thirty days in jail (paid fines).

Since the crime of which petitioner was convicted involves the element of moral turpitude (Re Case No. 1046, Bulletin 969, Item 11), he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this State. R.S. 33:1-25, 26.

Petitioner's convictions in the magistrate's court are not convictions of crime.

The records of this Division disclose that by letter dated May 15, 1963, petitioner was advised of his ineligibility by reason of his conviction in 1956.

At the hearing held herein, petitioner (35 years old) testified that he is married and living separate and apart from his wife; that for the past seventeen years he has resided in the municipality where he presently resides; that in January and February 1964 he worked as a porter in licensed premises; that he honestly believed that he was eligible for such employment and that his ineligibility was limited to handling alcoholic beverages; that in March 1964 he had sustained a broken leg, ever since which time he has been unemployed; that during said period he was the recipient of welfare payments and that between 1960 and 1963 he had been employed as a smelter in the steel industry.

Petitioner further testified that he is asking for the removal of his disqualification to be free to accept employment in the alcoholic beverage industry in this State, and that ever since his parole in 1957 he has not been convicted of any crime or arrested except as aforesaid.

The Police Department of the municipality wherein the petitioner resides reports there are no complaints or investigations presently pending against the petitioner.

Petitioner produced three character witnesses (a tabulator operator, a manager of an employment service, and a truck driver)

who testified that they have known petitioner for more than five years last past and that in their opinion he is now an honest, law-abiding person with a good reputation.

Ordinarily, in a case of this kind I would defer the relief sought herein. In the instant case, however, I am of the opinion that the requested relief should be granted without deferment for the following reasons: Petitioner's criminal record shows only one conviction of crime which took place over ten years ago, the favorable testimony of his character witnesses; his present attitude, and his sworn testimony that he honestly believed he was eligible for employment as a porter in licensed premises.

Accordingly, it is, on this 4th day of October, 1966,

ORDERED that petitioner's statutory disqualification because of the convictions described herein be and the same is hereby removed, in accordance with the provisions of R.S. 33:1-31.2.

JOSEPH P. LORDI,  
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS BETS) - LICENSE  
SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

Gilbert Ward )  
t/a Prince's Bar )  
35-37 No. Michigan Avenue )  
Atlantic City, New Jersey )

CONCLUSIONS  
AND  
ORDER

Holder of Plenary Retail Consumption )  
License C-197, issued by the Board )  
of Commissioners of the City of )  
Atlantic City )  
----- )

Emory J. Kiess, Esq., Attorney for Licensee.  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on divers days between June 23 and July 1, 1966, he permitted acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Commissioner for fifteen days effective January 9, 1946, for possession of alcoholic beverages not truly labeled. Re Ward, Bulletin 689, Item 5.

The prior record of suspension of license for dissimilar violation occurring more than five years ago disregarded, the license will be suspended for sixty days, with remission of five days for the plea entered, leaving a net suspension of fifty-five days. Re The Bamark Corp., Bulletin 1691, Item 3.

Accordingly, it is, on this 21st day of September, 1966,

ORDERED that Plenary Retail Consumption License C-197, issued by the Board of Commissioners of the City of Atlantic City to Gilbert Ward, t/a Prince's Bar, for premises 35-37 No. Michigan Avenue, Atlantic City, be and the same is hereby suspended for fifty-five (55) days, commencing at 7:00 a.m. Wednesday, September 28, 1966, and terminating at 7:00 a.m. Tuesday, November 22, 1966.

JOSEPH P. LORDI  
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR SIMILAR RECORD -  
LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary )  
Proceedings against )

JOSEPH D. SCHIPANI )  
t/a GRANDE'S CAFE )  
200 West Rio Grande Avenue )  
Wildwood, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption )  
License C-39, issued by the Board of )  
Commissioners of the City of Wildwood. )

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Perskie and Perskie, Esqs., by Marvin D. Perskie, Esq.,  
Attorneys 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 July 9, 1966, he sold mixed drinks of alcoholic beverages to three minors, two age 18 and one age 20, in violation of Rule 1 of State Regulation No. 20.

Licensee has a previous record of suspension of license by the Director for ten days effective November 30, 1953, for sale of package goods from a portion of the licensed premises other than the public barroom (Re Grande and Schipani, Bulletin 994, Item 5) and for five days effective October 9, 1959, for possession of an alcoholic beverage not truly labeled (Re Grande and Schipani, Bulletin 1309, Item 7) and by the municipal issuing authority for ten days effective October 23, 1961, for sale to minors.

The prior record of suspensions of license for dissimilar violations occurring more than five years ago disregarded, the license will be suspended for twenty days (Re Jagen, Bulletin 1486, Item 6), to which will be added ten days by reason of the record of suspension for similar violation occurring within the past five years (Re Triple Lake Ranch, Inc., Bulletin 1676, Item 3), 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 10th day of October, 1966,

ORDERED that Plenary Retail Consumption License C-39, issued by the Board of Commissioners of the City of Wildwood to Joseph D. Schipani, t/a Grande's Cafe, for premises 200 West Rio Grande Avenue, Wildwood, be and the same is hereby suspended for twenty-five (25) days, commencing at 2:00 a.m. Monday, October 17, 1966, and terminating at 2:00 a.m. Friday, November 11, 1966.

JOSEPH P. LORDI  
DIRECTOR



9. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY  
 LABELED - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
 Proceedings against

ROBERT ROUSE  
 61 Jones Street  
 Newark, N. J.

CONCLUSIONS  
 AND ORDER

Holder of Plenary Retail Consumption  
 License C-742, issued by the Municipal  
 Board of Alcoholic Beverage Control  
 of the City of Newark.

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 Skoloff & Wolfe, Esqs., by Saul A. Wolfe, Esq., Attorneys for  
 Licensee.  
 David S. Piltzer, Esq., Appearing for Division of Alcoholic  
 Beverage Control.

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on  
 September 7, 1966, he possessed alcoholic beverages in two bottles  
 bearing labels which did not truly describe their contents, in  
 violation of Rule 27 of State Regulation No. 20.

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 Pfeiffer and Howard,  
 Bulletin 1694, Item 6.

Accordingly, it is, on this 24th day of October, 1966,

ORDERED that Plenary Retail Consumption License C-742,  
 issued by the Municipal Board of Alcoholic Beverage Control of  
 the City of Newark to Robert Rouse, for premises 61 Jones Street,  
 Newark, be and the same is hereby suspended for ten (10) days,  
 commencing at 2:00 a.m. Monday, October 31, 1966, and terminating  
 at 2:00 a.m. Thursday, November 10, 1966.

JOSEPH P. LORDI  
 DIRECTOR

10. STATE LICENSES - NEW APPLICATION FILED.

Louis Cohen Inc.  
 Highway #130  
 East Windsor Township  
 PO Hightstown, N. J.

Application filed November 18, 1966 for place-to-place transfer  
 of State Beverage Distributor's License SBD-30 from Highway 130,  
 Washington Township, PO Windsor, New Jersey.

  
 Joseph P. Lordi  
 Director