

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

BULLETIN 2079

January 18, 1973

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STATE OF NEW JERSEY
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25 Commerce Dr. Cranford, N.J. 07016

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1. APPELLATE DECISIONS - JOHNNIE MAE ISHMAL v. NEWARK.

Johnnie Mae Ishmal,)	
Appellant,)	
v.)	On Appeal
Municipal Board of Alcoholic)	
Beverage Control of the City)	CONCLUSIONS and ORDER
of Newark,)	
Respondent.)	
-----)	

Golden E. Johnson, Esq. and Peter A. Buchsbaum, Esq., Attorneys
for Appellant
William H. Walls, Esq., by Beth M. Jaffe, Esq., Attorney for
Respondent

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

This is an appeal from the action of the Municipal Board of Alcoholic Beverage Control of the City of Newark (hereinafter Board) which on April 24, 1972 denied the application of appellant Johnnie Mae Ishmal (hereinafter Ishmal) for transfer of her plenary retail consumption license from premises 132 Orchard Street to 110 Fabyan Place, Newark.

Prior to the opening of the hearing on appeal in this Division, the petition of appeal, the answer, the transcript of proceedings before the Board, submitted in accordance with Rule 8 of State Regulation No. 15, together with a map of the area submitted to the Board and a copy of the applicable ordinance of the City of Newark, were examined in usual course preparatory to the hearing.

At the commencement of the hearing held pursuant to Rule 6 of State Regulation No. 15, an announcement was made to counsel that, from the analysis made of the pleadings and exhibits, certain conclusions were drawn by which it appeared that the appeal did not present a justiciable issue. That announcement embraced the following statements:

1. Section 4:2-17 of the Revised Ordinances of the City of Newark is in effect and control in matters of place-to-place transfers. The distance between the present place of the license and the proposed place to which application for transfer is made is well over 1,000 feet. Division records, together with the map of the area from the hearing of the Board, indicate that the proposed place of transfer and the nearest location of a plenary retail consumption license is 315 feet in approximation. The

premises nearest to the proposed location is located at 23-25 Birks Place, itself being on the southeast corner of Birks Place and Fabyan Place, this place being well within 600 feet of the proposed transfer.

2. Section 4:2-17 of the said ordinance precludes any transfer of license within 1,000 feet of another similar licensed premises with one exception.

3. The one exception within that section applies to place-to-place transfers by the same licensee to another location within 600 feet of the present existing location.

4. There is no hardship or relief clause in the ordinance other than approval for a transfer to a location beyond 600 feet but less than 1,000 feet to an existing like licensed premises may be granted where the licensed premises are being taken for any "municipal, county or federal project." There is no allegation of such taking.

5. Administrative efforts to accommodate individual licenses must be accomplished within the framework of the existing policy of legislation construed in terms of the overriding public policy.

6. Appellant urges the application of Ishmal v. Division of Alcoholic Beverage Control, decided May 24, 1972 (58 N.J. 347 (1971)) in that the Board did not comply with the mandate of that decision.

The Supreme Court in that matter (p. 352) directed:

"... Accordingly, the judgment of the Appellate Division is reversed; and the matter remanded to the Newark Municipal Board ... with direction to permit Mrs. Ishmal to apply promptly for a place-to-place transfer of the license to a suitable location." (underscore added)

Appellant contends that, while the provisions of the ordinance would otherwise be controlling and proscribe such transfer as violative of the distance requirements, the phrase in the last line of Ishmal, supra ("to a suitable location") permits such transfer to her as would otherwise be prohibited. In short, a "suitable location" to appellant means suitable to her.

It is clear that by the phrase "to a suitable location" the Supreme Court meant to a "legally" suitable location. To find otherwise would give rise to the further inference that the court by such phrase rejects the logic and effect of Rajah Liquors v. Division of Alcoholic Beverage Control, 33 N.J. Super. 598 (1955); Smith v. Bosco, 66 N.J. Super. 165 (1961); Petrangeli v. Barrett, 33 N.J. Super. 378 (1954); Dal Roth Inc. v. Division of Alcoholic Beverage Control, 28 N.J. Super. 246 (1953); Tube Bar, Inc. v. Commuters Bar, Inc., 18 N.J. Super. 351 (1952) and Hopkins v. Newark, 4 N.J. Super. 484 (1949). It is inconceivable that such repudiation would be the intent of the Supreme Court. Rather, were such reversal of precedent intended, the court would, as is its custom, go through painstaking steps to adjure such new controlling interpretation. The court surely did not intend, nor would it validly disregard the relevant provision of the ordinance, nor would it do so.

The Board properly rejected appellant's application in that transfer to the proposed location would be violative of the applicable ordinance. Hence it is recommended that the action of the Board be affirmed and the appeal be dismissed.

Conclusions and Order

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

The exceptions are directed to an attack upon the constitutionality of the denial of approval for the place-to-place transfer by the Board and the recommended affirmance by the Hearer.

Having carefully considered the entire record herein, including transcript of the testimony, exhibits, Hearer's report and exceptions filed with reference thereto, which exceptions I find to be devoid of merit since such constitutional issue is justiciable only by a court of plenary jurisdiction, not by an administrative agency, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 25th day of October 1972,

ORDERED that the action of the Municipal Board of Alcoholic Beverage Control of the City of Newark in denying appellant's application for a place-to-place transfer of her plenary retail consumption license be and the same is hereby affirmed, and the appeal herein be and the same is hereby dismissed.

Robert E. Bower,
Director.

2. DISCIPLINARY PROCEEDINGS - GAMBLING (NUMBERS GAME) - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary)	
Proceedings against)	S-9173
)	X-28,757-0
Marks Beer Garden, Inc.)	
t/a Marks Beer Garden)	
1921-1923 Arctic Avenue)	CONCLUSIONS
Atlantic City, N.J.,)	and
)	ORDER
Holder of Plenary Retail Consumption)	
License C-143, issued by the Board of)	
Commissioners of the City of)	
Atlantic City.)	
- - - - -)	
Nathan W. Davis, Esq., Attorney for Licensee)	
Peter E. Rhatican, Appearing for Division)	

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleads not guilty to the following charge:

"On March 2, 8, 17, 18 and 28, 1972, you allowed, permitted and suffered tickets and participation rights in a lottery commonly known as the 'numbers game' to be sold and offered for sale in and upon your licensed premises; in violation of Rule 6 of State Regulation No. 20."

On behalf of the Division, Agent P testified that he has by training and experience developed considerable expertise in the field of the investigation of alleged gambling violations, particularly in "numbers activity". He investigated activities at the licensed premises on March 2, 17, 18 and 28, 1972. On all but the last date he was unaccompanied.

On March 28, 1972 he arrived with Agents G, Ga, D, B and P; also Sergeant Warner of New Jersey State Police, and several members of the Atlantic City police department. He did not identify the barmaid at this time since this barmaid was not the same person who had been in attendance during his prior visits. He noticed a male patron, identified as "Porgy" seated in a phone booth located a few feet from the front end of the bar. He observed numerous patrons enter the premises, speak to Porgy and transfer currency to him, after which Porgy made notations on slips of paper, which he then put in his pocket. He had observed Porgy in similar activities on all of his prior visits to the premises.

Thereafter, he approached Porgy and "I told him to give me 703 for three dollars. This was a number bet." He paid Porgy with three one-dollar bills, the serial numbers of which had previously been recorded on a Division form by himself and Agent D, both of whom signed the form. He then departed the premises and contacted the other members of his team who entered the premises and conducted a search of Porgy and of the premises. He did not see the marked currency again until he arrived at Atlantic City police headquarters, where it was shown to him by Agent D.

On March 2, 1972 he entered the premises, at approximately noon, and observed a barmaid (later identified as Dorothy Jackson) in attendance. He observed Porgy in the phone booth and observed several patrons go to the phone booth, converse with Porgy and transfer currency to Porgy, after which Porgy wrote brief notations. He did not hear the conversation nor did he see the notations made by Porgy. The barmaid was seated behind the bar at a point close to the telephone booth but not directly visible to her. The barmaid had a conversation with Porgy, but this witness did not hear the subject of the conversation.

On March 8, 1972 he again entered alone at noon and Dorothy was again in attendance. He observed several patrons enter the premises, go directly to the telephone booth and conduct transactions similar to those described on March 2 and March 28. At one point Porgy left the telephone booth, was stopped by a patron; after they conversed, he handed currency to Porgy who leaned on the bar and made a notation. Dorothy then said, "Give me 417 for a quarter." Thereupon Porgy made an additional notation and placed it in his pocket. No currency changed hands. Agent P again described this transaction as a typical "numbers bet" and further testified that credit is often extended to regular customers in this business.

On March 17, 1972 he again entered at noon, alone, and Dorothy and Porgy were present. The following direct testimony of Agent P is pertinent:

"Porgy was making -- he made several trips to the side entrance which led to an alleyway out there and as he was making one of these trips to the side entrance, I said to him, I says, 'Porgy, give me 704 for two dollars,' and he says, 'Okay.' And he got this -- took this piece of paper from his jacket pocket and he leaned on the bar and he wrote this number on a particular piece of paper, 704 for two dollars, and I handed him the two dollars."

Dorothy was approximately three feet away at the time. Again he described this as a "numbers bet."

On March 18, 1972, entering again, alone, at noon, he observed Porgy engaged in similar transactions as follows:

"As I stated as to prior dates, people, patrons, entered the premises and they approached Porgy, who was sitting in the telephone booth, and they conversed and he wrote what appeared to be number bets on a slip of paper which he took from his pocket.

Q Did you see money being transferred?

A Yes, I did. There was money transferred from some of the people. Some of the people, there wasn't any transferred from.

Q On this date, March 18th, did you have any conversation with any of the patrons?

A Yes, I did, Porgy.

Q And what did this conversation consist of?

A I asked, while he was sitting in the telephone booth, I approached him and I asked him to give me 70¢ for two dollars.

Q And what did he say to you, if anything?

A He acknowledged in the affirmative.

Q Did he take your bet that day?

A Yes, he did.

Q Was Dorothy Jackson behind the bar on this date?

A Yes, she was.

Q Was she behind the bar when you asked Porgy if you could put a bet in on that day?

A Yes, she was."

On cross examination, with respect to March 28 he testified that he remained on the premises approximately one-and-one half hours and Porgy departed immediately after he did. Porgy would stay in the telephone booth from five to ten minutes, then leave the booth. Shortly thereafter, the phone would ring and Porgy would answer it.

Upon leaving he observed Porgy depart the premises, at which time he was confronted by the police. He further observed Porgy being searched by Agent D.

He concluded by describing the recurring pattern of patrons entering the premises, going directly to the phone booth and transacting their business with Porgy in the above-described manner.

Agent D testified that he accompanied P and the other agent and police officers to the vicinity of the premises on March 28, 1972. He had assisted Agent P in the preparation of the Division currency identification slip, and identified his signature thereon.

When Agent P departed, he, with Officer Dooley of the Atlantic City Police Department, arrested and searched Porgy and found the marked currency commingled with \$130 on Porgy's person. He continued with the search of the premises and, while no "numbers" slips or paraphernalia were found on the immediate premises, numerous "numbers" slips were found in trash cans just outside a side entrance to the premises.

Virginia Lanham testified, on behalf of the licensee that she was in attendance at the bar at noon on March 28, 1972 when Agent P entered. She made particular note of him because she had not seen him before. Agent P took a seat at the bar, asked for Dorothy, remained approximately ten to fifteen minutes and then departed.

Porgy is a regular, frequent patron who came and went several times each day. She never saw him remain in the phone booth for any significant period of time. She is thoroughly familiar with the "numbers game" and has never seen any evidence of this activity on the premises.

On cross examination she testified that she had commenced employment one or two weeks prior to March 28, 1972. While the telephone booth was not directly within her vision from behind the bar, she could see it through a mirror hung on the opposite wall; it is possible that a patron could enter the premises, conduct business at the phone booth without being seen by her; Porgy entered three or four times per day, stayed approximately fifteen minutes each time, and usually had a drink at the bar. Her seat behind the bar was located near the phone booth but situated so that the phone booth was not directly in view.

James Marks testified that he is manager of the premises and owns fifteen percent. of the corporate stock therein. His duties commence at 9 a.m.; he leaves at 11:30 a.m. and returns at 1 p.m. He does not work on Tuesdays, or on Friday afternoons. He is primarily responsible for purchasing supplies and maintaining books. He maintains an office in the rear of the premises and spends seventy-five percent. of his time in that office. He has never seen Agent P on the premises; he knows Porgy well and Porgy is "in and out" of the premises frequently. Dorothy Jackson is still in the licensee's employ. He concluded by denying any knowledge of gambling activity on the premises.

Preliminarily it should be observed that these disciplinary proceedings are civil in nature and require proof by a preponderance of the believable evidence only. Butler Oak Tavern v. Division of Alcoholic Beverage Control, 20 N.J. 373 (1956). Testimony, to be believed, must not only come from the mouths of credible witnesses but must be credible in itself. Spagnuolo v. Bonnet, 16 N.J. 564 (1954).

The testimony of Agent P is forthright, credible, and has the ring of truth. It is significant that the testimony of the licensee's witnesses does not dilute the testimony of Agent P. He described a continuing course of conduct over four specific dates which leave no doubt that substantial gambling activities were being conducted by Porgy from his "office" in the phone booth.

In addition to Agent P's description, he further personally made bets with Porgy on three occasions, the last of which resulted in the finding of "marked" currency on Porgy's person. Dorothy was observed to place a bet with Porgy while Dorothy was furthering the licensed activity.

It is inconceivable that the veritable parade of patrons to and from Porgy's telephone booth did not invite the attention of the licensee through its employees the presence of active gambling activity. It is significant that, although Dorothy remained in the employ of the licensee at the date of the hearing, she was not produced as a witness by it.

The issue as to whether the licensee knew or should have known that the gambling activity was being conducted must be answered affirmatively on both counts.

I find that the obvious, open and recurrent acts as described by Agent P constitute a situation which the licensee certainly knew or should have known of the activity. That Marks spent seventy-five percent. of his time in the cloistered confines of his office at the rear of the premises does not relieve him of the responsibility to properly conduct and control his licensed premises.

I further accept the testimony of Agent P with respect to Dorothy's lottery activity with Porgy and find that, through its agents, the licensee knew of the unlawful activity being carried on in its licensed premises.

Accordingly, I recommend that the licensee be found guilty of the charge herein.

Licensee has no prior adjudicated record. It is further recommended that the license be suspended for ninety days.
Re DeGregoda, Bulletin 2048, Item 4.

Conclusions and Order

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

Having carefully considered the entire record 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 his recommendations.

Accordingly, it is, on this 18th day of October 1972,

ORDERED that Plenary Retail Consumption License C-143, issued by the Board of Commissioners of the City of Atlantic City to Marks Beer Garden, Inc., t/a Marks Beer Garden for premises 1921-1923 Arctic Avenue, Atlantic City, be and the same is hereby suspended for ninety (90) days, commencing at 7:00 a.m. Wednesday, November 1, 1972 and terminating at 7:00 a.m. Tuesday, January 30, 1973.

ROBERT E. BOWER
 DIRECTOR

3. SEIZURE - FORFEITURE PROCEEDINGS - UNLICENSED CLUB - CLAIM FOR RETURN OF SUM DEPOSITED BY CLUB IN LIEU OF SEIZURE REJECTED - ALCOHOLIC BEVERAGES, CASH ORDERED FORFEITED.

In the Matter of the Seizure	:	Case No. 12,580
on September 15, 1971 of a quantity	:	
of alcoholic beverages, furnishings,	:	On Hearing
fixtures, equipment, miscellaneous	:	
personal property, foodstuffs and	:	CONCLUSIONS and ORDER
\$11.85 in cash at unlicensed premises	:	
of V.F.W. Post 1616, Black Horse Pike,	:	
in the Township of Monroe, County of	:	
Gloucester and State of New Jersey.	:	

.....
 Thomas S. Higgins, Esq., Appearing for claimant, V.F.W. Post 1616.

Harry D. Gross, Esq., Appearing for Division.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing pursuant to the provisions of N.J.S.A. 33:1-66 and State Regulation No. 28 to determine whether 453 containers of alcoholic beverages, one pool table, one juke box, six booths and tables, one television set, one cash register, miscellaneous personal property and \$11.85 in

cash, as more completely set forth in an inventory attached hereto, made a part hereof and marked Schedule "A", seized on September 15, 1971 at the unlicensed premises of V.F.W. Post 1616, Black Horse Pike, Monroe Township, Gloucester County, N.J. constitute unlawful property and should be forfeited; and further, to determine whether the sum of One Thousand Dollars (\$1,000.00), deposited under protest with the Director under stipulation executed by James Clawges, agent for and on behalf of V.F.W. Post 1616, representing the appraised retail value of one juke box, one pool table, six double leather booths and tables, one Emerson television set, two fans, 15 bar stools, two pizza machines, one cash register, one draught beer unit with taps and miscellaneous foodstuffs, should be forfeited or returned to it.

When the matter came on for hearing, pursuant to the aforesaid regulation, the V.F.W. Post 1616, represented by counsel appeared and sought the return of the seized alcoholic beverages, the \$11.85 in cash and the \$1,000.00 cash posted pursuant to the aforesaid stipulation.

Reports of Division agents contained in the Division file, which was admitted into evidence with the consent of the claimant disclose the following:

Agents D, B and W arrived in the vicinity of the unlicensed premises herein at approximately 8:45 P.M. on the evening of Wednesday, September 15, 1971. The agents recorded the serial numbers of currency and Agent W thereafter entered the premises with the "marked" money in his possession while the other agents remained outside. He approached the bar and requested a glass of beer from the bartender, later identified as Robert William Coates. The bartender asked if Agent W was a member of the club; Agent W responded in the negative and the bartender then served him a glass of beer. Agent W paid with one of the "marked" bills in his possession and received 90¢ change.

Agents B and D entered shortly thereafter, approached the bar and upon advising the bartender that they were not members of the club, they were asked by the bartender to sign a guest book. Thereupon, the agents were served two mixed drinks for which they paid with a "marked" bill.

The agents then identified themselves to Coates, who admitted the unlicensed sale. He was advised of his constitutional rights and placed under arrest, charged with the possession with intent to sell and the sale of alcoholic beverages in violation of N.J.S.A. 33:1-2 and N.J.S.A. 33:1-50. A seizure was then conducted during which the "marked" currency used in this investigation was retrieved.

The Division file also contained the certificate by the Director that no alcoholic beverage license or permit of any kind was issued to William Coates, Sr., or to V.F.W. Post 1616 or for premises Black Horse Pike, Township of Monroe, County of Gloucester on September 15, 1971; an inventory of the items seized; a report of the Division chemist certified by the Director, establishing that three sample bottles of alleged alcoholic beverages seized herein contain alcoholic beverages fit for beverage purposes with alcoholic contents of 4.45%, 5.54% and 5.61% by volume respectively. The file also contained the Division "marked" money list indicating the serial numbers of the currency used in the investigation.

On behalf of the claimant, James Clawges testified that he is Commander of V.F.W. Post 1616. He elaborated at some length with reference to the charitable work conducted by the organization. He noted that on a number of occasions during the preceding two years, the Post had received special one-day social event per-

mits from the Division for the purpose of selling alcoholic beverages during the conduct of charitable events. There was admitted in evidence Division Special Permit S-44616 permitting V.F.W. Armistice Post No. 1616, to sell alcoholic beverages at a social affair to be conducted at the V.F.W. 1616 Post home, North Black Horse Pike and Prosser Avenue, Williamstown, N.J. on September 9, 1971 between the hours of 12:00 noon and 12:00 midnight. Attached thereto is a letter of the Division dated September 15, 1971, amending the date of Special Permit S-44616 to September 18, 1971 at the request of Mr. Clawges because of rain on September 12, 1971.

Clawges testified that rain on September 12, 1971 forced the cancellation of the affair scheduled for that date, and resulted in the request for an amended date, which request was granted by the Division.

On September 15, 1971, the date of the seizure herein, there was present on the premises one sealed case of "whiskey" and eight or nine cases of beer, which were to be used for the affair of September 12, 1971. Additionally, there were open bottles behind the bar which were being sold over the bar and were not purchased by the Post for the affair of September 12, 1971.

Robert W. Coates testified on behalf of the claimant that he is quartermaster and bar steward for the Post. In the capacity of bar steward he "...supplies functions, maintains functions". He was on duty as bartender on the night of September 15, 1971 and sold the drinks to Agents D, B and W. He confirmed the testimony of Clawges regarding the special social event permits, and the request for an alternate date, due to inclement weather.

He added that the money accepted from the agents in payment for the drinks was placed in a cash register behind the bar.

The alcoholic beverages are illicit because they were sold in violation of Alcoholic Beverage Law and the Regulations of the Division. Therefore, the illicit alcoholic beverages and all personal property seized herein are subject to forfeiture. N.J.S.A. 33:1-1(y); N.J.S.A. 33:1-66(b).

The claimant urges that its numerous charitable activities and its obvious intent to abide by the law as evidenced by the application for special social event permits demonstrates its good faith. From this, it argued that the Director should favorably exercise his discretionary power to recognize the claim under N.J.S.A. 33:1-66, which reads in pertinent part:

- "(e) The director upon being satisfied that a person whose property has been seized or forfeited pursuant to the provisions of this section has acted in good faith and has unknowingly violated the provisions thereof, may order that such property be returned..."

However, in the absence of showing of good faith, the Director is without authority to return such property. Seizure Case No. 12,118, Bulletin 1867, Item 3; Rule 3(a) of State Regulation No. 28. Since the claimant herein, through its agent, was directly involved in the unlawful sale, I find an absence of good faith on the part of the claimant. Particularly is this so, where, as here, the claimant has frequently made use of the special, one-day social event permits issued by this Division which set forth clearly that

sales may be made only on those specific dates and no other.

Additionally, it should be noted that an organization, although otherwise high in character, no matter how praiseworthy its intentions, cannot engage in the sale of alcoholic beverages, without a license. Seizure Case No. 7,356, Bulletin 842, Item 5.

It is, therefore, recommended that an Order be entered denying the claim herein, and directing that the seized alcoholic beverages, the \$11.85 in cash and the sum of \$1,000.00, deposited by the claimant herein, pursuant to the aforesaid stipulation, be forfeited.

Conclusions and Order

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

Having carefully considered the entire matter herein, including the transcript of testimony, the exhibits and the Hearer's Report, I concur in the findings of the Hearer and adopt them as my conclusions herein.

Accordingly, it is on this 9th day of November, 1972,

DETERMINED and ORDERED that the claim of the Veterans of Foreign Wars, Post #1616 for the return of \$1,000.00 deposited with the Director, under protest, pursuant to the stipulationsaforementioned, representing the appraised value of the furnishings, fixtures and miscellaneous personalty which were returned to it, be and the same is hereby forfeited, in accordance with law; and it is further

DETERMINED and ORDERED that the cash and the alcoholic beverages, as set forth in Schedule "A", constitute unlawful property and the same are hereby forfeited in accordance with law; and the alcoholic beverages be and the same shall be retained for the use of hospitals and State, county or municipal institutions, or destroyed, in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

Robert E. Bower,
Director

SCHEDULE "A"

- 453 - containers of alcoholic beverages
- 1 - pool table; 1 - juke box; 6 - booths & tables;
- 1 - television set; 1 - cash register
- Miscellaneous personal property
- \$11.85 - cash

4.

ACTIVITY REPORT FOR NOVEMBER 1972

ARRESTS:

Total number of persons arrested	8
Licensees and employees	1
Bootleggers	3
Minors	4

SEIZURES:

Cars	1
Distilled alcoholic beverages - gallons	40.75
Wine - gallons	53.10
Brewed malt alcoholic beverages - gallons	14.36

COMPLAINTS AND INVESTIGATIONS:

Inspection & visits made on assigned investigations	1,335
Complaints assigned for investigation	364
Investigations completed	342
Investigations pending	320
Premises where alcoholic beverages were gauged	621
Bottles gauged	10,167
Premises where violations were found	190
Number of violations found	276
License applications investigated	7
Contacts made with other law enforcement agencies	429

LABORATORY:

Analyses made	121
Refills from licensed premises - bottles	97
Bottles from unlicensed premises	5

IDENTIFICATION:

Criminal fingerprint identifications made	7
Persons fingerprinted for non-criminal purposes	301
Identification contacts made with other law enforcement agencies	247

DISCIPLINARY PROCEEDINGS:

Cases instituted at Division	58
Violations involved	68
Sale during prohibited hours	12
Sales to minors	12
Poss. liquor not truly labeled	7
Permit immoral activity	2
Permit gambling on premises	1
Purchase from improper source	1
No license appl. on premises	1
No Form E-141-A on premises	1
Cases brought by municipalities on own initiative and reported to Division	22
Violations involved	30
Sales to minors	8
Sale during prohibited hours	7
Act of violence	2
Brawl	2
Nuisance	2
Emply. fail to have identification card	1
Fines in lieu of disciplinary proceedings	119
Total amount of fines	\$4,420.

HEARINGS HELD AT DIVISION:

Total number of hearings held	26
Appeals	6
Disciplinary proceedings	12
Seizures	2
Eligibility	6

STATE LICENSES AND PERMITS:

Total number issued	1,447
Licenses	0
Solicitors' permits	56
Employment permits	329
Disposal permits	67
Social affair permits	455
Wine permits	86
Miscellaneous permits	253
Transit insignia	177
Transit certificates	24

OFFICE OF AMUSEMENT GAMES CONTROL:

Enforcement files established	6
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ROBERT E. BOWER
Director of Alcoholic Beverage Control
Commissioner of Amusement Games Control

Dated: December 12, 1972

5. DISCIPLINARY PROCEEDINGS - ORDER.

In the Matter of Disciplinary)
Proceedings against)
Karon Inc.)
t/a Kazan's Liquor Store)
North side of Sherman Ave.,) ORDER
Carmel, Deerfield Township,)
PO RD #1, Millville, N.J.,)
Holder of Plenary Retail Distribution)
License D-1, issued by the Township)
Committee of the Township of Deerfield.)
-----)
Licensee, by Aaron M. Kazan, President, Pro se
David S. Piltzer, Esq., Appearing for Division

BY THE DIRECTOR:
Application has been made in the above matter for
the imposition of a fine in lieu of suspension in accordance
with the provisions of Chapter 9 of the Laws of 1971.

Good cause appearing I shall grant the request.

Accordingly, it is, on this 26th day of October 1972,

ORDERED that the suspension heretofore imposed upon
Plenary Retail Distribution License D-1, issued by the Township
Committee of the Township of Deerfield to Karon, Inc., t/a
Kazan's Liquor Store, for premises North side of Sherman Avenue,
Carmel, Deerfield Township, for ten (10) days, effective 2 a.m.
Tuesday, October 24, 1972, be and the same is hereby stayed
nunc pro tunc as of October 24, 1972 until the entry of a
further order herein.

ROBERT E. BOWER
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - SUPPLEMENTAL ORDER.

In the Matter of Disciplinary)
Proceedings against)
Obay, Incorporated)
t/a Oyster Bay)
901 Bergen Avenue)
Jersey City, N. J.,) SUPPLEMENTAL ORDER
Holder of Plenary Retail Consumption)
License C-25, issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Jersey City.)
-----)

LaFianza, Cavanaugh & Aurigemma, Esqs., by George E. Pollard,
Esq., Attorneys for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

On October 18, 1971, Conclusions and Order were
entered suspending the above license for fifteen days commencing
November 1, 1971, after finding the licensee guilty of a
charge alleging that licensee sold alcoholic beverages to
three persons under the age of twenty-one years, i.e., ages
20, in violation of Rule 1 of State Regulation No. 20. Re
Obay, Incorporated, Bulletin 2014, Item 5.

Prior to the effectuation of the suspension, upon appeal filed the Superior Court (Appellate Division) stayed the operation of the suspension until the outcome of the appeal. Thereafter, on October 2, 1972, the action of the Director was affirmed. Obay, Incorporated v. Division of Alcoholic Beverage Control (App.Div. 1972), not officially reported, recorded in Bulletin , Item . The suspension may now be reimposed.

However, the licensee has now 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 \$1,320 in lieu of the suspension.

Accordingly, it is, on this 26th day of October 1972,

ORDERED that the payment of a \$1,320 fine by the licensee is hereby accepted in lieu of a suspension of license for fifteen (15) days.

Robert E. Bower,
Director.

7. DISCIPLINARY PROCEEDINGS - ORDER PERMITTING LIFTING OF SUSPENSION.

In the Matter of Disciplinary)	
Proceedings against)	
Anthony Gianfortuno)	
t/a Tony's Dugout)	O R D E R
32 E. Browning Road)	
Bellmawr, N.J.,)	
Holder of Plenary Retail Consumption)	
License C-2, issued by the Mayor and)	
Council of the Borough of Bellmawr.)	

Thomas A. Lunn, Esq., Attorney for Licensee		
David S. Piltzer, Esq., Appearing for Division		

BY THE DIRECTOR:

On August 14, 1972 Conclusions and Order were entered herein suspending the license for the balance of its term, commencing on August 28, 1972, with leave to the licensee or any bona fide transferee of the licensee to file a verified petition establishing correction of the unlawful situation set forth therein for lifting of the suspension on or after September 28, 1972. Re Gianfortuno, Bulletin 2068, Item 1 (Y).

It appearing from the verified petition submitted by the licensee herein that the unlawful situation has been corrected, I shall grant the petition requesting termination of the suspension, effective immediately.

Accordingly, it is, on this 9th day of November 1972,

ORDERED that the suspension heretofore imposed herein be and the same is hereby terminated, effective immediately.

Robert E. Bower
Director

8. DISCIPLINARY PROCEEDINGS - ORDER.

In the Matter of Disciplinary
Proceedings against

Charles D. Kuchar &
Mary Brupbacher, t/a
Charlmarée Tavern & Rest.
126 Anderson Street
Hackensack, N.J.,

O R D E R

Holder of Plenary Retail Consumption
License C-19, issued by the City
Council of the City of Hackensack.

Frederick Klaessig, Esq., Attorney for Licensee Kuchar
Gross, Demetrakis & Donohue, Esqs., by Joel M. Ellis, Esq.,
Attorney for Licensee Brupbacher
Edward F. Ambrose, Esq., Appearing for Division

BY THE DIRECTOR:

On September 16, 1971 Conclusions and Order were entered herein suspending the license for ninety days, commencing September 30, 1971 after licensees were adjudged guilty of charges alleging that they possessed and sold pornographic films on the licensed premises in violation of Rules 5 and 17 of State Regulation No. 20. Re Kuchar & Brupbacher, Bulletin 2007, Item 2.

Prior to the effectuation of the said suspension, on appeal filed, the Appellate Division of the Superior Court, by order dated October 20, 1971, stayed the operation of suspension until the determination of the appeal.

The court affirmed the Director's action on October 16, 1972 In the Matter of Disciplinary Proceedings against Charles D. Kuchar and Mary Brupbacher, t/a Charlmarée Tavern, (App. Div. A-219-71), not officially reported, recorded in Bulletin 2075, Item 1.

The suspension may now be reimposed.

Accordingly, it is, on this 9th day of November 1972,

ORDERED that the ninety days suspension heretofore imposed by the Director and stayed during the pendency of the proceedings on appeal be reinstated against Plenary Retail Consumption License C-19, issued by the City Council of the City Hackensack to Charles D. Kuchar & Mary Brupbacher, t/a Charlmarée Tavern & Rest. for premises 126 Anderson Street, Hackensack, commencing 2:00 a.m. Thursday, November 23, 1972 and terminating at 2:00 a.m. Wednesday, February 21, 1973.

Robert E. Bower
Director

9. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary
Proceedings against

One Eleven Wines & Liquors, Inc.
t/a One Eleven Wines & Liquors, Inc.
111 Albany Street
New Brunswick, N. J.,

AMENDED
ORDER

Holder of Plenary Retail Consumption
License C-8, issued by the City
Council of the City of New Brunswick.

Meth, Wood, Neff & Cooper, Esqs., by John K. Cooper, Esq.,
Attorneys for Licensee

BY THE DIRECTOR:

On November 3, 1972, I entered an order herein suspending the license for twenty-eight days, effective November 14, 1972, after licensee pleaded non vult to a charge alleging that it possessed nine bottles of alcoholic beverages which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20. Re One Eleven Wines & Liquors, Inc., Bulletin 2074, Item 1(V).

Licensee's attorney has advised me by letter dated November 7, 1972 that the confessional plea was entered on behalf of the licensee in error, resulting from a misunderstanding. On the basis thereof, request has been made to withdraw the plea and thereafter have the matter proceed to hearing. In view of the circumstances set forth in the letter I shall grant the request.

Accordingly, it is, on this 9th day of November 1972,

ORDERED that the order of suspension heretofore entered herein is hereby vacated; and it is further

ORDERED that the hearing be held on the charge preferred.

Robert E. Bower
Director

10. DISCIPLINARY PROCEEDINGS - AMENDED ORDER.

In the Matter of Disciplinary
Proceedings against

One Eleven Wines & Liquors, Inc.
t/a One Eleven Wines & Liquors, Inc.
111 Albany Street
New Brunswick, N.J.,

AMENDED
ORDER

Holder of Plenary Retail Consumption
License C-8, issued by the City
Council of the City of New Brunswick.

Meth, Wood, Neff & Cooper, Esqs., by John K. Cooper, Esq.,
Attorneys for Licensee

BY THE DIRECTOR:

On November 9, 1972 I entered an order vacating my prior order dated November 3, 1972 suspending the license for twenty-eight days, effective November 14, 1972, pursuant to a request by the licensee that the confessional plea therein entered resulted from a "misunderstanding".

By letter dated November 9, 1972, the attorney for the licensee now states that the licensee desires to withdraw his request for a change of plea from non vult to not guilty; to have the non vult plea reinstated; and to serve the twenty-eight days suspension heretofore imposed by order dated November 3, 1972. (Re One Eleven Wines & Liquors, Inc., Bulletin 2074, Item 1(v)). Good cause appearing I shall grant the request.

Accordingly, it is, on this 10th day of November 1972,

ORDERED that the twenty-eight day suspension heretofore imposed and vacated, be and the same is hereby reinstated against Plenary Retail Consumption License C-8, issued by the City Council of the City of New Brunswick to One Eleven Wines & Liquors, Inc., t/a One Eleven Wines & Liquors, Inc., for premises 111 Albany Street, New Brunswick, commencing 2:00 a.m. on Tuesday, November 14, 1972 and terminating 2:00 a.m. on Tuesday, December 12, 1972.

Robert E. Bower
Robert E. Bower
Director