

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

BULLETIN 1872

August 19, 1969

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DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark, N.J. 07102

BULLETIN 1872

August 19, 1969

1. COURT DECISIONS - ISHMAL v. DIVISION OF ALCOHOLIC  
BEVERAGE CONTROL - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY  
APPELLATE DIVISION  
A-261-68

JOHNNIE MAE ISHMAL,

Licensee-Appellant,

vs.

DIVISION OF ALCOHOLIC BEVERAGE  
CONTROL and JOSEPH KEEGAN,  
Director of the Division of  
Alcoholic Beverage Control,

Division-Respondent.

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Argued February 24, 1969; Remanded March 17, 1969;  
Resubmitted June 9, 1969--Decided June 30, 1969.

Before Judges Conford, Kilkenny and Leonard

On appeal from order of Director of Division of  
Alcoholic Beverage Control.

Messrs. Kohn, Kirsch & Needle, attorneys for  
appellant (Mr. Leslie S. Kohn, of counsel).

Mr. Arthur J. Sills, Attorney General of New Jersey,  
attorney for respondent (Mr. Stephen Skillman,  
Deputy Attorney General, of Counsel; Mr. MacDonald  
Hunter, Deputy Attorney General, on the brief).

PER CURIAM

(Appeal from Director's decision in Ishmal v. Newark,  
Bulletin 1829, Item 3; Bulletin 1866, Item 1. Director affirmed.  
Opinion not approved for publication by the Court committee on  
opinions.)



indicating that he was of statutory maturity. Upon leaving the premises the youths returned to the Dairy Queen, transferred the beverages to another car and proceeded to a party. It can be inferred that what happened at the party resulted in the investigation which led to the preferment of the charge.

On cross examination, the witness asserted that arrangements had been made during the week for several youths to rendezvous at the Dairy Queen early Saturday evening, July 20, for the purpose "to chip in money to buy alcoholic beverages, and then meet back at the Dairy Queen after that and go up to a party in Mountainside." Upon meeting at the Dairy Queen Anthony suggested going to the Liquor Locker (the licensed premises involved herein) for the reason that he had "heard that you can get served there under age." He had heard that minors were served by more than one person. Upon entering the licensed premises he had \$11 or \$12 in his possession, contributed by several of his companions. Instead of paying for the liquor with a ten-dollar bill and a one-dollar bill, his memory was refreshed, he may have had in his possession a five-dollar bill, some singles and change. He described the salesman behind the counter as "kind of tall and thin, black hair. He looked to me like he was about 24, 25." The group had decided to purchase the Bacardi and six-pack prior to going to the licensed premises. Gary picked up the Four Roses and the whiskey sour mix while they were in the package store. He saw no females in the licensed premises. He did not recall seeing Mrs. Arlene Gietter (who was present at the hearing) in the licensed premises on the evening of July 20. In addition to the clerk behind the counter, he observed one other employee at the beer cooler.

Upon returning to the licensed premises the first time several days later, accompanied by Division Agent B and another agent, he saw a male sales clerk "tall and thin, and he had black hair, but he appeared much older than what I thought." He also saw "some kid up against -- leaning against the wall on the right-hand side." He could not identify either as having waited on him on the evening of July 20.

Thereafter he returned to the licensed premises, accompanied by Agent B and the other agent. Melvin E. Gietter (an officer of the licensee corporation) and his wife Arlene Gietter (an employee thereof) were in the licensed premises on this occasion. Anthony was unable to identify either one of them as having sold the liquor to him on July 20. He could not identify the tall, thin clerk on the two occasions because he "looked a lot older."

Called to the witness stand, Gary told of leaving the Dairy Queen on July 20 with Bruce and Anthony. Bruce was driving his mother's car. They arrived at the licensed premises shortly after 7:00 p.m. He and Anthony entered the licensed premises, leaving Bruce in the car. Gary went to a shelf towards the left of the store to look for a bottle of liquor within their price range. He put his hand on a quart bottle of Four Roses and asked Anthony, "Tony, how about this one?" After Anthony agreed, he removed the bottle from the shelf, took a step or two and handed the bottle to Anthony. Anthony placed the bottle on the counter. At that time he observed a six-pack of Colt 45 and a pint bottle of rum already on the counter. Not wanting the clerk behind the

counter to see him because of his youthful appearance, he stayed a foot or two away from the counter and did not look at the clerk. He did ask, "How about a package of whiskey sour mix?", which the clerk secured. He could not estimate the clerk's age. The clerk had black hair and "he was not heavy." He heard the clerk say \$10.72 was the cost of the items. Prior to leaving the counter, Anthony ordered a pack of cigarettes. Upon leaving the premises, the youths returned to the Dairy Queen.

On cross examination, the witness testified that he did not look intently at the clerk behind the counter. The clerk was not Mr. Gietter. When he subsequently returned to the licensed premises (Accompanied by ABC agents) he failed to identify either the two clerks then on duty or Mr. or Mrs. Gietter.

Bruce testified that he drove his mother's car, having Anthony and Gary as passengers, to the Liquor Locker on July 20 and arrived there at approximately 7:00 p.m. He parked in a parking lot situated in front of a small shopping center "about two or three stores down" from the Liquor Locker. Anthony and Gary got out of the car and walked toward the Liquor Locker. They were carrying no packages. Upon returning to the car about five or seven minutes later, he saw them carrying a large paper bag which he placed in the trunk of the car. The youths returned to the Dairy Queen. When Bruce transferred the bag from the trunk to another car, he saw the rum and other items.

ABC Agent B testified that pursuant to assignment, he and another agent went to the Mountainside police headquarters on July 24, where he was apprised of an investigation involving Anthony, Gary and Bruce and a quart bottle of Four Roses, a pint bottle of Bacardi rum (each bearing a small sticker having written thereon "The Liquor Locker, Oak Tree"), some empty cans of Colt 45, and an empty package of whiskey sour mix. The bottle of whiskey and the bottle of rum each bore strip stamp numbers which, after investigation, indicated that the Four Roses bottle came from the same case lot found in the licensed premises and the strip number on the rum bottle was in close proximity to the numbers attached to the bottles found on the shelves in the licensed premises. Arrangements were made to meet with Anthony, Gary and Bruce at the South Plainfield police headquarters on the following day. On the following day, Anthony, Gary and Bruce directed the Division agents to the licensed premises. Anthony and Gary entered the premises accompanied by Agents B and T. B observed a male clerk (identified as Mr. Blasso) in attendance, described as "not a very heavy man, a thin man, I believe he is about five-eleven, black hair. I'd say he was about 35 years old." Mrs. Gietter and two youthful stock clerks were also in the premises. None of the employees was identified by Anthony and Gary as being in the premises on July 20. Blasso and Mrs. Gietter denied seeing Anthony and Gary in the licensed premises.

On cross examination, the agent testified that he drove the car to the licensed premises on July 26; however, Agent T, not he, accompanied Anthony and Gary into the licensed premises in order to confront Mr. Gietter. B ascertained from T that Anthony and Gary could not identify the seller of the alcoholic beverages on this occasion either.

When requested to state who his sales clerks were on July 20, Melvin E. Gietter testified, "Well, I opened up the store, and I'm there from 9:00 o'clock in the morning to 10:00 o'clock at night. My clerk comes in at 11:00 o'clock who is Mike Blasso, and he continues through to closing, and my wife comes in during the peak hours which are normally 2:00 to 8:00." Blasso

is thirty-eight years of age. The witness had never seen Anthony or Gary on July 20 or prior thereto. He denied selling them alcoholic beverages on July 20.

Arlene Gietter testified that she is employed at the Liquor Locker, that she usually works between the hours of 2:00 p.m. and 8:00, 8:30 p.m. On July 20 she, her husband and Michael Blasso were the only persons employed as sales clerks in the premises. She had never seen Anthony or Gary prior to the time they were brought into the licensed premises on July 25 by Agent B. She did not sell anything to either of the youths on July 20, nor did any clerk sell any alcoholic beverages to the youths, to her knowledge.

Referring to July 25, when Anthony was brought in by Agent B, Mrs. Gietter testified that Anthony failed to identify either her or Blasso as having served him on July 20. Gietter was not in the premises on July 25. When the youths returned to the licensed premises on the following day, they failed to identify Gietter.

In summation, the licensee's attorney argued essentially that the Division had not substantiated the charge by a fair preponderance of the believable evidence.

It is a firmly established principle that disciplinary proceedings against liquor licensees, such as in the instant proceeding, 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 (1965); Hornauer v. Division of Alcoholic Beverage Control, 40 N.J. Super. 501 (1956). This principle was re-echoed in the case of Howard Tavern, Inc. v. Division of Alcoholic Beverage Control (App. Div. 1962), not officially reported, reprinted in Bulletin 1491, Item 1.

Since it was conceded that this proceeding presents a strictly factual situation, the credibility of the witnesses and the probative force of their testimony must be weighed.

The guiding rule in these matters 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.

I have had an opportunity to observe the demeanor of the witnesses as they testified and, in view of the conflict in the testimony, I have made a careful analysis and evaluation of their testimony.

Although the conduct of the minors on the date in question was less than exemplary, nonetheless I am persuaded that they did not compound their misdeeds by falsifying their testimony. Additionally, an intensive cross examination by the licensee's attorney failed to reveal improper motivation on the part of the minors. It has long been established that the failure to identify the particular employee making the sale or service of alcoholic beverages to a minor is not fatal in disciplinary proceedings, provided it be established that the minor purchased, had served to him, or was permitted to consume an alcoholic beverage in the licensed premises. Re Kurinsky and Ancel, Bulletin 1100, Item 7; Re Dante, Bulletin 771, Item 9; Ott's Incorporated v. Division of Alcoholic Beverage Control, (App. Div. 1962), not officially reported, reprinted in Bulletin 1444, Item 1.

While a finding of guilt should not be made where the evidence is in conflict, nevertheless a categorical denial by the licensee's witnesses should not be permitted to overcome clear and logical evidence to the contrary. I am of the opinion that a fair

evaluation of the evidence in concatenation with all of the circumstances of the case clearly and reasonably preponderates in favor of a finding of guilt, and I so recommend.

The licensee has no prior record of suspension of license. I further recommend that the license be suspended for fifteen days. Re Ehrlich, Bulletin 1827, Item 5.

#### Conclusions and Order

Exceptions to the Hearer's report and written argument in support thereof have been filed by the licensee, pursuant to Rule 6 of State Regulation No. 16. In essence, the licensee contends that the recommended factual findings of the Hearer are contrary to the preponderance of believable evidence in the record and it supports its contentions in a detailed analysis of the testimony adduced at the Division hearing. Each of the points raised which are deemed substantial are hereinafter set forth.

Initially, the licensee argues that where there is a failure to identify the particular employee making the sale or service of alcoholic beverages to a minor, this fact should be considered in resolving a sharp conflict in testimony as to whether the minor or minors actually purchased alcoholic beverages in the licensed premises in question. In other words, this failure of identification, though concededly not fatal to the disciplinary proceeding, may affect the credibility of the Division's witnesses.

As I read the Hearer's report, there is no indication therein that he ignored the lack of identification of the seller. He merely stated that the Division is not required to establish such person's identity. Nothing therein is in opposition to the licensee's contended significance concerning the identification issue.

Next, the exceptions treat the question of what currency was used by Anthony to make payment of the alcoholic beverages. It is alleged that Anthony's "contradiction" as to the currency "raises a question as to whether the sale was actually made." However, it is clear from Anthony's testimony on both direct and cross examinations that he was unsure of the denomination of the money used to make the purchases. On direct examination, he stated, "I believe it was a ten and a one." On cross examination, he said, "One dollar, and it could have been a five in there. I don't remember exactly." Further, the licensee's attempted showing of mathematical impossibility that the boys' "chipping in" produced any ten or five dollar bill does not take into consideration the possibility that one or more of the contributors may have given a five or ten dollar bill and received change from the money (singles and coins) already pooled.

Additionally, it is claimed that Anthony "testified that he purchased a package of Marlboros for 45¢", but that the price of such cigarettes was only 40¢. However, Anthony did not categorically testify that he paid 45¢, only that he believed they were 40¢, perhaps 45¢, although he did not remember the exact amount.

Next, the licensee contends that it was physically impossible for the minors to have obtained a bottle of Four Roses whiskey from a shelf and to have placed it upon the counter after one of them took only a step or two forward.

The basis of this contention is the fact that a large soda display was located between such shelf and the counter. But I find that only a few steps were necessary to be taken for Gary to have handed Anthony the bottle and for Anthony to have placed it on the counter, as testified to by the minors. Perhaps more than a step or two was taken, but this does not substantially affect the credibility of the minors.

Another claimed discrepancy deals with the testimony of Gary wherein he initially stated that he heard the clerk tell Anthony that the price of the beverages was \$10.72, but later testified that he didn't hear the price exactly. But the record indicates that the import of Gary's testimony was that Anthony told him what price the clerk stated, rather than Gary himself hearing the price being quoted by the clerk.

This questionable interpretation of the testimony of the minors is equally applicable to the identification issue. The licensee's position is that there was not only an inability by the minors to identify the clerk, but a positive denial that they had ever before seen any of the licensee's clerks, including Blasso. However, a careful examination of the transcript discloses that the totality of the testimony of the minors is to the effect that they could not positively identify Blasso as the clerk in question, rather than that he definitely was not the one who made the sale.

Similarly, the issue with respect to the bottle of vodka involves a misconstruction of the testimony of Agent B. The licensee in its written argument in support of its exceptions points to the testimony of Agent B whereby he related that he had received a sworn statement from "the minors" in which they said a pint of vodka had been purchased at the Liquor Locker, yet the agent was unable to find any pint bottles of vodka on the shelves of the licensee's premises. But the record shows that the agent actually testified that other boys, not Anthony or Gary, had given him such statement. Obviously, such statement could not affect the credibility of these minors testifying for the Division.

I have carefully considered the entire record herein, particularly the points raised by the licensee's filed exceptions and argument, and as a result find that on July 20, 1968 an agent of the licensee sold and delivered to Anthony, a minor, alcoholic beverages, in violation of Rule 1 of State Regulation No. 20, and that the preferred charge has been established by more than a fair preponderance of the believable evidence presented. I do not believe that the minors Anthony and Gary fabricated their version of the purchase of the alcoholic beverages. Not only is there a lack of evidence in the record of any improper motivation for the minors falsely to identify the licensee's premises as the place from which they obtained the beverages, but their story as a whole has the ring of truth. A similar case in which the purchasing minor also was unable to identify the selling employee, but guilt of the licensee was nevertheless proved, was Re Roman Inn, Inc., Bulletin 1823, Item 3, affirmed on appeal to the Superior Court, Appellate Division, in Roman Inn, Inc. v. Division of Alcoholic Beverage Control (1969), not officially reported, recorded in Bulletin 1850, Item 1.

As in the instant proceeding, the Roman Inn case contained primarily negative testimony by the licensee's witnesses that the minor was not in the licensed premises on the occasion in question, as opposed to stronger positive testimony by the minor that he was. In both cases, the weight of such negative testimony was affected by the fact that the licensee's witnesses

were not apprized of the alleged sale to the minors until at least five days thereafter, at which time they had no special reason for recalling the events of the antecedent occasions in question. Additionally, in each case, there was corroboration as to the identity of the licensed premises by at least one companion of the minor who waited in a car outside the premises. Here, Bruce observed Anthony and Gary leave his car empty-handed and proceed toward the licensee's store; he observed them actually "come out of the store" within five or ten minutes and they carried back to his auto a bag he later learned contained alcoholic beverages. No substantial attack of the credibility of Bruce was presented at the hearing.

Under the circumstances, I concur in the recommended findings and conclusions of the Hearer and shall impose his recommended penalty.

Accordingly, it is, on this 19th day of June, 1969,

ORDERED that Plenary Retail Distribution License D-4, issued by the Municipal Council of the Township of Edison to H.I.C., Inc., t/a The Liquor Locker, for premises 2090 Oaktree Road, Edison, be and the same is hereby suspended for the balance of its term, viz., until midnight June 30, 1969, commencing\*at 9:00 a.m. Thursday, June 26, 1969; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 9:00 a.m. Friday, July 11, 1969.

JOSEPH M. KEEGAN  
DIRECTOR

\*By order dated June 30, 1969, the suspension was deferred to commence at 9:00 a.m. Monday, July 7, 1969, and to terminate at 9:00 a.m. Tuesday, July 22, 1969.

- 3. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN GROCERY STORE - CASH DEPOSITED ON STIPULATION ORDERED RETURNED TO INNOCENT OWNER OF CIGARETTE MACHINE - CLAIM OF OWNER REJECTED AND MONEY DEPOSITED ON STIPULATION ORDERED FORFEITED - BALANCE OF PERSONAL PROPERTY, CASH AND ALCOHOLIC BEVERAGES ORDERED FORFEITED.

In the Matter of the Seizure on September 21, 1968 of a quantity of alcoholic beverages, various fixtures, furnishings, equipment, foodstuffs and \$71.52 in cash in a grocery store located at 44½ Bridge Street, in the City of Paterson, County of Passaic and State of New Jersey. ) Case No. 12,099 ) On Hearing ) CONCLUSIONS and ORDER )

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Moises Ruiz Rivas, claimant, Pro Se.  
Silco Automatic Vending Company, claimant, by Harry Goldman, Sales Manager.  
I. Edward Amada, Esq., and Harry D. Gross, 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 R.S. 33:1-66

and State Regulation No. 28 and further pursuant to two stipulations, each dated December 4, 1968, one signed by Harold H. Silverstein, agent for Silco Automatic Vending Company and one signed by Michael La Bruno, respectively, to determine whether 97 containers of alcoholic beverages, various fixtures, furnishings, equipment and foodstuffs and \$71.52 in cash as set forth in an inventory hereinafter referred to, attached hereto, and marked Schedule "A", seized on September 21, 1968 at an unlicensed grocery store at 44½ Bridge Street, Paterson, N. J. constitute unlawful property and should be forfeited; and, further, to determine whether the sums of \$100.00 from Michael La Bruno and \$75.00 from the Silco Automatic Vending Company deposited under protest, under the aforesaid stipulations for the Director, representing the retail value of certain equipment, set forth separately in the aforesaid stipulations, should be forfeited or returned to them.

At the said hearing, Moises Ruiz Rivas appeared pro se and sought the return of the seized refrigerator, electric range and cash.

Silco Automatic Vending Company entered an appearance and sought the return of the money deposited by it under the aforesaid stipulation.

No appearance or claim was made by Michael La Bruno, nor was any claim made for the return of the alcoholic beverages.

The established facts, as reflected in the Division's file, which was admitted into evidence with the consent of claimants herein, and which was buttressed by additional testimony at this hearing given by Agent M who participated in said seizure are as follows: Acting upon a specific assignment to investigate an alleged speakeasy operation, ABC Agent M entered the premises in question on September 14, 1968 at about 8:15 P.M. He observed a female (later identified as Margarita Rivas, wife of the owner of the grocery store), behind a counter selling beer to six male patrons. The agent ordered and was served a can of Schaefer beer and paid Mrs. Rivas thirty-five cents therefor.

Agent M returned to the said premises on September 21, 1968 at about 8:40 P.M. fortified with "marked" money. He observed Mrs. Rivas behind the counter, selling beer to several males, and he purchased a can of Schaefer beer and paid her thirty-five cents therefor. He then left the premises to inform other agents in the area of the transaction. At about 10:00 P.M., again in possession of "marked" money, he returned to the premises, purchased another can of Schaefer beer and handed Mrs. Rivas the "marked" one-dollar bill, receiving change of 65 cents.

Thereafter, other agents entered the premises, identified themselves and proceeded with the search and seizure of the premises. At this point, Moises Rivas entered the premises and identified himself as the owner.

Mrs. Rivas was thereupon arrested, charged with unlawful possession of alcoholic beverages with the intent to sell the same without a license in violation of R.S. 33:1-50(a). Rivas was charged with possession of alcoholic beverages with intent to sell the same without a license in violation of R.S. 33:1-50 (b); both were held in bail for arraignment in the Paterson Municipal Court.

The records of this Division do not disclose any license

or permit authorizing the sale of alcoholic beverages to have been issued to Moises Rivas, Margarita Rivas or for the premises in question.

Samples of the alcoholic beverages seized by the agents were analyzed by the Division chemist on October 10, 1968 who reported that they were alcoholic beverages, fit for beverage purposes, with various percentages of alcohol by volume: one 6 oz. bottle containing four ounces of Schaefer beer had 4.50% alcohol by volume; one -  $\frac{1}{2}$  pint bottle containing 1 $\frac{1}{2}$  ounces of Coronet VSQ Liqueur had 38.51% of alcohol by volume.

The Division file contains the affidavits of mailing, publication, stipulations signed by the claimants, the inventory, the chemist's report certified by the Director and the recording of "marked" money, all of which were admitted into evidence.

The sale of alcoholic beverages at these premises without a license is illegal, and the seized alcoholic beverages which were intended for sale therein, are illicit. R.S. 33:1-1(i).

Such illicit alcoholic beverages and all other personal property seized in the said premises, including the commingled cash, constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y); R.S. 33:1-2; R.S. 33:1-66; Seizure Case No. 11,431, Bulletin 1644, Item 3.

Moises Rivas, testifying in support of his claim, gave the following account: The alcoholic beverages were given to his wife by Serafin Nieves, the owner of the juke box as a gift, because they planned to have a birthday party to celebrate their son's fourth birthday. He entered the premises after the alleged sale to Agent M and, thus, did not witness any sale. He insists that no alcoholic beverages were ever sold on the premises. He stated that the seized refrigerator, and electric range were his property, although he presented no evidence of indicia of ownership. He also claimed that the cash belonged to him.

On cross-examination he insisted that he had never met the agent before and knows nothing of any alleged transaction on September 14th.

Margarita Rivas testified that on the date of the seizure she was giving out free cans of beer to all the patrons of her establishment who were playing pool. Agent M sought to purchase a can of beer and she told him that she would not sell him any beer but would give him one without charge. She denied selling any alcoholic beverages on the date of seizure or on September 14th, and insisted that she handed out beer in anticipation of her child's fourth birthday party which would take place on the following day.

Agent M, produced in rebuttal, supplemented the facts contained in the file, and recited the facts as set forth hereinabove, with respect to the purchase of alcoholic beverages both on September 14th and September 21st.

I find, on the basis of the believable testimony that alcoholic beverages were kept by the claimant for the purpose of selling without a license and were sold to Agent M on September 21, 1968. It is utterly absurd to believe that Mrs. Rivas was dispensing alcoholic beverages without charge, upon

her equally incredible explanation that such service was made in anticipated celebration of her child's fourth birthday, which would occur on the following day.

There is no reason to disbelieve Agent M who was sent to these premises upon a specific assignment to investigate alleged unlawful sales of alcoholic beverages. Therefore, such illicit alcoholic beverages, fixtures, furnishings and equipment found on the premises constitute unlawful property and are subject to forfeiture. This is equally true of the commingled cash. Seizure Case No. 10,646, Bulletin 1435, Item 5; Seizure Case No. 11,452, Bulletin 1642, Item 3; R.S. 33:1-2; R.S. 33:1-66.

I recommend that an Order be entered rejecting the claim of Moises Rivas for the return of the seized property, cash and the alcoholic beverages.

Harry Goldman, sales manager for the Silco Automatic Vending Company, testifying in support of its claim, for the return of monies deposited on stipulation, representing the retail value of a cigarette machine which was returned to the said claimant, stated that the said cigarette machine was placed at these premises two weeks before the date of the seizure. On his visit to the premises he noted that the store was operated as a luncheonette and contained a juke box and a pool table. He did not see any alcoholic beverages being dispensed nor did he see any alcoholic beverages in the premises. However, he admitted that no background investigation was made of the premises or of Rivas to determine whether he was ever engaged in unlawful liquor activity. While this claimant was obligated to make such background investigation, I believe that under all of the circumstances, especially the recency of placement of its property therein, that it may have acted imprudently, but there is no evidence of bad faith. The claimant should be given the benefit of the doubt, and I conclude that it did not know or have any reason to believe that alcoholic beverages were being sold in these premises.

I, therefore, recommend that the sum of \$75.00 deposited by this claimant under the aforementioned stipulation be returned to it. Seizure Case No. 10,416, Bulletin 1384, Item 4; R.S. 33:1-66(f).

It is further recommended that the sum of \$100.00 deposited under the aforementioned stipulation by Michael La Bruno be forfeited, together with the alcoholic beverages and \$71.52 in cash.

#### Conclusions and Order

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

After carefully considering all the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and adopt them as my conclusions herein.

Accordingly, it is on this 27th day of June, 1969

DETERMINED and ORDERED that the claim of Moises Ruiz Rivas for the return of the refrigerator, electric range and cash in the sum of \$71.52 seized herein be and the same is hereby denied; and the same be and are hereby forfeited; and it is further

DETERMINED and ORDERED that the sum of \$100.00 deposited by Michael La Bruno, under protest, with the Director, representing the appraised retail value of certain fixtures, furnishings, equipment and foodstuffs is hereby forfeited; and it is further

DETERMINED and ORDERED that the claim of Silco Automatic Vending Company for the return of the \$75.00 deposited by it under the aforesaid stipulation, be and the same shall be returned to the Silco Automatic Vending Company; and it is further

DETERMINED and ORDERED that the seized alcoholic beverages be and the same are hereby forfeited, 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 M. KEEGAN  
DIRECTOR

SCHEDULE "A"

- 97 - containers of alcoholic beverages  
Assorted cans and bottles of soda
- 1 - cigarette machine, 1 pool table
- 1 - juke box, 1 refrigerator, 1 electric range
- \$71.52 - cash

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

In the Matter of Disciplinary Proceedings against

Zig E. Inc.  
t/a Public Tavern  
1240 Kaighn Avenue  
Camden, N. J.

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-107 issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden

Licensee, by Charles Bosch, Secretary, Pro se  
Louis F. Treole, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on divers dates between March 1 and April 22, 1969, it permitted the acceptance of numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Absent prior record, 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 Finbar, Bulletin 1851, Item 3.

Accordingly, it is, on this 17th day of June, 1969,

ORDERED that Plenary Retail Consumption License C-107, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Zig E. Inc., t/a Public Tavern, for premises 1240 Kaighn Avenue, Camden, be and the same is hereby suspended\* for the balance of its term, viz., until midnight June 30, 1969, commencing at 2:00 a.m. Tuesday, June 24, 1969; and it is further

ORDERED that any renewal license that may be granted shall be and the same is hereby suspended until 2:00 a.m. Monday, August 18, 1969.

JOSEPH M. KEEGAN  
DIRECTOR

\*By order dated June 30, 1969, the suspension was deferred to commence at 2:00 a.m. Tuesday, July 8, 1969, and to terminate at 2:00 a.m. Monday, September 1, 1969.

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

In the Matter of Disciplinary Proceedings against )

John W. Knapp )  
t/a Knapp's Corner )  
1150 East State Street )  
Trenton, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-120 issued by the City Council of the City of Trenton )  
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Joseph M. Dalton, Jr., Esq., Attorney for Licensee  
Louis F. Treole, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on divers dates between February 3 and March 7, 1969, he variously permitted the acceptance of horse race and numbers bets and conducted a lottery commonly known as the "Treasury balance game" on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Absent prior record, 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 Paula's Ringside Cafe, Inc., Bulletin 1797, Item 2.

Accordingly, it is, on this 15th day of July, 1969,

ORDERED that Plenary Retail Consumption License C-120, issued by the City Council of the City of Trenton to John W. Knapp, t/a Knapp's Corner, for premises 1150 East State Street, Trenton, be and the same is hereby suspended for fifty-five (55) days, commencing at 2:00 a.m. Tuesday, July 22, 1969, and terminating at 2:00 a.m. Monday, September 15, 1969.

JOSEPH M. KEEGAN  
DIRECTOR

6. DISCIPLINARY PROCEEDINGS - GAMBLING (HORSE RACE AND NUMBERS BETS) - LICENSE SUSPENDED FOR 60 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

Monroe Tavern, Inc. )  
t/a Buckley's Tavern )  
665-667 Monroe Avenue )  
Elizabeth, N. J. )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-48 issued by the City Council of the City of Elizabeth )

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Licensee, Pro se  
Louis F. Treole, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensee pleads non vult to charges (1) and (2) alleging that on divers dates between January 28 and May 13, 1969, it variously permitted the acceptance of horse race and numbers bets on the licensed premises, in violation of Rules 6 and 7 of State Regulation No. 20.

Absent prior record, 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 Joseph & Martha Fiasco, Sr. Inc., Bulletin 1863, Item 1.

Accordingly, it is, on this 22d day of July, 1969,

ORDERED that Plenary Retail Consumption License C-48, issued by the City Council of the City of Elizabeth to Monroe Tavern, Inc., t/a Buckley's Tavern, for premises 665-667 Monroe Avenue, Elizabeth, be and the same is hereby suspended for fifty-five (55) days, commencing at 2:00 a.m. Tuesday, July 29, 1969, and terminating at 2:00 a.m. Monday, September 22, 1969.

JOSEPH M. KEEGAN  
DIRECTOR

7. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

Alfonso Russo & Julia Russo )  
t/a A & J Russo )  
115 4th Avenue )  
Paterson, New Jersey )

CONCLUSIONS AND ORDER

Holder of Plenary Retail Distribution License D-61 issued by the Board of Alcoholic Beverage Control for the City of Paterson )

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Donald L. Raff, Esq., Attorney for Licensees  
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensees plead guilty to a charge alleging that on Sunday, June 15, 1969, they sold six 12-ounce cans of beer for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

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 Grand View Cafe, Inc., Bulletin 1864, Item 9.

Accordingly, it is, on this 22d day of July, 1969,

ORDERED that Plenary Retail Distribution License D-61, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Alfonso Russo and Julia Russo, t/a A & J Russo, for premises 115 - 4th Avenue, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 9:00 a.m. Tuesday, July 29, 1969, and terminating at 9:00 a.m. Friday, August 8, 1969.

JOSEPH M. KEEGAN  
DIRECTOR

8. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against Lemar Leftwich & Larry Leftwich t/a Moe's & Larry's Inn 91 East Main Street Paterson, New Jersey  
Holders of Plenary Retail Consumption License C-43 issued by the Board of Alcoholic Beverage Control for the City of Paterson

CONCLUSIONS AND ORDER

Licensees, Pro se  
Walter H. Cleaver, Esq., Appearing for the Division

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on June 5, 1969, they sold six 12-ounce cans of beer for off-premises consumption during prohibited hours, in violation of Rule 1 of State Regulation No. 38.

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 284 Club, Bulletin 1852, Item 7.

Accordingly, it is, on this 22d day of July, 1969,

ORDERED that Plenary Retail Consumption License C-43, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Lemar Leftwich and Larry Leftwich, t/a Moe's & Larry's Inn, for premises 91 East Main Street, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. Tuesday, July 29, 1969, and terminating at 3:00 a.m. Friday, August 8, 1969.

JOSEPH M. KEEGAN  
DIRECTOR

9. STATE LICENSES - NEW APPLICATIONS FILED.

United Beer Distributors Co.  
249-253 Kearney Avenue  
Jersey City, New Jersey  
Application filed August 18, 1969  
for wine wholesale license.

*Joseph M. Keegan*  
Joseph M. Keegan  
Director