

STATE OF NEW JERSEY  
Department of Law and Public Safety  
DIVISION OF ALCOHOLIC BEVERAGE CONTROL  
1100 Raymond Blvd. Newark 2, N. J.

Mr. Michelson

BULLETIN 1166

MAY 15, 1957.

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New Jersey State Library

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1100 Raymond Blvd. Newark 2, N. J.

BULLETIN 1166

MAY 15, 1957.

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

In the Matter of Disciplinary )  
Proceedings against )

MICHAEL DeLUCCIA )  
T/a CLUB 25 )  
13 No. Main Street )  
Paterson, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consump- )  
tion License C-162, issued by the )  
Board of Alcoholic Beverage Control )  
for the City of Paterson. )  
-----)

Henry Riccobene, Esq., Attorney for Defendant-licensee.  
Dora P. Rothschild, appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that on two different dates he sold, during prohibited hours, alcoholic beverages in original containers for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

The file herein discloses that at 11:40 p.m., Thursday, December 13, 1956, two ABC agents who had been in defendant's licensed premises observed the bartender therein sell a pint of whiskey to a customer to take out. One of the agents thereafter bought a pint of whiskey from the same bartender and both agents left with the purchase. On Friday night, December 14, 1956, the agents again visited defendant's premises and at about 11:25 p.m., one of them purchased a pint of gin to take out. Both agents left the premises with the merchandise and returned thereto accompanied by other agents, all of whom identified themselves to the bartender who, in the presence of the licensee, verbally admitted the after hours sales for off-premises consumption.

Defendant has a prior adjudicated record. Effective February 20, 1956, his license was suspended for twenty-five days by the Director for an "hours" violation. Re DeLuccia, Bulletin 1102, Item 2. The minimum penalty imposed for a violation such as charged herein is a suspension of the license for fifteen days. Re Melvin, Bulletin 1147, Item 5. However, since the prior violation occurred within a five-year period, the penalty will be doubled. Re Tarsi, Bulletin 1058, Item 2. I shall suspend defendant's license for a period of thirty days and remit five days for the plea entered herein, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 25th day of March, 1957,

ORDERED that Plenary Retail Consumption License C-162, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Michael DeLuccia, t/a Club 25, 13 No. Main Street, Paterson, be and the same is hereby suspended for a period of twenty-five (25) days, commencing at 3:00 a.m. April 1, 1957, and terminating at 3:00 a.m. April 26, 1957.

WILLIAM HOWE DAVIS  
Director.

2. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - PRIOR RECORD -  
 LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

MICHAEL DeLUCCIA )  
 T/a CLUB 25 )  
 13 North Main Street )  
 Paterson, 1, N. J., )

CONCLUSIONS  
 AND ORDER

Holder of Plenary Retail Consumption License C-162, issued by the Board of Alcoholic Beverage Control for the City of Paterson. )

-----  
 Saul C. Schutzman, Esq., Attorney for Defendant-licensee.  
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold, served and delivered alcoholic beverages to two minors and permitted the consumption of such beverages by said minors in and upon his licensed premises, in violation of Rule 1 of State Regulation No. 20.

The file herein discloses that on March 2, 1957, an ABC agent visited defendant's licensed premises wherein he observed an apparent minor carry three bottles of beer from the bar and hand two of the bottles to two other apparent minors. When the agent saw the three youths consume a portion of the beer, he left the premises but returned immediately accompanied by other ABC agents. After identifying themselves, the agents seized the bottles of beer, interrogated the youths and obtained signed sworn statements from Felix ---, age 17, and Joseph ---, age 19. Joseph stated that he carried the bottles of beer from the bar and distributed them to his companions, one of whom was an adult, and both minors stated that neither of them was required to produce any proof of his age. The bartender refused to give a signed statement but verbally admitted that he sold the three bottles of beer.

Defendant has a prior adjudicated record. However, in a case decided herewith, the period of suspension was doubled because of defendant's prior adjudicated record. Hence, the prior record will not be considered in fixing the penalty herein. I shall suspend defendant's license for twenty days in this case. Re Jackson, Bulletin 1109, Item 5. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 25th day of March, 1957,

ORDERED that Plenary Retail Consumption License C-162, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Michael DeLuccia, t/a Club 25, 13 North Main Street, Paterson, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 3:00 a.m. April 26, 1957, and terminating at 3:00 a.m. May 11, 1957.

WILLIAM HOWE DAVIS  
 Director.

3. DISCIPLINARY PROCEEDINGS - GAMBLING - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

ALICE JOYCE  
T/a PAT'S BAR  
713-715 F Street  
Belmar, N. J.,

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Board of Commissioners of the Borough of Belmar.

-----  
Benjamin J. Lipetz, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On February 9 and 10, 1957, you allowed, permitted and suffered gambling in and upon your licensed premises, viz., the playing of a pool game for stakes of money; in violation of Rule 7 of State Regulation No. 20."

The file herein discloses that on February 9 and February 10, 1957, ABC agents visited the licensed premises. On their first visit the agents observed the bartender and three patrons engage in several games of fascination pool, at the end of which two of these patrons continued to play against each other. The bartender, when asked for what stakes the men were playing, replied, "Ten bucks a game right now". Thereafter two others joined the aforesaid two patrons and played three games at \$2.00 a game. One of the players then volunteered to play a game with the bartender who refused to accept the challenge because the stakes were not big enough. Before leaving the premises, one of the agents and three of the patrons played a game for \$2.00. From the various remarks made by the bartender, it was quite apparent that he was well aware of the aforesaid gambling activities.

On their second trip to the licensed premises, the agents observed that there was a different bartender on duty. Later the agents watched this bartender and three patrons playing the machine at \$1.00 per game. On several occasions they saw the bartender and his partner pay their opponents fifty cents each when they lost, and receive similar amounts when they won. Thereafter the agents saw another match between two patrons, one of whom gave the other \$2.00 at the end of the game.

At about 11:00 p.m., the agents identified themselves to the bartender who stated that aforesaid gambling activities were going on for about a year (since the machine was installed).

Defendant has no prior adjudicated record. The minimum suspension imposed in cases involving gambling where the licensee or his agent participated in the violation has been a suspension of the license for twenty days (Re Datti, Bulletin 1128, Item 5). I shall suspend defendant's license for twenty days. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 28th day of March, 1957,

ORDERED that Plenary Retail Consumption License C-6, issued by the Board of Commissioners of the Borough of Belmar to Alice Joyce, t/a Pat's Bar, 713-715 F Street, Belmar, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. April 8, 1957, and terminating at 2:00 a.m. April 23, 1957.

WILLIAM HOWE DAVIS  
Director.

4. DISCIPLINARY PROCEEDINGS - SALES TO MINORS - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

JOSEPH H. BACKIEL )  
T/a G. I. JOE'S WINE AND LIQUOR )  
299 Bergen Pike )  
Little Ferry, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Distribution License D-2, issued by the Mayor and Council of the Borough of Little Ferry. )

-----  
Herbert F. Myers, Jr., Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that he sold, served and delivered, and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to three minors, in violation of Rule 1 of State Regulation No. 20.

The matter came to the attention of the Ridgfield Park police authorities when the father of Girard --- (age 15) reported that his son came home intoxicated early New Year's morning. Girard was interrogated by ABC agents on January 3, 1957, at the local police headquarters. The agents obtained a signed sworn statement from Girard wherein it appears that on December 31, 1956, he and a group of other boys were at the home of one of the boys; that, while there, Girard, at about 9:00 p.m., telephoned to defendant's licensed premises and ordered a four-fifth quart of Schenley Whiskey to be delivered; that at about 9:30 p.m. Girard again telephoned and, at about 9:45 p.m., he observed the arrival of defendant's delivery truck and met the delivery man on the porch; that the delivery man handed Girard the bottle of whiskey and told him the price was \$4.49, and that Girard handed the delivery man \$5.00 and told him to keep the change. Four of the boys drank the whiskey, including Girard, who became intoxicated. Frank Backiel (brother of the licensee) was later identified as the person who delivered the bottle of whiskey to Girard.

Five other minors in the group were also present on January 3 at police headquarters, were interrogated by the ABC agents and confirmed, in signed sworn statements, that Girard ordered, and received delivery of, the bottle of whiskey.

It thus definitely appears that the bottle of whiskey was sold and delivered to Girard. It should be obvious to any licensee or his employee that a positive method of avoiding trouble is not to deliver alcoholic beverages to a minor.

Joseph --- (age 17), who was also present at police headquarters, gave ABC agents a signed sworn statement from which it appears that he purchased alcoholic beverages at defendant's licensed premises on ten or twelve occasions in the period between January and December 1956, when he generally purchased beer, but on two or three occasions purchased pints of whiskey, the last such occasion, to the best of his recollection, being on December 15, 1956, when he purchased a quart of beer without being questioned as to his age.

Joseph at the licensed premises on January 3, 1957, and in the presence of ABC agents, identified the licensee and Elma Backiel as the persons who sold alcoholic beverages to him at the licensed premises on such occasions.

John --- (age 17), another minor present at police headquarters, gave the ABC agents a signed sworn statement in which it appears that he purchased, without being questioned as to his age, alcoholic beverages at defendant's licensed premises in June 1956 but cannot recollect the specific date. On January 3, 1957, at the licensed premises and in the presence of ABC agents, John identified Elma Backiel as the person who sold a pint of liquor to him in June 1956.

The minimum penalty for a sale of alcoholic beverages to a 15-year-old minor subsequent to January 16, 1956, is thirty days (Re Club Hi-De-Ho, Inc., not yet reported in bulletin), to which five days will be added because three minors were involved (Re Fogler, Bulletin 1145, Item 7). Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 4th day of April, 1957,

ORDERED that Plenary Retail Distribution License D-2, issued by the Mayor and Council of the Borough of Little Ferry to Joseph H. Backiel, t/a G. I. Joe's Wine and Liquor, for premises 299 Bergen Pike, Little Ferry, be and the same is hereby suspended for thirty (30) days, commencing at 9:00 a.m. April 15, 1957, and terminating at 9:00 a.m. May 15, 1957.

WILLIAM HOWE DAVIS  
Director.

5. DISCIPLINARY PROCEEDINGS - GAMBLING - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against

DOMINICK & MARY TITONE  
1401 Bergenline Avenue  
Union City, N. J.,

CONCLUSIONS  
AND ORDER

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) Holders of Plenary Retail Consumption License C-51, issued by the Board of Commissioners of the City of Union City.  
)  
)  
)

James F. Ryan, Esq., Attorney for Defendant-licensees.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendants have pleaded not guilty to the following charge:

'On November 1, 2 and 3, 1955, and on divers days prior thereto, you engaged in and allowed, permitted and suffered gambling, viz., the making and accepting of horse race bets in and upon your licensed premises; in violation of Rule 7 of State Regulation No. 20.'

"Edward R. Sanson testified that at about 12:40 p.m. on November 3, 1955, he, Chief Avia (hereinafter referred to as Chief) and Detective Holender, all employed in the Hudson County Prosecutor's Office, visited defendants' licensed premises. Upon their entrance, he observed that Dominick Titone (hereinafter referred to as Dominick), one of the defendant-licensees, was on duty; that the Chief called to Dominick and informed him that he had a 'confidential complaint that there was bookmaking going on'; that when Dominick denied any knowledge of it, the Chief requested permission to inspect the premises; that upon receiving said permission, he (Sanson) found six slips of paper on the back bar, which slips he handed to the Chief who, in turn, asked Dominick what they were and Dominick answered that they were horse race bet slips; that Dominick then said that he 'doesn't make book but he pays off on some of these things for a man by the name of Dave'; that he expected Dave to come to the premises at about 1:30 p.m.; that at 1:25 p.m. Dave (David Edelman) entered the establishment; that after the Chief and Dave conversed for a short time, Dominick, Dave, Detective Holender, the Chief and he went to the Hudson County Prosecutor's Office where Dominick and Dave were questioned by an assistant prosecutor; that Dominick identified the slips found on defendants' licensed premises and admitted that he paid off those people that Dave didn't see and that he had fifty-six dollars in his possession 'to pay off that day'; that the horse race slips found in his possession were left the previous night; that he did not obtain any commission from Dave but did it as a favor 'to inspire business' in his establishment.

"The testimony of Detective Naton Holender, who accompanied Sanson to defendants' licensed premises on the date in question and who also was at the Prosecutor's Office when Dominick was interrogated, corroborated, in substance, the testimony of Sanson with reference to the finding of the horse racing paraphernalia and the admissions of Dominick about the betting activities occurring on the licensed premises.

"Dominick testified that he had never seen the slips found on the back bar previous to the time the Chief showed them to him; that he never said that he accepted bets on horses for Dave or paid off any winner for Dave; that he never admitted at the Prosecutor's Office that he participated in any gambling or that he had knowledge that any such activities were taking place on the licensed premises; that he remembered being questioned by the assistant prosecutor and when he was asked to sign a statement he declined to do so. On cross-examination Dominick was asked to read the unsigned statement containing answers to questions which he was alleged to have made to the assistant prosecutor at the Prosecutor's Office but he declined to do so, stating 'No, because I don't remember giving them as of now. I don't remember giving them to him.'

"I have carefully examined all of the evidence produced at the instant hearing and after giving due consideration thereto, I am satisfied from the testimony of Sanson and Holender of the Prosecutor's Office that Dominick admitted accepting horse race bets and paying off on behalf of Dave and I am satisfied from the slips found by Sanson that defendants permitted bookmaking on their licensed premises. I recommend that the defendants be found guilty of permitting bookmaking on their licensed premises on November 2 and 3, 1955. As to the date of November 1, 1955, I find no evidence to substantiate that gambling activities occurred on that date. Therefore, I recommend that the finding of guilt shall not include a violation alleged to have occurred on November 1, 1955.

"Defendants have a prior adjudicated record. Effective July 6, 1954, their license was suspended by the local issuing authority for ten days for an 'hours' violation. Again, effective June 7, 1955, their license was suspended for twenty days after they entered a plea of non vult to possession of illicit alcoholic beverages. Re Titone, Bulletin 1069, Item 5. I recommend that in addition to the minimum suspension of twenty-five days for the instant violation (Re Johnson & McMahon, Bulletin 1146, Item 4), a suspension of five days be imposed because of the defendants' past record, making a total suspension of thirty days."

No exceptions were taken to the Hearer's Report within the time limited by Rule 6 of State Regulation No. 16.

After carefully considering the facts and circumstances herein, I concur in the recommended conclusions in the Hearer's Report and I adopt them as my conclusions herein. Hence, I shall suspend defendants' license for a period of thirty days.

Accordingly, it is, on this 8th day of April, 1957,

ORDERED that Plenary Retail Consumption License C-51, issued by the Board of Commissioners of the City of Union City to Dominick & Mary Titone, 1401 Bergenline Avenue, Union City, be and the same is hereby suspended for a period of thirty (30) days, commencing at 3:00 a.m. April 15, 1957, and terminating at 3:00 a.m. May 15, 1957.

WILLIAM HOWE DAVIS  
Director.

6. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY - STOCK OF ALCOHOLIC BEVERAGES AND EQUIPMENT ORDERED FORFEITED.

In the Matter of the Seizure on September 1, 1956 of a quantity of alcoholic beverages, equipment and \$44.55 in cash, on premises occupied by Dolores Garcia, located on Route No. 528, Cassville, Jackson Township, County of Ocean and State of New Jersey.	)	Case No. 9282
	)	
	)	ON HEARING
	)	CONCLUSIONS AND ORDER

-----)  
 James Jeck, Esq., Attorney for Dolores Garcia.  
 I. Edward Amada, Esq., appearing for the Division of Alcoholic  
 Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This matter came on for hearing pursuant to R.S. 33:1-66 to determine whether a quantity of alcoholic beverages, \$44.55 in cash and various equipment and fixtures as described in the schedule attached hereto, seized on September 1, 1956 at premises occupied by Dolores Garcia located on Route No. 528, Cassville, Jackson Township, New Jersey, constitute unlawful property and should be forfeited.

"At the hearing, an ABC agent testified that he visited the above premises on August 25, 26 and 31, 1956. He describes the premises as a one-room affair with a counter and music box, a small place of business. On August 25, a man and four women were seated at a table drinking beer. The agent was served with cans of beer by Dolores Garcia who had first refused to accept payment therefor. However, Mr. Garcia's daughter explained that she thought the agent was an officer and after speaking to her mother in Spanish, told the agent that it was all right to give the money to her mother. The agent then paid Dolores Garcia for the beer. Thereafter, the agent purchased four more cans of beer for which he paid Dolores Garcia.

"The agent returned on August 26 and purchased three cans of beer from Dolores Garcia. On August 31 the agent again visited the premises and on this occasion purchased eight cans of beer from Dolores Garcia. Dolores Garcia did not hold any license authorizing her to sell alcoholic beverages and the premises were not licensed for that purpose.

"On September 1, 1956, ABC agents executed a search warrant for the premises based upon the aforesaid sales of alcoholic beverages and seized therein fifty-three cans of beer, the aforesaid cash, and the furniture and fixtures in the premises.

"Fanny Rivera, daughter of Dolores Garcia, testified that on the agent's first visit he asked for beer and was told they did not sell beer, that the boarders got beer, and the agent was given beer. In attempted explanation of the receipt of the agent's money, she claimed she gave him a sum of money to buy whiskey and it was change from that money that she received. Dolores Garcia, her husband Emanuel Garcia, and two men who said they were boarders testified to the general effect that the seized beer belonged to the boarders and such was the source of the beer obtained by the agent. Dolores denied that she sold beer to the agent.



"This matter came on for hearing pursuant to R. S. 33:1-66 to determine whether a quantity of alcoholic beverages and various articles of furniture and equipment, described in a schedule attached hereto, seized on September 2, 1956 at premises known as Guzman's, t/a Spanish American Club, located on Star Route, New Egypt, Jackson Township, New Jersey constitute unlawful property and should be forfeited.

"An ABC agent testified at the hearing that on August 25, 1956 he visited the above premises to investigate a complaint that alcoholic beverages were being sold there without a license. The agent met Inocencio Guzman and purchased from him seven cans of beer. This agent returned on August 26th and purchased four cans of beer from Guzman. According to the agent's description, there was on the premises a rear one-story building and another building in front thereof equipped with a shuffleboard, cigarette vending machine, counter, and tables and chairs. The agent testified that he purchased beer in both of these buildings. Inocencio Guzman did not hold any license authorizing him to sell alcoholic beverages and the premises were not licensed for that purpose.

"Another ABC agent testified that he and local police officers went to the premises in the late evening of September 1, 1956 to execute a search warrant therefor, based upon the sales of alcoholic beverages on August 25th and 26th; that in the front building he seized a cigarette vending machine, a candy vending machine, a shuffle alley machine, a television set, ninety cans of beer, ninety-three bottles of Pepsi-Cola and two bottles of whiskey; that some of the beer was in a refrigerator in the kitchen; that in the rear building he seized a music box and a refrigerator.

"Inocencio Guzman seeks return of all of the seized property. However, it appears that he is not the owner of the cigarette vending machine, candy vending machine, or the shuffle alley machine and music machine. These machines were installed on a profit-sharing basis by Joel Bloom.

"Guzman presented a certificate evidencing the incorporation of 'Spanish American Club' in April 1954, and asserts that this club originally occupied quarters in the rear building, but presently uses the front building. These same quarters are used by Guzman for his living room and dining room. Guzman claims that he made the quarters available for the club at a personal expense of about \$500.00 for use semi-monthly by twenty-five members, and that at the time of the seizure the club was closed because all of the members were in Puerto Rico.

"Guzman also presented a certificate dated February 21, 1950 which purports to evidence that he is a member of the American Ministerial Association, and testified that he is an automobile mechanic.

"Although Guzman admits that the agent was at his premises on two occasions, he denies that such agent purchased beer from him or consumed any beer there. He claims that the seized beer belongs to his son.

"Guzman's son testified that he was present when the agent was at the premises, that such agent asked for beer, but did not obtain it. He claims that all of the beer was purchased by him for use at a social affair or party to be held. It appears from his testimony that there is a colony of Spanish residents in the vicinity who hardly ever have time to get away,

and the nearest tavern where alcoholic beverages are available is about three miles distant.

"In my opinion the evidence presented establishes that Guzman was the moving spirit in organizing the club, and established his home as a place where his fellow nationals could gather, and there sold them alcoholic beverages, and provided the machines, at a profit, for their amusement. No member of the 'club' appeared to confirm that there were any 'club' activities as such conducted on the premises, or that such club participated in or had any interest in the profits of the four machines located on the premises.

"Under such circumstances, it is my conclusion that the evidence warrants a finding that the seized alcoholic beverages were intended for unlawful sale and hence are illicit. R. S. 33:1-1(i). Such illicit alcoholic beverages and the other personal property seized therewith constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

"Joel Bloom seeks return of the aforementioned four machines. He testified that he placed such machines upon Guzman's request, or by his solicitation in the course of his business activities. The income was meagre, and on the two or three occasions that he was at the premises in the three or four months the machines were located there, he talked with Guzman and did not purchase any alcoholic beverages or observe any such beverages on display.

"It is my opinion that the machines were installed by Bloom in the routine course of his business, in what he may have assumed were club quarters, and there is no evidence presented that he knew or should have suspected that it was actually a speakeasy. I recommend that the machines in question be returned to Joel Bloom upon payment of the costs incurred in their seizure and storage.

"I further recommend that Inocencio Guzman's application for return of the alcoholic beverages and balance of the seized property be denied, and such property be forfeited."

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

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

Accordingly, it is, on this 21st day of March, 1957,

DETERMINED and ORDERED that if on or before the 1st day of April, 1957, Joel Bloom pays the costs incurred in their seizure and storage, the cigarette vending machine, candy vending machine, shuffle alley machine and music machine, more fully described and listed in Schedule "A", attached hereto, will be returned to him; and it is further

DETERMINED and ORDERED that the balance of the seized property listed in Schedule "A" aforesaid, constitutes unlawful property, and the same be and hereby is forfeited in accordance with the provisions of R.S. 33:1-66, and shall be sold at public sale for the use of the state in accordance with State Regulation No. 29 or 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.

WILLIAM HOWE DAVIS  
Director.

SCHEDULE "A"

- 90 cans of beer
- 93 bottles of Pepsi-Cola
- 2 bottles of whiskey
- 1 cigarette vending machine and currency therein
- 1 candy vending machine and currency therein
- 1 shuffle alley machine and currency therein
- 1 television set
- 1 music machine and currency therein
- 1 refrigerator

8. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY - STOCK OF ALCOHOLIC BEVERAGES ORDERED FORFEITED - MUSIC MACHINE AND CIGARETTE VENDING MACHINE RETURNED TO INNOCENT CLAIMANT.

In the Matter of the Seizure on September 2, 1956 of a quantity of alcoholic beverages, equipment and \$9.83 in cash, on premises occupied by Leonor Galajeras, loca- ted on New Egypt-Lakewood Road, Cassville, Jackson Township, County of Ocean and State of New Jersey.	)	Case No. 9280
	)	
	)	ON HEARING
	)	CONCLUSIONS AND ORDER

-----)  
James Jeck, Esq., Attorney for Leonor Galajeras.  
Joel Bloom, Pro se.  
I. Edward Amada, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"This matter came on for hearing pursuant to R. S. 33:1-66 to determine whether a quantity of alcoholic beverages, \$9.83 in cash and two machines, as described in a schedule attached hereto, seized on September 2, 1956 on premises occupied by Leonor Galajeras, located on New Egypt-Lakewood Road, Cassville, Jackson Township, New Jersey, constitute unlawful property and should be forfeited.

"At the outset of the hearing, counsel for Leonor Galajeras made a motion to dismiss the proceedings on the ground that the premises occupied by Leonor Galajeras, the place where the seizure was made, was not the premises described in the complaint and search warrant allegedly used as the basis for the seizure. The evidence presented by ABC agents is to the contrary, and in any event, unlawful property may be seized without a search warrant, and forfeited. See Case No. 7939, Bulletin 927, Item 9; Case No. 7480, Bulletin 857, Item 3. I therefore recommend that the motion to dismiss the proceedings be denied.

"The basis for the seizure is the alleged unlawful sale of alcoholic beverages at the Leonor Galajeras premises. On that score an ABC agent testified that he entered such premises on August 26, 1956 at about 6:30 p.m. and remained there until about 7:15 p.m. during which time he purchased from Leonor Galajeras a total of six cans of beer. Another ABC agent testified that he, a fellow-agent, and two State Troopers went to the premises late in the evening of September 1, 1956 to execute the search warrant. About ten or fifteen minutes later the first-mentioned agent came to the premises and identified Leonor Galajeras as the person who sold him the beer on August 26th.

"The agents then seized a music machine, a cigarette vending machine and a bottle of whiskey in a small building to the rear of the dwelling. Fifty-three cans of beer were seized in the kitchen of the dwelling. Four bottles of other alcoholic beverages and \$9.83 in cash were seized in a bedroom in the dwelling.

"Leonor Galajeras did not hold any license authorizing her to sell alcoholic beverages and the premises were not licensed for that purpose.

"In my opinion the evidence presented justifies the conclusion that the seized alcoholic beverages were intended for unlawful sale and hence, are illicit. R. S. 33:1-1(i). Such illicit alcoholic beverages, two machines and the cash seized therewith constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

"Joel Bloom seeks return of the music machine and the cigarette machine. He testified that one of his employees was instrumental in placing these machines in the Leonor Galajeras establishment and that he was there on only one occasion. This employee testified that he noticed that picnics were held at the premises, stopped there a few weeks before the seizure and solicited Mrs. Galajeras for permission to place the machines there; that he personally did not purchase any alcoholic beverages at her premises on the few occasions that he was there and did not observe any other persons purchasing alcoholic beverages.

"In my opinion the machines were installed in the routine course of Bloom's business and there does not appear to be any evidence that either he or his employee knew or should have suspected that alcoholic beverages were being sold at such location. I recommend that the two machines be returned to Joel Bloom upon payment of the costs incurred in their seizure and storage.

"The remaining seized property consists of the alcoholic beverages and the \$9.83 in cash. Her counsel represented that Leonor Galajeras conducted a boarding house and served meals; that her establishment was somewhat like a motel. One of her boarders testified that the seized alcoholic beverages belonged to four boarders in the premises. This categorical uncorroborated statement is not persuasive in view of the nature of the establishment and locations where the alcoholic beverages were seized. I therefore recommend that the alcoholic beverages and cash be forfeited."

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

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

Accordingly, it is, on this 25th day of March, 1957,

DETERMINED and ORDERED that if on or before the 4th day of April, 1957, Joel Bloom pays the costs incurred in their seizure and storage, the music machine and cigarette vending machine more fully described and listed in Schedule "A", attached hereto, will be returned to him; and it is further

DETERMINED and ORDERED that \$9.83 in cash and the alcoholic beverages listed in Schedule "A" aforesaid, constitute unlawful property, and the same be and hereby are forfeited in accordance with the provisions of R. S. 33:1-66 and retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the Director of the Division of Alcoholic Beverage Control.

WILLIAM HOWE DAVIS  
Director.

SCHEDULE "A"

- 53 - cans of beer
- 5 - bottles of alcoholic beverages
- 1 - music machine and currency therein
- 1 - cigarette vending machine and currency therein
- \$9.83 in cash

9. DISCIPLINARY PROCEEDINGS - CHARGE ALLEGING SALES TO MINORS DISMISSED.

In the Matter of Disciplinary Proceedings against )

HERBERT L. APT )  
T/a RUSTIC BAR )  
1807 Atlantic Avenue )  
Atlantic City, N. J., )

CONCLUSIONS  
AND ORDER

Holder of Plenary Retail Consumption License C-91, issued by the Board of Commissioners of the City of Atlantic City. )

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Irving I. Jacobs, Esq., Attorney for Defendant-licensee.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

"Defendant pleaded not guilty to a charge alleging that on August 30, 1956, he sold, served and delivered and allowed and suffered the sale, service and delivery of alcoholic beverages to a minor in and upon his licensed premises, in violation of Rule 1 of State Regulation No. 20.

"The evidence presented is in sharp conflict. Jerry --- (age 18), the minor in question, testified that he purchased nine quarts of beer at defendant's licensed premises at about 7:30 p.m. on the above date. The bartender on duty that day until 8:00 p.m. and the licensee who came on duty after 8:00 p.m. each deny that the minor was there and made any such

purchase. There are no other witnesses who have first-hand knowledge of what actually transpired.

"James ---, a minor companion of Jerry, sat in a parked car and observed Jerry enter another tavern, emerge empty-handed, and then disappear from his view. Within about five minutes Jerry returned to the car with nine quarts of beer.

"Jerry was at the time AWOL from his service in the Navy, having jumped ship in Florida on August 25, arriving in Pleasantville on August 27. He had previously been stationed for about six months at Pomona Air Base, near Atlantic City. He claims to have been at defendant's licensed premises on twenty to twenty-five occasions during that period and became acquainted with Frank Rabboni (the bartender) and the licensee only by sight (and presumably not by name). Jerry claimed that he could not name the person who sold the beer to him on August 30. When the licensee appeared at the hearing, Jerry said that he recognized him as the person from whom he purchased the beer. Asked how many times he was at the licensed premises after he jumped ship, Jerry, for the first time, stated that he had been there on one previous occasion during the week of August 30, when he 'hocked' his watch and redeemed it the same day. He named 'Rabby' (Rabboni?) as the person with whom he pledged his watch. (Both Rabboni and the licensee deny that any such incident occurred.)

"It appears that there are a number of other licensed premises located in the immediate vicinity of defendant's tavern. Although there is a possibility that Jerry's account of his purchase of the beer at defendant's premises is correct, a finding of guilt must be established by a fair preponderance of the evidence. The uncorroborated testimony of the minor, and the testimony of his companion (who had no opportunity to observe whether the minor actually entered defendant's licensed premises) placed in the balance against the testimony of the licensee and his bartender does not tip the scale in favor of a finding of guilt. Re Hyett, Bulletin 1142, Item 6. I, therefore, recommend that the charge be dismissed."

The prosecuting attorney has advised that he does not intend to file any written exceptions to the Hearer's Report.

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

Accordingly, it is, on this 1st day of April, 1957,

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

WILLIAM HOWE DAVIS  
Director.

10. DISCIPLINARY PROCEEDINGS - SLOT MACHINES - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against )

HOBOKEN LODGE NO. 74, B.P.O. ELKS )  
1005-1007 Washington Street )  
Hoboken, N. J., )

CONCLUSIONS AND ORDER

Holder of Club License CB-79, issued )  
by the Director of the Division of )  
Alcoholic Beverage Control. )

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Hoboken Lodge No. 74, B.P.O. Elks, Defendant-licensee, by  
Anthony Amoruso, Secretary.  
Edward F. Ambrose, Esq., appearing for Division of Alcoholic  
Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to the following charge:

"On February 8, 1957, you possessed and allowed, permitted and suffered in and upon your licensed premises two slot machines or devices in the nature of slot machines which might be used for the purpose of playing for money or other valuable things; in violation of Rule 8 of State Regulation No. 20."

The file herein discloses that on February 8, 1957, ABC agents found two slot machines in the basement room which was part of defendant's licensed premises. The machines were found to be in working order.

Defendant has no prior adjudicated record. I shall suspend defendant's license for the minimum period of ten days (Re Point Pleasant Lodge #1698, B.P.O. Elks, Bulletin 1090, Item 6). Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 1st day of April, 1957,

ORDERED that Club License CB-79, issued by the Director of the Division of Alcoholic Beverage Control to Hoboken Lodge No. 74, B.P.O. Elks, for premises 1005-1007 Washington Street, Hoboken, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. April 8, 1957, and terminating at 2:00 a.m. April 13, 1957.

WILLIAM HOWE DAVIS  
Director.

11. STATE LICENSES - NEW APPLICATIONS FILED.

Edna May Sabo, Administratrix of the Estate of Andrew Sabo  
T/a D & S Transportation, S/S Cedar Ave. bet. Delsea & Evergreen Ave  
Westville Grove, N.J.

Application filed May 10, 1957 for place-to-place transfer of  
Transportation License T-167 from 1204 Market St., Gloucester, N.J.

John M. Crisafulli, Marie R. Crisafulli, Ernest Scuorzo and  
Carrie B. Scuorzo, t/a Beverages, Limited  
511-513-515 Madison Street, Hoboken, N.J.

Application filed May 10, 1957 for person-to-person transfer of  
State Beverage Distributor's License SBD-73 from Maramaldi Beverage