

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

BULLETIN 1703

December 12, 1966

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1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITY  
(INDECENT ENTERTAINMENT) - PRIOR RECORD DISREGARDED BECAUSE  
OF CHANGE OF STOCKHOLDERS - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary  
Proceedings against

Cambar, Inc.  
t/a Ray's Tavern  
202 So. 5th St.  
Camden, New Jersey,

Holder of Plenary Retail Consumption  
License C-98 for the year 1965-66,  
and C-179 for the year 1966-67, issued  
by the Municipal Board of Alcoholic  
Beverage Control of the City of Camden.

CONCLUSIONS  
AND  
ORDER

Molotsky, Rabkin & Gross, Esqs., by Ira Rabkin, Esq., Attorneys  
for Licensee  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic  
Beverage Control

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charge:

"On Friday night March 18, and early Saturday morning  
March 19, 1966, you allowed, permitted and suffered  
lewdness and immoral activity and foul, filthy and  
obscene conduct in and upon your licensed premises,  
viz., in that you allowed, permitted and suffered  
female persons to perform on your licensed premises  
for the entertainment of your customers and patrons  
in a lewd, indecent and immoral manner; in violation  
of Rule 5 of State Regulation No. 20."

Two Division agents, acting upon specific assignment,  
visited the licensed premises on Friday, March 18, 1966, at approx-  
imately 10:30 p.m. The premises consisted of a barroom in the  
front and a service room with tables in the rear. Approximately  
twenty male patrons were standing or sitting around a U-shape  
bar. A Mr. Diaz was tending bar. A young woman (identified as  
Jean Wilcox) was dancing on top of a bureau or cabinet situated  
at the center of the bar.

Agent J testified that, when he and Agent C first posi-  
tioned themselves at the front of the bar, Miss Wilcox, attired  
in a white bra, white briefs and white boots, was doing "the  
routine of the go-go girl, the watusi, the monkey, the jerk."  
The rhythm was furnished by a juke box. The audience reaction  
was mild. After a couple of minutes she changed her routine to

"an act of bumps and grinds, where she put her hands behind her head and rotated and gyrated her buttocks, and from time to time she would thrust the middle portion of her body or vagina area in fast jerky motions toward the patrons, and she would keep time to the tune." This type of performance lasted a couple of minutes and was enthusiastically received by the audience.

The agent then described the next part of the performance thusly: "She got down on the bureau, rested her shoulders, head, and buttocks on the bureau, and extended her legs upward toward the sky, and with her hands on her buttocks or hip area she thrust her buttocks area up off the floor and rotated her buttocks slowly. Her hands, later she put her hands on her breasts and massaged her breasts slowly from the bottom extending to the top of the breasts and then at the bottom of the breasts again. This took about two or three minutes .... Then she got turned over and got on her hands and knees, and put her hands on the bureau along with her knees, and rotated her buttocks and gyrated them in short jerky motions, thrusting her buttocks forward and backward in fast motion, doggie fashion." The audience was screaming and reaching over the bar.

At the termination of the act Miss Wilcox stepped down and a young woman (identified as Shirley Fay) stepped up on the platform. She commenced her performance with the normal go-go girl routine for about a minute sans enthusiastic audience reaction. This was followed by a routine of "bumps and grinds, with her hands extended toward her hips, sometimes she kept her hands on her hips, bumping and grinding, and thrusting the middle portion of her body at the patrons, at other times her hands behind her head and rotating her buttocks, and in fast motion, jerky motion, thrust her vaginal area towards the patrons." After stepping down from the platform she "walked around, circled the entire bar, stopped in front of various male patrons and did grinds and thrust her body towards the men, and they would -- some of the men would reach at her, and they were yelling and pretty excited." This performance lasted "maybe three minutes." In response to someone's urging to "Do the doggie", she returned to the platform, "got down on her hands and knees again, much like the other girl, and she rotated and gyrated her buttocks in fast motion, and with jerky motion thrust her buttocks forward and backward." The audience reaction was markedly enthusiastic. To the urging, "Spread your legs! ... she got on her back and put her legs -- extended them straight up in the air perpendicular to the bureau top, and then she did slow bumps -- slow movement of gyrating her buttocks. This was not done in tune with the music, although the other dance was to the tune. This time she was just performing her act not to the tune of the music. She would rotate her buttocks and at times would be making short jerky motions upward." The audience was "really applauding and yelling all kinds of exclamations." Her performance in toto extended over a period of fifteen or twenty minutes.

Hearing a commotion in the rear room, the agents departed from the barroom and proceeded into the rear room. The patronage consisted of about thirty-five or forty persons seated and about twelve or fourteen patrons standing. They were served alcoholic beverages by a woman identified as Miss Ella Moran. Observing a group of people at the rear of the room standing in a circle, the agents made their way through the circle. Inside the circle Agent J observed the Misses Fay and Wilcox performing a go-go routine. They were dressed as described heretofore. The agent then gave the following description of the performance:

"They got down on the floor, lying with their stomachs on the floor parallel with each other, then slowly and not to the tune of the music rotated their buttocks, and then at different times they would raise their buttocks and in jerky motion up and down, and at times their hands would be extended out, and at other times their hands would be closer to their bodies." They remained on their stomachs "a couple of minutes." They "got on their hands and knees, and at this time their buttocks were close to each other, and they appeared to be touching, but I am not sure whether they touched, and they rotated their buttocks and gyrated, and in fast jerky motion back and forth with their buttocks like in doggie fashion." The patronage was "really carrying on, lots of noise, yelling, urging and the girls, 'Come on! Come on!'" This performance lasted approximately three minutes. Agent J, continuing, testified "One of the girls would beckon to the patrons and with her finger down towards her vaginal area and thrust her middle portion of her body towards the patron as she beckoned to him, and then the patrons really screamed, making motions as if to go towards her." The performance lasted approximately ten minutes. When it appeared that the performance was concluded, the agents identified themselves to Miss Moran "and advised her what was going on and questioned her." She responded that she "didn't know anything about the dance and didn't know anything about go-go girls until these girls came in the premises."

When asked who was in charge, Miss Moran replied that "the owner or manager wasn't there but she would talk to the bartender." When Mr. Diaz was informed as to what the agent thought of the show, he responded "he just worked there; he didn't know what the girls were doing."

On cross examination the agent testified that he was in the licensed premises from 10:10 p.m. to approximately 1:30 a.m. the following morning. He did not recall seeing a Mr. Tamburri (who was identified in the hearing room) in the licensed premises on the night in question.

After the first performance in the barroom, each girl repeated her routine prior to performing in the rear room. He saw no one other than Mr. Diaz tending bar in the barroom and no one other than Miss Moran waiting on tables in the rear room.

Additionally, the agent testified that the dancers during the performance of their routine simulated the act of intercourse. It was the agent's opinion that the performers went beyond the usual go-go routine such as the watusi, the monkey and the frug which he had seen on televised shows. The girls admitted that "they were not doing the go-go routine, watusi, or other things, that they were doing an exotic dance." The remainder of the cross examination was mainly corroborative of the testimony which was elicited on direct examination.

It was stipulated that the testimony of Agent C (who accompanied Agent J on the instant investigation) would be similar to the testimony given by Agent J.

On cross examination the agent testified that he recalled being served beer by Mr. Diaz but not by Mr. Tamburri. He did not recall seeing Mr. Tamburri that evening.

In defense of the charge, Michael Tamburri testified that he was in the employ of the licensee as its manager for approximately one year and he was on duty on the night of March 18,

1966. He commenced his tour of duty at approximately 8:45 p.m. He spent most of his time in the rear room and occasionally he would check the bar. Mr. Diaz was tending bar. Jean Wilcox was a replacement that night for the usual performer. She was recommended by Shirley Fay.

He stated that he was made aware of the agents' presence at the bar at approximately 10:10 p.m. by Ella Moran, waitress in the back room. He observed the girls dance. They did not deviate from the normal go-go dances. They had been instructed by the witness not to do any dance not seen on "TV". Although the dances involved jerky motions and hip, pelvic, leg, arm and general body movements, he observed nothing that could be called a deliberate imitation of sexual intercourse. Upon completion of the dance routine by the girls at approximately 10:45 p.m., he departed from the premises to get something to eat, returning at approximately 11:30 or 11:45 p.m. Prior to leaving he served Agent C a bottle of Rolling Rock beer. The agent had a brown hat on at the time. When he returned to the licensed premises the agents had departed. Miss Moran and Diaz informed him that the ABC agents interrogated them and the girls relative to the dances.

On cross examination the witness was asked to describe the agents' dress and appearance on the night he saw them at the bar. As to Agent J, he responded, "It wasn't that suit. I know he had on a rather shabby-looking one. The other gentleman had a brown hat."

Later the questioning revealed the following:

- "Q How about [Agent J]? How did he look? Did he look like he looks today?  
A Yes, he looks about the same.  
Q How about his face?  
A The same.  
Q How about his clothes?  
A They were different colors, I think.  
Q What kind of clothes?  
A I don't remember if he had a suit on or not.  
Q Do you remember the color of the clothes?  
A No, I don't.  
Q How about a hat?  
A No.  
Q No hat?  
A No."

As to Agent C, the witness testified that his face was the same then as it is now (in the hearing room) and he doesn't remember what he was wearing except that he wore a brown hat and a shabby coat.

Continuing, he testified on cross examination that he didn't see Miss Wilcox on her back or on her hands and knees on the platform at any time. She was always in an upright position. As to Miss Fay, all she did was "the frug, the watusi", she did not circle the bar at all, her entire routine was performed on top of the platform.

Later Tamburri testified as follows on cross examination:

- "Q When the agents say they saw these two girls perform for a second time you weren't there?  
A The second?  
Q The second sets.  
A From the time I left to the time I came back at least thirty minutes of that, perhaps forty,

- should have been occupied with organ music.
- Q Should have been but you weren't there?
- A No, I wasn't."

Finally he testified that, when he served Agent C, he was not seated with Agent J, the two agents were about ten or twelve feet apart.

Gene Locks testified that he had been acting in a general supervisory capacity on a voluntary basis ever since his elderly grandmother, Mrs. Rose Gorski, became a major stockholder in the licensee corporation. Realizing that in the past the premises had been conducted in a manner that fell short of being exemplary, he gave instructions to ameliorate conditions. Prior to March 18, 1966 he had seen dancers perform at the licensed premises. Their dances were not different from anything he saw on television shows. He stopped at the licensed premises on March 18, 1966 at approximately 8 p.m. and left shortly thereafter. Shortly before midnight he received a telephone call at home from the manager Mr. Tamburri, advising him of the investigation conducted by the ABC agents that night. The female performers were discharged not because he felt that the performances were lewd but because the ABC agents found the dances objectionable.

On cross examination he reiterated that he saw go-go dances in the licensed premises prior to the night in question, the dances were at no time objectionable. He did not witness the performances on the night of March 18, 1966.

In rebuttal Agent J testified that at no time were he and Agent C separated from each other while they were in the barroom. He wore old clothes, a zipper jacket and a cap. He had on his face glasses, a mustache, a goatee and sideburns. Agent C wore a baseball cap, glasses and a mustache. They wore disguises because they had been in the licensed premises on a previous investigation. Without disguises they feared that they would be recognized. The testimony on rebuttal then revealed the following:

- "Q After you identified yourself to Miss Moran did Miss Moran say she recognized you?
- A No. I am sure Miss Moran did not know who I was.
- Q Why?
- A I asked her wasn't she the same woman who worked there last time. She said yes. I said, 'Do you know me?' She said, 'No.'
- Q Did you take your make-up off at any time?
- A No.
- Q Did [Agent C] take his make-up off?
- A No.
- Q Did Miss Moran say anything that she knew who you were?
- A No. I am sure Miss Moran didn't know who we were."

In rebuttal Agent C testified that he wore work trousers, a black leather jacket, a baseball cap, horn-rim glasses and wore a mustache. He was not separated from Agent J at any time and he was not served a drink by the manager Tamburri.

It is a firmly established principle of law that dis-

disciplinary proceedings against liquor licensees 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); Hornauer v. Division of Alcoholic Beverage Control, 40 N.J. Super. 501 (1956); Howard Tavern, Inc. v. Division of Alcoholic Beverage Control (App.Div. 1962), not officially reported, reprinted in Bulletin 1491, Item 1.

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

In the instant proceeding the evidence is overwhelming that the performances given by the two female entertainers (graphically and explicitly described by the ABC agent) were indecent, lewd and immoral.

Furthermore, I must comment that the testimony given by Tamburri (who described himself as the manager of the corporate licensee) to the effect that the waitress, Miss Moran, warned him of the agents' identities and presence in the licensed premises was utterly lacking in candor and was fictional. On the other hand, I give credence to the agents' testimony that (pursuant to sound investigatory procedure) they disguised their identities in conducting the present investigation.

Additionally, it must be noted that, although they were available, the licensee failed to produce as witnesses the bartender Diaz or the waitress Miss Moran. Therefore it must be presumed that they could not challenge the testimony of the agents concerning the indecent nature of the dance.

An additional basic principle bears repetition and emphasis. In disciplinary proceedings the licensee is fully accountable for all violations committed or permitted by his servants, agents or employees. Rule 33 of State Regulation No. 20. Cf. In re Schneider, 12 N.J. Super. 449 (App.Div. 1951).

Applying the firmly established principles to the instant proceeding, I am persuaded that the evidence is clear and convincing that the licensee is guilty of said charge.

Although the licensee has a previous record of suspension of license by the Director for forty days effective May 6, 1965 for permitting apparent homosexuals on the licensed premises (Re Cambar, Inc., Bulletin 1620, Item 7), it is further recommended that the prior record of suspension of license be disregarded for penalty purposes by reason of intervening change of stockholders (Re Duffy's Tavern, Inc., Bulletin 1679, Item 4) and that the license be suspended for thirty days. Re Tropical Gardens Inc., Bulletin 1684, Item 3.

#### Conclusions and Order

No exceptions to the Hearer's report were filed within the time limited by 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 26th day of September, 1966,

ORDERED that Plenary Retail Consumption License C-179, issued by the Municipal Board of Alcoholic Beverage Control of the City of Camden to Cambar, Inc., t/a Ray's Tavern, for premises 202 South 5th Street, Camden, be and the same is hereby suspended for thirty (30) days, commencing at 7:00 a.m. Monday, October 3, 1966, and terminating at 7:00 a.m. Wednesday, November 2, 1966.

JOSEPH P. LORDI,  
DIRECTOR

2. STATE LICENSES - OBJECTIONS TO APPLICATION FOR PLENARY WHOLE-SALE LICENSE - APPLICATION DENIED.

In the Matter of Objections to )  
Application for Plenary Whole- )  
sale License by )

CONCLUSIONS

Simon H., Leon M., and Harold )  
Goldstein )  
t/a Bacon Liquor Company )  
139 Charlton Street )  
Newark, New Jersey )

-----  
Patrick W. DiMartini, Esq., Attorney for Applicant.  
Milton H. Cooper, Esq., Attorney for Objector, N. J. Wine & Spirit  
Wholesalers Association.

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

The applicant partnership has filed an application for a plenary wholesale license for premises at 139 Charlton Street, Newark. A written objection to the issuance thereof having been filed by the objector herein, a hearing was held thereon, pursuant to Rule 12 of State Regulation No. 1.

At the hearing, the attorney for N. J. Wine & Spirit Wholesalers Association, who is also its executive director, appeared on its behalf and produced witnesses in support of its objection.

The basis for its objection, as set forth in a letter addressed to this Division and as supplemented at the hearing, is as follows:

1. There is no definite public need or necessity for the issuance of this license.
2. The applicant's method of activity and background in operation in other states in which it has been licensed demonstrates that a plenary wholesale license should not be granted to it.
3. The applicant is undesirable and would not be an asset for the industry.



The applicant presently holds a transportation license from this Division, and distributes its products through wholesalers.

Simon H. Goldstein, a partner with his two brothers in this business, testified in support of the application and presented the following picture:

The applicant intends to warehouse and distribute bottled liquor, kosher wines and related items from premises located at 139 Charlton Street, Newark, which contains seventy-five hundred square feet for this purpose. It will have the Miller Warehouse and Transportation Company perform its trucking operations, and plans to sell its products to New Jersey retailers. The applicant has been in the wholesale liquor business since 1946, and presently distributes its products in twenty-eight states. This witness, who has been in charge of the operations of this company since 1957, testified that if the application is granted, the company plans to distribute primarily wine and distilled spirits. It has a complete line of wines under 14 per cent and wines over 14 per cent, as well as distilled spirits, which include whiskey, gin, vodka, rum, brandy, liqueurs and specialties. Its kosher wines are sold under the brand name of "Mother Goldstein's Kosher Wines."

He stated that several of the applicant's products are unique and would have a wide acceptance in the New Jersey market. One of these products is a sucaryl-sweetened kosher wine, unique because it can be consumed by diabetics. Sucaryl is a chemically made non-caloric sweetening agent which is a substitute for sugar and the witness asserted that the applicant is the only company in the country which manufactures this particular type of wine. He added that the significant value of sucaryl is in the fact that it does not have any of the side effects of saccharin, which is used in other artificially sweetened wines. "Sucaryl is the great invention of the modern age." This product has been sold to many wholesalers throughout the country who have used it for their own private label brands.

The applicant also distributes a product known as Right's Cool Gold Crest blended whiskey, which is a whiskey made with vodka spirits. This product is unique because it is a whiskey blended with "refined grain neutral spirit charcoal filtered vodka."

The witness further testified that the applicant produces Gordon Bicardi Dry; this wine has a uniqueness because it contains the "special essences made to be imparted into wine which gives the wine an entirely different flavor than any other wine on the market." It also produces a juniper wine which is unique because it "has the taste of gin because alcohol is put through juniper baskets and made into gin so that this was the first wine that had this gin taste."

The witness also described the special specifications for applicant's wines which contain large quantities of eastern grapes grown in New Jersey and New York, creating in these products a new and uniquely different taste. The applicant also produces a ginger wine which it claims is the only ginger type wine produced in this country.

The applicant has sought to have its sixty-seven items distributed by wholesalers throughout the state. Reitman Industries now distributes some of its wines, gin and muscatel wines. However, this wholesaler distributes only eight or ten of its items; it has refused to handle its other items because

it claims they are items either unacceptable to it or would be in direct competition to other products handled by the said wholesaler. Several other wholesalers have handled some of its products but it has found that the distribution of its products has been unsatisfactory because the wholesalers handle other kosher wine products which they feel may be in direct competition with applicant's products.

The witness was questioned as to prior liquor law violations in other states. He admitted that there were some violations which were technical violations, similar to those of many of the leading manufacturers and distillers of alcoholic beverage products in the country. Further, these violations occurred before this witness took active control of the business.

In summary, this witness asserted that he is convinced, on the basis of inquiries made by New Jersey residents, that there is a public need and convenience for his products; that the products are unique and desirable; and that by reason of the applicant's operations in twenty-eight states and its acceptability therein, it feels that it can serve a public need and convenience in New Jersey by the approval of this application.

Frank H. Reitman, Chairman of the Board of Reitman Industries and Galsworthy, Incorporated, testifying on behalf of the objector, stated that, in his opinion, the wine products of the applicant are no different from those sold by other wholesalers except that they have different labels.

His company complex does distribute such of applicant's products which meet his personal test. If he is satisfied that the price is right, the label is attractive and the taste is good, he orders those products. However, he is the final judge for his company as to what products should be handled by his company. He further stated that there are presently three other wholesalers, in addition to his organization, employing approximately four hundred to four hundred fifty men, which distribute applicant's products, and his organization has been selling these products for nearly ten years.

It was his opinion that the applicant is now "trying to take advantage of the ten years or so that we put in, putting over this line." It was his opinion that unless the applicant put on a big sales force in order to cover the State, it could only be successful in the distribution of its products "by turning the market upside down, disrupting our market over here."

On cross examination, he admitted that he must give the final approval as to all products purchased by the Reitman complex (which includes Crest and Fleming & McCaig) and that, unless he is personally satisfied as to the taste, the package and the price of the product, "Out it goes." In his opinion, "I say if Frank Reitman likes it, then the other people should like it." Accordingly, he has refused to handle many of the items offered by this applicant.

Raymond H. Kasser, of Kasser Distillers Products Corp., a New Jersey plenary wholesale licensee, testified that his company operates in eight states and, in his opinion, the applicant is "well known to cause disorderly marketing procedures because of exceptionally low prices" (in other states). It was his further contention that the only way that this applicant can operate profitably is by reducing prices which would have the effect of disrupting the market.

On cross examination he admitted that he is opposed to any additional licenses because "Additional competition, speaking about the industry as a whole, could only ultimately result in additional disorderliness in the market."

I then asked this witness the following: "Assuming a person lives up to all the regulations regarding the operation of his business and the industry", would there be any objection? His reply: "Yes, there would be no objection."

Goldstein, called in rebuttal, denied that the issuance of this license would have any appreciable effect on the industry, and added, "I do not intend to remove any of my brands from any of the wholesalers I do business with in the State of New Jersey. We intend to come in with items which are not available in the State of New Jersey which are unique and I believe that we will have, get some customers, and I don't see how this will take away anything from any of the wholesalers in the State of New Jersey today."

I have made a careful analysis of the voluminous transcript and the reasoned argument of competent counsel for both the applicant and the objector. From my evaluation thereof, I make the following findings:

1. Applicant is an experienced distributor of wines and other alcoholic beverage products, and presently distributes its products in twenty-eight states. It, therefore, would bring to the state a vast background knowledge of such operations. Thus, this application differs from that in Re Volpe, Bulletin 1313, Item 4; aff'd Volpe v. Division of Alcoholic Beverage Control (1960), not officially reported, reprinted in Bulletin 1332, Item 1, wherein that applicant for a plenary winery license had no prior experience in the winery business.

2. Applicant distributes products which are unique, distinctive and have characteristics which are unlike other products distributed in this state. This is particularly true of the sucaryl-sweetened kosher wine, which does not contain the side effects associated with other brands of artificially sweetened kosher wine.

3. The applicant has established by a prima facie showing that there would be a convenience and advantage for its products in this state. In its broadest application, this means that such issuance would not be detrimental to the public interest and the public welfare. Re Joeli Wine Distributors, Inc., Bulletin 1390, Item 10; Re Dodd Importers & Distributors, Inc., Bulletin 1597, Item 8.

4. I am persuaded that the applicant can effect a reasonable and satisfactory distribution of all of its products only by the issuance of such license. The testimony adequately demonstrates that it is now limited in its distribution of some of its major products because other wholesalers refuse to handle them. Their reasons appear to be (a) that it will be in competition with products already handled by them and (b) as in the case of the Reitman complex, products will not be handled which are not personally acceptable to or meet the specifications of the Chairman of the Board. It might be significantly added that the applicant, in addition to its own distribution of the products, intends to continue to distribute its products through those wholesalers who are presently engaged in selective and limited distribution of some of its products.

5. The approval of this application will not materially disrupt the present market or seriously affect the competitive position of other wholesalers. As the Director recently (1962) noted in Re Admiral Wine Co., Inc., Bulletin 1460, Item 7, this Division is not prepared to state that there is no public need or necessity, based on the present market, for the issuance of such (plenary wholesale) license.

6. My examination of the record of liquor law and regulation violations heretofore by this applicant in other states satisfies me that they were of a technical nature, similar to those of some major national manufacturers and distillers, and not so serious as to warrant the rejection of this application. It is, of course, unnecessary to point out that any violation of the Division rules and regulations by this applicant, or any other mischievous conduct on its part in its operations, would subject it, in disciplinary proceedings, to suspension or even revocation of the said license.

7. Under the facts and circumstances in this case, it is my view that the issuance of this license to permit the applicant to operate competitively with products geared to a receptive market, would be in the public interest. Cf. Mauriello v. Driscoll, 135 N.J.L. 220 (Sup. Ct. 1947).

8. I conclude that the objections realised in the challenge to this application are without substantial merit.

Accordingly, therefore, it is my determination that the preponderant evidence herein is sufficient to establish a public need and advantage for the license applied for by the applicant, and I recommend that the said license be issued upon compliance with all procedural requirements. Re Duggan's Distillers Products Corp., Bulletin 1244, Item 9; Monsieur Henri Wines Ltd., Bulletin 1260, Item 6.

### Conclusions

The objector filed exceptions to the Hearer's report and oral argument was presented before me in this matter.

The legal question is raised as to whether or not issuance of a plenary wholesale license to this partnership applicant would result in violation of the provisions of P.L. 1966, Chapter 58, amending R.S. 33:1-43 (effective June 2, 1966, subsequent to rendition of the Hearer's report on April 26, 1966), the pertinent portion of which is as follows:

"It shall be unlawful for any owner, part owner, stockholder or officer or director of any corporation, or any other person or corporation whatsoever interested in any way whatsoever in any winery, distillery, or rectifying and blending plant, to conduct, own either whole or in part, or be directly or indirectly interested in the business of any licensee for the sale at wholesale to licensed retailers in New Jersey of any alcoholic beverages, other than malt alcoholic beverages, and such interest shall include any payments or delivery of money or property by way of loan or otherwise accompanied by an agreement to sell the product of said winery, distillery or rectifying and blending plant; except that the foregoing shall not apply in the case of a licensee for the sale at

wholesale who on July 1, 1965, and thereafter until the effective date of this act, shall have filed for publication by the Division of Alcoholic Beverage Control price listings for brands of alcoholic beverages pursuant to the rules and regulations of the Division of Alcoholic Beverage Control."

The record discloses, and it was admitted on oral argument, that the respective members of the partnership applicant for the plenary wholesale license are stockholders, officers and directors of a corporation operating a winery, and a rectifying and blending plant, located in Hartford, Connecticut. It is also undisputed that the applicant's purpose in seeking the license is to enable sales of alcoholic beverages to retailers in this State, including those bottled and otherwise processed in the Hartford plant.

The issue, succinctly stated, therefore, is whether the partnership applicant should be issued a license to sell alcoholic beverages at wholesale to licensed retailers in view of the above community of interest between the partnership applicant and the corporate operator of the winery and rectifying and blending plant.

The issue must be resolved in the negative. It is patent from a reading of the cited legislation that the partnership, even though holding a license, could not engage in sales to retailers without bringing into play the statutory interdiction against a winery or rectifying and blending plant having an interest in a "wholesaler to retailer" business in this State.

Accordingly, I am constrained to deny, and do hereby deny, the instant application for plenary wholesale license.

JOSEPH P. LORDI;  
DIRECTOR

Dated: October 3, 1966.

## 3. RECAPITULATION OF ACTIVITY FOR QUARTERLY PERIOD FROM JULY 1, 1966 THROUGH SEPTEMBER 30, 1966

|  | <u>JULY</u> | <u>AUGUST</u> | <u>SEPTEMBER</u> | <u>TOTAL</u> |
|--|-------------|---------------|------------------|--------------|
| <b>ARRESTS:</b>  |             |               |                  |              |
| Total number of persons arrested   | 18          | 16            | 26               | 60           |
| Licensees and employees  | 14          | 7             | 8                | 29           |
| Bootleggers  | 4           | 9             | 18               | 31           |
| <b>SEIZURES:</b>   |             |               |                  |              |
| Motor vehicles - cars  | -           | 1             | -                | 1            |
| Stillis - 50 gallons or under  | 1           | 1             | 1                | 3            |
| Alcohol - gallons  | -           | 32            | .80              | 32.80        |
| Mash - gallons   | -           | 100           | 300              | 400          |
| Distilled alcoholic beverages- gallons                                     | 1.25        | 3.88          | 16.15            | 21.28        |
| Wine - gallons   | -           | .95           | 38.89            | 39.82        |
| Brewed malt alcoholic beverages - gallons                                  | 7.47        | 16.53         | 58.44            | 82.44        |
| <b>RETAIL LICENSEES:</b>   |             |               |                  |              |
| Premises inspected   | 417         | 687           | 795              | 1,899        |
| Premises where alcoholic beverages were gauged                             | 337         | 566           | 655              | 1,558        |
| Bottles gauged   | 5,757       | 9,183         | 10,125           | 25,065       |
| Premises where violations were found                                       | 77          | 90            | 65               | 232          |
| Violations found   | 116         | 160           | 139              | 415          |
| Unqualified employees  | 57          | 97            | 100              | 254          |
| Application copy not available   | 16          | 13            | 12               | 41           |
| Reg. #38 sign not posted   | 14          | 14            | 6                | 34           |
| Other mercantile business  | 8           | 7             | 6                | 21           |
| Disposal permit necessary  | 3           | 5             | 2                | 10           |
| Prohibited signs   | 3           | 6             | -                | 9            |
| Improper beer taps   | 1           | -             | 1                | 2            |
| Other violations   | 14          | 18            | 12               | 44           |
| <b>STATE LICENSEES:</b>  |             |               |                  |              |
| Premises inspected   | 21          | 36            | 33               | 90           |
| License applications investigated  | 19          | 14            | 7                | 40           |
| <b>COMPLAINTS:</b>   |             |               |                  |              |
| Complaints assigned for investigation                                      | 360         | 384           | 353              | 1,097        |
| Investigations completed   | 342         | 334           | 393              | 1,069        |
| Investigations pending   | 238         | 297           | 204              | (204)        |
| <b>LABORATORY:</b>   |             |               |                  |              |
| Analyses made  | 84          | 57            | 91               | 232          |
| Refills from licensed premises - bottles                                   | 71          | 23            | 61               | 155          |
| Bottles from unlicensed premises   | 1           | 4             | 1                | 6            |
| <b>IDENTIFICATION:</b>   |             |               |                  |              |
| Criminal fingerprint identifications made                                  | 8           | 10            | 10               | 28           |
| Persons fingerprinted for non-criminal purposes                            | 626         | 497           | 380              | 1,503        |
| Ident. contacts made with other enforcement agencies                       | 373         | 334           | 243              | 950          |
| <b>DISCIPLINARY PROCEEDINGS:</b>   |             |               |                  |              |
| Cases transmitted to municipalities  | 9           | 6             | 6                | 21           |
| Violations involved  | 10          | 6             | 7                | 23           |
| Sale to minors   | 5           | 3             | 3                | 11           |
| Sale during prohibited hours   | 5           | 3             | 2                | 10           |
| Failure to close prem. during prohibited hours                             | -           | -             | 1                | 1            |
| Sale to non-members by club  | -           | -             | 1                | 1            |
| Cases instituted at Division   | 22          | 10            | 27               | 59           |
| Violations involved  | 21          | 11            | 36               | 68           |
| Possessing liquor not truly labeled  | 6           | 2             | 8                | 16           |
| Sale to minors   | 6           | 3             | 2                | 11           |
| Sale during prohibited hours   | -           | 1             | 8                | 9            |
| Permitting lottery activity on premises                                    | 4           | -             | 2                | 6            |
| Permitting foul language on premises                                       | 1           | 1             | 1                | 3            |
| Beverage Tax Law non-compliance  | -           | 1             | 1                | 2            |
| Conducting business as a nuisance  | -           | -             | 2                | 2            |
| Sale to intoxicated persons  | -           | 1             | 1                | 2            |
| Fraud in application   | -           | -             | 2                | 2            |
| Permitting bookmaking on premises  | 2           | -             | -                | 2            |
| Sale outside scope of license  | 1           | -             | -                | 1            |
| Permitting immoral activity on premises                                    | 1           | -             | -                | 1            |
| Permitting brawl on premises   | -           | 1             | -                | 1            |
| Open container on "D" premises   | -           | 1             | -                | 1            |
| Permitting gambling on premises  | -           | -             | 1                | 1            |
| Failure to file notice of change in application                            | -           | -             | 1                | 1            |
| Consumption by minor in viol. of permit                                    | -           | -             | 1                | 1            |
| Employee working while intoxicated   | -           | -             | 1                | 1            |
| Unqualified employee   | -           | -             | 1                | 1            |
| Mislabeled beer taps   | -           | -             | 1                | 1            |
| Possessing pinball machine on premises                                     | -           | -             | 1                | 1            |
| Sale on Primary Election Day   | -           | -             | 1                | 1            |
| Act or happening   | -           | -             | 1                | 1            |
| Cases brought by municipalities on own Initiative and reported to Division | 20          | 22            | 16               | 58           |
| Violations involved  | 26          | 28            | 19               | 73           |
| Sale to minors   | 10          | 14            | 6                | 30           |
| Permitting brawl on premises   | 2           | 1             | 4                | 7            |
| Sale during prohibited hours   | 1           | 1             | 2                | 4            |

|  | <u>JULY</u> | <u>AUGUST</u> | <u>SEPTEMBER</u> | <u>TOTAL</u> |
|--|-------------|---------------|------------------|--------------|
| <b>DISCIPLINARY PROCEEDINGS (Continued)</b>  |             |               |                  |              |
| Cases brought by municipalities on own initiative and reported to Division (Continued) |             |               |                  |              |
| Failure to close premises during prohibited hours                                      | 3           | -             | 1                | 4            |
| Permitting gambling on premises  | 1           | -             | 2                | 3            |
| Permitting persons of ill repute on premises   | 3           | 3             | -                | 6            |
| Permitting immoral activity on premises  | 3           | -             | -                | 3            |
| Unqualified employee   | -           | 2             | -                | 2            |
| Permitting bookmaking on premises  | -           | 2             | -                | 2            |
| Permitting lottery on premises   | -           | 1             | -                | 1            |
| Hindering investigation  | -           | -             | 1                | 1            |
| Employment w/o ident. card (local reg.)  | -           | 1             | -                | 1            |
| Consumption on distribution premises   | 1           | -             | -                | 1            |
| Conducting business as a nuisance  | -           | 1             | 3                | 4            |
| Opened container on "D" premises   | 1           | -             | -                | 1            |
| Permitting foul language on premises   | 1           | 1             | -                | 2            |
| Act of violence  | -           | 1             | -                | 1            |
| <b>HEARINGS HELD AT DIVISION:</b>  |             |               |                  |              |
| Total number of hearings held  | 24          | 39            | 44               | 107          |
| Appeals  | 4           | 7             | 9                | 20           |
| Disciplinary proceedings   | 18          | 19            | 16               | 53           |
| Eligibility  | 2           | 13            | 16               | 31           |
| Tax revocations  | -           | -             | 2                | 2            |
| Application for license  | -           | -             | 1                | 1            |
| <b>STATE LICENSES AND PERMITS ISSUED:</b>  |             |               |                  |              |
| Total number issued  | 2,442       | 1,626         | 1,401            | 5,469        |
| Licenses   | 668         | 21            | 1                | 690          |
| Solicitors' permits  | 61          | 62            | 55               | 178          |
| Employment permits   | 613         | 517           | 354              | 1,484        |
| Disposal permits   | 60          | 79            | 46               | 185          |
| Social affair permits  | 400         | 476           | 488              | 1,364        |
| Miscellaneous permits  | 330         | 191           | 211              | 732          |
| Wine permits   | 5           | 4             | 43               | 52           |
| Transit insignia   | 281         | 245           | 177              | 703          |
| Transit certificates   | 24          | 31            | 26               | 81           |
| <b>OFFICE OF AMUSEMENT GAMES CONTROL:</b>  |             |               |                  |              |
| Licenses issued  | 16          | 2             | 1                | 19           |
| State Fair licenses issued   | 50          | 85            | 58               | 193          |
| Premises inspected   | 509         | 580           | 68               | 1,157        |
| Premises where violations were found   | 64          | 15            | 2                | 81           |
| Number of violations found   | 72          | 20            | 2                | 94           |
| Enforcement files established  | 64          | 12            | 6                | 82           |
| Disciplinary proceedings instituted at Division  | -           | 2             | 1                | 3            |
| Violations involved  | -           | 2             | 2                | 4            |
| Redemption of prize for money  | -           | 2             | -                | 2            |
| Fraud and front  | -           | -             | 1                | 1            |
| Failure to file change in application  | -           | -             | 1                | 1            |

JOSEPH P. LORDI  
 Director of Alcoholic Beverage Control  
 Commissioner of Amusement Games Control

Dated: October 24, 1966

4. DISCIPLINARY PROCEEDINGS - SALE IN VIOLATION OF STATE REGULATION NO. 38 - PRIOR SIMILAR AND DISSIMILAR RECORD - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary  
Proceedings against

Maria Alejandro and Luis Alejandro  
34 Wayne St.,  
Jersey City, N. J.,

Holders of Plenary Retail Consumption  
License C-232, issued by the Municipal  
Board of Alcoholic Beverage Control of  
the City of Jersey City.

CONCLUSIONS  
AND  
ORDER

Lo Piano & Gallagher, Esqs., by Jeanne P. Gallagher, Esq.,  
Attorneys for Licensees  
Edward F. Ambrose, Esq., Appearing for Division of Alcoholic  
Beverage Control

BY THE DIRECTOR:

Licensees plead non vult to a charge alleging that on Sunday, September 18, 1966 they sold a pint bottle of whiskey for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Licensees have a previous record of suspension of license by the municipal issuing authority for ten days effective October 28, 1963 for permitting a brawl on the licensed premises, and by the Director for fifteen days effective January 6, 1966, for sale in violation of State Regulation No. 38. Re Alejandro Bulletin 1657, Item 5.

The prior record of suspension of license for similar violation within the past five years considered, the license will be suspended for thirty days (Re Alsto Enterprises, Inc., Bulletin 1686, Item 5), to which will be added five days by reason of the record of suspension for dissimilar violation occurring within the past five years (Re Manruff Corp., Bulletin 1691, Item 1), or a total of thirty-five days, with remission of five days for the plea entered, leaving a net suspension of thirty days.

Accordingly, it is, on this 6th day of October, 1966,

ORDERED that Plenary Retail Consumption License C-232, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Maria Alejandro and Luis Alejandro, for premises 34 Wayne Street, Jersey City, be and the same is hereby suspended for thirty (30) days, commencing at 2 a.m. Thursday, October 13, 1966, and terminating at 2 a.m. Saturday, November 12, 1966.

JOSEPH P. LORDI,  
DIRECTOR



5. 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

Angel Luis Rivera  
t/a Rivera's Bar  
352 Montgomery St.  
Jersey City, N. J.

CONCLUSIONS  
AND  
ORDER

Holder of Plenary Retail Consumption )  
License C-467, issued by the Muni- )  
cipal Board of Alcoholic Beverage )  
Control of the City of Jersey City )  
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Licensee, Pro se.

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

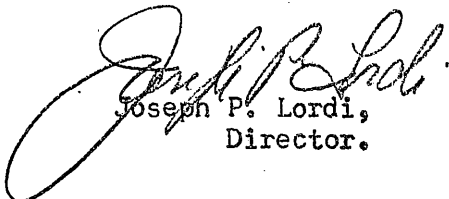
BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on Sunday, September 18, 1966, he sold a pint bottle of whiskey 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 Fixler, Bulletin 1693, Item 9.

Accordingly, it is, on this 11th day of October, 1966,

ORDERED that Plenary Retail Consumption License C-467, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Angel Luis Rivera, t/a Rivera's Bar, for premises 352 Montgomery Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. Tuesday, October 18, 1966, and terminating at 2:00 a.m. Friday, October 28, 1966.

  
Joseph P. Lordi,  
Director.