

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

BULLETIN 2060

August 30, 1972

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

BULLETIN 2060

August 30, 1972

1. COURT DECISIONS - SILVER CREST MOTELS, INC. - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-519-71

In the Matter of Disciplinary
Proceedings Against

Silver Crest Motels, Inc.
t/a Silver Crest Motor Lodge
1609 Georges Road
North Brunswick Township
P.O. New Brunswick, N. J.

Holder of Plenary Retail Consumption
License C-18, issued by the Township
Committee of North Brunswick Township.

Argued June 12, 1972 - Decided June 27, 1972.

Before Judges Sullivan, Leonard and Carton.

On appeal from Division of Alcoholic Beverage Control.

Mr. John K. Cooper argued the cause for licensee-appellant
(Messrs. Meth & Wood, attorneys).

Mr. David S. Piltzer, Deputy Attorney General, argued the cause
for respondent, Division of Alcoholic Beverage Control
(Mr. George F. Kugler, Jr., Attorney General of New Jersey,
attorney).

PER CURIAM

(Appeal from the Director's decision in Re: Silver Crest Motels, Inc.,
Bulletin 2019, Item 1. Director affirmed. Opinion not approved
for publication by Court Committee on Opinions).

2. COURT DECISIONS - ARTIE WEBER'S TAVERN, INC. - DIRECTOR AFFIRMED.

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
A-949-71

In the Matter of Disciplinary
Proceedings against

Artie Weber's Tavern, Inc.
560 Newark Avenue
Jersey City, New Jersey

Holder of Plenary Retail Consumption
License C-244 (for 1970-71 and 1971-72 license
periods), issued by the Municipal Board of
Alcoholic Beverage Control of the City of
Jersey City.

Argued June 19, 1972 - Decided June 28, 1972.

Before Judges Sullivan, Leonard and Carton.

On appeal from Division of Alcoholic Beverage Control.

Mr. Leonard Meyerson argued the cause for licensee-appellant
(Messrs. Miller, Hochman, Meyerson & Miller, attorneys; Mr. Gerald
D. Miller, of counsel and on the brief).

Mr. David S. Piltzer, Deputy Attorney General, argued the cause
for respondent Division of Alcoholic Beverage Control (Mr.
Geroge F. Kugler, Jr., attorney).

PER CURIAM

(Appeal from the Director's decision in Re Artie Weber's Tavern, Inc.
Bulletin 2023, Item 4. Director affirmed. Opinion not approved
for publication by Court Committee on Opinions).

3. NOTICE TO WHOLESALE AND RETAIL DISTRIBUTORS AND ADVERTISERS - CONTEST
PROMOTING INDIVIDUAL BRANDS OR SUPPLIERS DISAPPROVED.

Playboy Promotion Department

Chicago, Illinois

Gentlemen:

Our attention has been directed to a contest which you propose conducting which will involve New Jersey retail licensees and the consuming public in New Jersey.

It appears that the contest will be conducted as follows: Members of the public may devise displays using J & B Rare Scotch summer promotional materials and submit such displays to retail licensees. Photographs of their J & B displays installed in retail licensed premises will be sent to your Promotional Department and winners will be notified by mail. The first ten winners, who will be members of the public, will receive a lifetime subscription to Playboy magazine presented by a real, live Playboy Bunny. In addition, an intimate cocktail party for the winning person, his family and the retailer who featured the display designed by the member of the public, will be held at a Playboy Club nearest to the home of the winner. Photos will be taken and presented to the winner.

The particular retailer who features the display of a winner will also receive a one year subscription to Playboy magazine as his prize.

We have long and consistently disapproved of a manufacturer or wholesaler of alcoholic beverages advertising itself or its products in New Jersey through any type of contest in which awards are made to the public. We are of the opinion that the public should not be made alcoholic beverage conscious through the use of contests and that any such promotional plans are contrary to sound alcoholic beverage control in this State.

In our opinion the alcoholic beverage industry, in engaging in controversial advertising of this nature which can lead itself to severe criticism, is needed short-sighted and ignores constantly flashing danger signals which are evidenced, in so many instances, by highly critical congressional reports. Abuses of the advertising privilege can only lead to severe curtailment, if not total elimination, of that privilege in the alcoholic beverage field.

Pertinent to the instant problem is Rule 14 of State Regulation No. 34 prohibiting liquor manufacturers or wholesalers from conducting or participating in contests promoting the sale and distribution of alcoholic beverages and Rule 11 of the same regulation prohibiting them from furnishing, directly or indirectly, anything of value to retailers. It is axiomatic, therefore, that the manufacturer or any wholesale distributor of the brand would be precluded from conducting a contest of this nature and from distributing prizes in connection therewith. Where, as here, the competition is based upon the efforts of retailers to promote a specific brand of whiskey, the manufacturer and wholesale distributors of that brand have a very real interest in the contest. Although it may well be, as you state, that the cost of the contest, including prizes, would be defrayed by your publication, nevertheless, the fundamental effect is the same, viz., rewards to retailers resulting from participation in a contest which serves the definite interests of a specific manufacturer or group of wholesalers. What licensees may not do directly may not be accomplished through means not directly available to them. To determine otherwise would be to nullify the very purposes designed to be accomplished by the rules.

Accordingly, you are advised that the contest, limited as it is to the promotion of a specific brand of whiskey, is disapproved.

A contest of this nature run and paid for, in toto, by your publication would not be objectionable if it related to no specific brand or brands of alcoholic beverages.

Very truly yours,
ROBERT E. BOWER
DIRECTOR

4. DISCIPLINARY PROCEEDINGS - VIOLATION OF BROAD PACKAGE PRIVILEGE - CHARGE DISMISSED.

In the matter of Disciplinary Proceedings against)

Town House Liquors and Bar, Inc.)
449 Route 23)
Pequannock Township)
PO Pompton Plains, N.J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-6, issued by the Township Committee of the Township of Pequannock.)

-----)
Nochimson, Irwin and Larsen, Esqs., by Herbert W. Irwin, Esq.,
Attorneys for Licensee
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

The Hearer has filed the following report herein:

Hearer's Report

Licensee pleaded not guilty to the following charges:

- "1. On February 6, 1970, and divers occasions prior thereto, you the holder of a plenary retail consumption license without the broad package privilege, displayed for sale alcoholic beverages in original containers for off-premises consumption other than in a bona fide public barroom of your licensed premises; in violation of Rule 1 of State Regulation No. 32.
- "2. On February 6, 1970, and divers occasions prior thereto, you the holder of a plenary retail consumption license without the broad package privilege, displayed for sale alcoholic beverages in original containers for off-premises consumption other than in the public barroom of your licensed premises; in violation of R.S. 33:1-12.23."

The licensee is the holder of a plenary retail consumption license without the broad package privilege. The licensed premises consist of one room which contains a bona fide bar, twenty feet long, two feet wide and thirty-nine inches high, and is equipped with a sink with hot and cold running water. There are twelve stools at the bar. There is also a service counter ten feet in length, and one cash register located in the corner area of the bar. Photos admitted into evidence show a planter forty-two inches in height,

which separates the dining area of these premises. Ex parte approval for the placement of this barrier was given by this Division to the licensee on February 24, 1961. The said approval was never withdrawn.

Since 1967, the licensee was informed by this Division that various stacked cases of alcoholic beverages and display were placed alongside of the said barrier, which were placed for the purpose of displaying for sale package goods in an area separated from the public barroom.

By reason of the fact that these displays were allegedly in violation of State Regulation No. 32 and R.S. 33:1-12.23, the Division, after numerous warnings to the licensee, preferred the above charges.

ABC agent P visited the premises on February 6, 1970, pursuant to a specific assignment and took photographs of the interior of the said premises. The photographs, which were admitted into evidence, show the position of the bar on the right side of the premises upon entry and show the planter-type fence in the center of the store. To the left of the planter were various cases of alcoholic beverages, and the left side of the premises contained display shelves fully stocked with alcoholic beverages.

He testified that the planter is approximately forty-two to forty-four inches high, and the cartons of cases next to the planter were about forty-six to forty-eight inches high. There was also a cigarette machine located to the rear of the store on the right side of the planter. Tables and chairs were located on the left side of the planter, as were other cases of alcoholic beverages.

ABC agent M participated in this investigation and testified that "I couldn't at this time say whether [the licensee was] operating as a package store or bar. It looked like neither; a combination of both." He also admitted that these cases of alcoholic beverages did not contain any price tags, and that they were

"just cases of whiskey right there".

He did not measure the height of the stacks of cases but he estimated that some of them were as high "as the planter".

Peter Sehotanus, the secretary-treasurer of the corporate licensee, gave the following account:

The licensed premises are contained in one room and has a twenty-four foot bar, which has a cash register located at the end of the bar. This is the only cash register in the premises and all patrons transact their business at the bar or counter. He insisted that these cases of alcoholic beverages were stored on the floor of the premises because of lack of storage facilities. However, as of the date of the hearing "It has been all cleaned up; not a single case around."

He further stated that at no time were these package goods ever stacked to a height of more than forty-two inches, which is the height of the planter.

Finally he asserted that the planter was placed in these premises by special authorization of this Division. He added that the tables and chairs on the left side of the planter are below the height of the planter.

Rule No. 1 of State Regulation No. 32, insofar as is applicable, states that:

"No holder of a plenary retail consumption license ... shall sell or display for sale any alcoholic beverage in the original container for off-premises consumption except from or in the bona fide public barroom of the licensed premises (the privilege to engage in such sale and display in other than such barroom being known as the 'Broad Package Privilege')...."

The license does not have the broad package privilege and does not come within the exceptions noted in the said regulation.

The wording of this regulation follows the language in R.S.

33:1-12.23, which states as follows:

"The holder of a plenary retail consumption license or a seasonal retail consumption license, after the effective date of this act (May 28, 1948) may sell and display for sale alcoholic beverages in original containers for consumption off the licensed premises only in

the public barroom of the licensed premises, such barroom being a room containing a public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises...."

In Coral Lounge and Cocktail Bar, Inc., v. Hock, 5 N.J.

Super. 163, 167 (App. Div. 1949), Judge Colie said:

"The requisite standard or guide appears in the section (R.S. 33:1-12.23) under attack wherein a barroom is defined as 'a room containing a public bar, counter or similar piece of equipment' ... it seems clear to us that a barroom means that portion included within the four walls of the room in which the bar is located."

Vide: Eskridge v. Division of Alcoholic Beverage Control, 30 N.J. Super. 472, 476 (App. Div. 1954); Passaic County Retail Liquor Dealers' Ass'n v. Paterson, et als., 37 N.J. Super. 187, 194 (App. Div. 1955); Borough of Totowa v. Chicken Barn, Inc., et al, 41 N.J. Super. 459, 463 (App. Div. 1956).

I find that the premises in question consist of one room within four walls and is in all respects a bona fide barroom.

I further find that the planter which was authorized by this Division does not so effectively separate and partition this room so as to render the package section of the room a portion of licensed premises other than a public barroom.

It should be noted that the planter was only forty-two inches high and, according to the testimony of the agent and the photographs, the cases of whiskey, wine and beer did not produce such an effective partition as would make for a separate room.

In Hrabar v. Hock, 5 N.J. Super. 162, the court considered the effect of a partition four feet or waist high in a barroom. Notwithstanding the finding of the Director therein, said the court (at p.163):

"...the so-called package department was separated from the barroom by a partition four feet or waist high which was insufficient, in the judgment of the Director, to make the

package department 'a portion of the licensed premises other than a public barroom'. In that finding we concur."

The attorney for the Division argues that the piling of cases of beer, wine and so forth, causes obstacles and clutters up the floor in violation of the relevant section, and cites Nomat, Inc., v. Township Committee of the Township of Maple Shade, Bulletin 1734, Item 2.

In that case the respondent refused to approve the revised plans and specifications of a building to be constructed because as to which appellant's application for renewal of its license had been granted subject to completion-of-premises special condition based on previous plans and specifications.

The respondent contended that under the plans and specifications as submitted the principal appearance of the interior would be misconstrued.

Said the Director:

"In essence, respondent contends that compliance with the 'Broad Package Privilege Law' should be measured by whether the principal appearance of the interior and exterior of the licensed premises is a barroom or a liquor store. However, from the date of adoption of such law in 1948, this Division has consistently construed the definitional section of such statute as being exclusive, permitting no implementation, by way of interpretation, regulation, ordinance or special condition, that would superimpose an 'appearance' requirement upon the definition of a 'public barroom' contained therein. The statute contains no limitations with respect to the appearance of the interior layout of a barroom other than that it must contain a 'public bar, counter or similar piece of equipment designed for and used to facilitate the sale and dispensing of alcoholic beverages by the glass or other open receptacle for consumption on the licensed premises,' and that the sale and display for sale of package goods must take place only in such barroom, not from any other area separate and apart from the barroom. Passaic County Retail Liquor Dealers' Ass'n v. Paterson, et als. supra. The statute may not be enlarged upon in the name of local discretion.

I find that the licensee displayed package goods for sale in the public barroom and within the four walls of the said public barroom.

Accordingly, I conclude that the licensee has not violated the aforementioned statute and regulation of this Division and, therefore, recommend that the said charges be dismissed.

Conclusions and Order

Written exceptions to the Hearer's report were filed by the attorney for the Division pursuant to Rule 6 of State Regulation No. 16. Additionally, oral argument was held before me.

Having carefully considered the entire record herein, including transcript of the testimony, the exhibits, the Hearer's report, and the exceptions with supportive written and oral argument addressed to the Hearer's report which I find lacking in merit, I concur in the findings and conclusions of the Hearer and adopt them as my conclusions herein.

Accordingly, it is, on this 22nd day of June 1972,

ORDERED that the charges herein be and the same are hereby dismissed.

ROBERT E. BOWER
DIRECTOR

- 5. DISCIPLINARY PROCEEDINGS - SALE TO NON-MEMBERS - LOCAL HOURS VIOLATION - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
Cohanzick Country Club
West side Bridgeton-Fairton County Road
Fairfield Township
P.O. Box 117, Fairton, N. J.,
Holder of Club License CB-1, issued by the
Township Committee of the Township of
Fairfield.

CONCLUSIONS
and
ORDER

N.Douglas Russell, Esq., Attorney for Licensee
Peter E. Rhatican, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to two charges alleging that on Sunday, March 26, 1972, between 12:45 p.m. and 1:30 p.m., it (1) sold alcoholic beverages to non-members or to persons not bona fide guests of members, in violation of Rule 8 of State Regulation No. 7, and (2) violated the local "hours" ordinance.

Absent prior adjudicated record within the past ten years, the license will be suspended on the first charge for fifteen days (Re Royal Club of Beverly, Bulletin 2006, Item 4) and for fifteen days on the second charge (Re Jadlyn Inc., Bulletin 2041, Item 5), making a total of thirty days, with remission of five days for the plea entered, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 28th day of June 1972,

ORDERED that any renewal that may be granted of Club License CB-1 by the Township Committee of the Township of Fairfield to Cohanzick Country Club, for premises West side Bridgeton-Fairton County Road, Fairfield, be and the same is hereby suspended for twenty-five (25) days,*commencing at 2 a.m. Monday, July 10, 1972, and terminating at 2 a.m. Friday, August 4, 1972.

ROBERT E. BOWER
DIRECTOR

* Amended Order dated July 12, 1972 deferred dates of suspension of license for 25 days commencing 12:01 a.m. Sunday, August 6, 1972 and terminating at 7:00 a.m. Thursday, August 31, 1972.

6. DISCIPLINARY PROCEEDINGS - VIOLATION OF RULE 1 OF STATE REGULATION NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
A & M Bar & Grill, Inc.
t/a Manati Bar & Restaurant
229 Park Avenue
Paterson, N. J.,
Holder of Plenary Retail Consumption License C-274, issued by the Board of Alcoholic Beverage Control for the City of Paterson.

CONCLUSIONS
and
ORDER

Licensee, Pro se
Dennis M. Brew, Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 18, 1971, at about 11:05 p.m., it sold alcoholic beverages for off-premises consumption, in violation of Rule 1 of State Regulation No. 38.

Absent prior record, the license would normally be suspended for fifteen days, with remission of five days for the plea entered, leaving a net suspension of ten days. Re Ryglicki, Bulletin 2046, Item 6.

However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$400 in lieu of suspension.

Accordingly, it is, on this 28th day of June 1972,

ORDERED that the payment of a fine in the amount of \$400 by the licensee is hereby accepted in lieu of the suspension of license for ten (10) days.

Robert E. Bower
Director

7. RECAPITULATION OF ACTIVITY BY QUARTERLY PERIODS FROM JULY 1, 1971 TO JUNE 30, 1972

	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			Total
	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	
ARRESTS:													
Total number of persons arrested	151			115			135			146			547
Licensees and employees	54			48			50			53			205
Bootleggers	21			16			27			25			89
Minors	75			51			57			63			251
Disorderly Person	1			-			-			-			1
ABC Impersonator	-			-			1			-			1
SEIZURES:													
Motor vehicles - cars	1			-			1			4			6
Stills - 50 gallons or under	1			2			-			4			7
Alcohol - gallons	50			41			.25			295			384.25
Mash - gallons	825			105						1,925.50			2,855.50
Distilled alcoholic beverages - gallons	34.937			128.96			49.245			15.80			228.942
Wine - gallons	62.025			59.223			35.375			3.53			160.153
Brewed malt alcoholic beverages - gallons	222.769			152.393			322.09			77.53			774.782
COMPLAINTS AND INVESTIGATIONS:													
Insp. & visit made on assgn. investigations	3,783			4,300			6,140			5,334			20,057
Complaints assigned for investigation	976			970			1,080			1,140			4,166
Investigations completed	1,025			917			1,054			1,129			4,125
Investigations pending	(320)			(357)			(373)			(1,157)			
Premises where alc. beverages were gauged	966			1,450			1,782			2,149			6,347
Bottles gauged	15,807			23,014			28,890			36,493			104,204
Premises where violations were found	462			597			628			722			2,409
Number violations found	708			797			925			1,034			3,464
License applications investigated	30			12			19			45			104
Contact with other law enforcement agencies	701			1,131			787			1,294			3,913
LABORATORY:													
Analyses made	288			449			262			240			1,239
Refills from licensed premises - bottles	184			333			137			147			801
Bottles from unlicensed premises	22			31			34			22			109
IDENTIFICATION:													
Criminal fingerprint identification made	75			46			143			45			309
Persons fingerprinted non-criminal purposes	1,509			1,045			797			1,582			4,933
Ident. contact w/other enforcement agencies	967			657			602			1,151			3,377
MV Ident. made via N.J. State Police teletype	1			-			-			-			1
DISCIPLINARY PROCEEDINGS:													
Cases transmitted to municipalities	4			2			-			-			6
Violations involved	4			2			-			-			6
Sale during prohibited hours	1			-			-			-			1
Sale to minors	3			1			-			-			4
Fail to close prem. during proh. hours	-			1			-			-			1
Cases instituted at Division	88			88			98*			129			403*
Violations involved	108			103			110			146			467
Sale to minors	29			25			33			31			128
Sale during prohibited hours	11			14			9			44			78
Possessing liquor not truly labeled	9			5			13			19			46
Permitting lottery acty. on premises	5			10			7			4			26
Fraud and front	3			8			9			10			30
Permitting immoral activity on premises	7			5			6			5			23
Permitting misc. gambling on premises	4			4			4			1			13
Purchase from improper source	1			2			9			6			18
Hindering investigation	-			4			5			1			10
Possessing indecent matter	4			4			1			3			12
Sales to non-members by club	3			2			2			4			11
Failure to keep true books of account	1			3			3			1			8
Permitting bookmaking on premises	4			2			-			-			6
Failed to close prem. during proh. hours	4			2			-			-			6
Unqualified employees	3			1			-			-			4
Sale to retailer while on Non-Delivery	-			-			4			-			4
Fraud in application	3			1			-			1			5
Permitting hostess activity on premises	2			-			1			1			4
Permitting foul language on premises	1			1			1			-			3
Permitting lottery & bookmaking on premises	1			1			1			-			3
Sales outside scope of license	1			1			-			-			2
Permitting narcotic activity on premises	2			-			-			-			2
Perm. lott., bookmaking, & misc. gambi.	1			1			-			-			2
Sales below filed price	2			-			-			4			6
Possession contraceptives on premises	2			-			-			1			3
Permitting brawl, etc. on premises	1			1			-			1			3
Single instance of other violations	3			6			2			9			20
Cases brought by mun. on own initiative	65			54			71			98			286
Violations involved	81			62			85			145			371
Sale to minors	31			23			33			61			148
Sale during prohibited hours	9			8			3			10			30
Fail close prem. during proh. hours	5			5			8			-			18
Permitting brawl, etc. on premises	4			3			6			9			22
No copy license application on premises	-			-			-			5			5

*Includes one cancellation proceeding - license improvidently issued in that licensee was not a bona fide club at time of issuance of license.

	1st Quarter			2nd Quarter			3rd Quarter			4th Quarter			Total
	July	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	
DISCIPLINARY PROCEEDINGS (CONTINUED)													
Cases brought by mun. on own initiative													
Permitting gambling on premises	3			8			-			8			19
Conducting business as a nuisance	6			4			1			15			24
Unqualified employees	3			3			3			4			13
Act of violence	3			1			4			8			16
Loiter by minors unaccomp. by adult (loc.reg.)	4			1			2			-			7
Permitting narcotic activity on premises	1			1			5			5			12
Hindering investigation	2			1			2			3			8
Permitting immoral activity on premises	-			-			4			1			5
No Form E-141-A on premises	1			1			2			4			8
Permitting persons of ill repute on premises	1			1			2			3			7
Employee w/o I.D. card (local reg.)	2			1			-			-			3
Permitting lottery activity on premises	-			-			3			-			3
Altering prem. w/o approval of Iss. Auth	-			-			2			2			4
Fail to afford view into prem dur. proh. hrs.	2			-			-			-			2
Single instance of other violations	4			3			5			7			19
HEARINGS HELD AT DIVISION:													
Total number of hearings held	146			122			117			186			571
Appeals	30			21			20			17			88
Disciplinary proceedings	87			78			80			147			392
Eligibility	23			16			11			11			61
Seizures	5			7			6			1			19
Tax revocations	1			-			-			6			7
Application for license	-			-			-			4			4
STATE LICENSES AND PERMITS ISSUED:													
Total number issued	5,574			4,756			3,388			21,660			35,378
Licenses	572			3			12			11			598
Solicitors' permits	148			466			123			2,727			3,464
Employment permits	1,564			972			542			4,076			7,154
Disposal permits	213			262			205			147			827
Social affair permits	1,279			956			1,206			1,474			4,915
Wine permits	113			504			44			34			695
Transit insignia	512			709			328			9,745			11,294
Transit certificates	185			71			110			1,460			1,826
OFFICE OF AMUSEMENT GAMES CONTROL:													
Licenses issued	15			69			336			241			661
State Fair licenses issued	176			-			-			29			205
Premises inspected	1,075			-			-			231			1,306
Premises where violations were found	42			-			-			16			58
Number violations found	51			-			-			17			68
Enforcement files established	59			38			19			39			146

/ ROBERT E. BOWER
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

July 14, 1972

8.

ACTIVITY REPORT FOR JUNE 1972

ARRESTS:		
Total number of persons arrested - - - - -		27
Licensees and employees - - - - -	8	
Bootleggers - - - - -	8	
Minors - - - - -	11	
SEIZURES:		
Stills - 50 gallons or under - - - - -		1
Alcohol - gallons - - - - -		15.00
Distilled alcoholic beverages - gallons - - - - -		4.73
Wine - gallons - - - - -		2.28
Brewed malt alcoholic beverages - - - - -		10.86
COMPLAINTS AND INVESTIGATIONS:		
Inspection & visits made on assigned investigations - - - - -		1,734
Complaints assigned for investigation - - - - -		376
Investigations completed - - - - -		330
Investigations pending - - - - -		427
Premises where alcoholic beverages were gauged - - - - -		617
Bottles gauged - - - - -	10,215	
Premises where violations were found - - - - -		212
Number of violations found - - - - -		509
License applications investigated - - - - -		19
Contacts made with other law enforcement agencies - - - - -		461
LABORATORY:		
Analyses made - - - - -		15
Refills from licensed premises - bottles - - - - -		0
Bottles from unlicensed premises - - - - -		6
IDENTIFICATION:		
Criminal fingerprint identifications made - - - - -		15
Persons fingerprinted for non-criminal purposes - - - - -		567
Identification contacts made with other enforcement agencies - - - - -		441
DISCIPLINARY PROCEEDINGS:		
Cases instituted at Division - - - - -		33
Violations involved - - - - -		34
Sale during prohibited hours - - - - - 11	Sale below filed price - - - - - 1	
Sale to minors - - - - - 4	Employ person convicted of crime - - - - - 1	
Possess liquor not truly labeled - - - - - 7	Sales by minor - - - - - 1	
Fraud and front - - - - - 4	Employment of minor - - - - - 1	
Possession indecent matter - - - - - 1	Sale of prophylactics - - - - - 1	
Purchase from improper source - - - - - 1	No true books of account - - - - - 1	
Cases brought by municipalities on own initiative and reported to Division - - - - -		26
Violations involved - - - - -		40
Sale to minors - - - - - 13	No copy lic. appl. on premises - - - - - 2	
Conduct business as a nuisance - - - - - 3	Permit narcotic acty on premises - - - - - 1	
Sale during prohibited hours - - - - - 1	Employment of minor - - - - - 1	
Permit brawl on licensed premises - - - - - 3	Employment of non-resident - - - - - 1	
Act of violence - - - - - 2	Hostess activity - - - - - 1	
Gambling - - - - - 4	Sale while under suspension - - - - - 1	
Consumption by minor - - - - - 1	Employ person convicted of crime - - - - - 2	
No Form E-141-A on premises - - - - - 1	Alteration & repair w/o approval - - - - - 1	
Hindering investigation - - - - - 1	Sale to intoxicated person - - - - - 1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held - - - - -		52
Appeals - - - - - 6	Seizures - - - - - 1	
Disciplinary proceedings - - - - - 36	Application for licenses - - - - - 4	
Eligibility - - - - - 5		
STATE LICENSES AND PERMITS:		
Total number issued - - - - -		4,724
Licenses - - - - - 2	Wine permits - - - - - 29	
Solicitors' permits - - - - - 2,603	Miscellaneous - - - - - 331	
Employment permits - - - - - 745	Transit insignia - - - - - 457	
Disposal permits - - - - - 56	Transit certificates - - - - - 52	
Social affair permits - - - - - 464		
OFFICE OF AMUSEMENT GAMES CONTROL:		
Licenses issued - - - - - 56	Number violations found - - - - - 17	
Premises inspected - - - - - 231	State Fair Licenses issued - - - - - 29	
Premises where violations found - - - - - 17	Enforcement files established - - - - - 22	

Dated: July 14, 1972

ROBERT E. BOWER
 Director of Alcoholic Beverage Control
 Commissioner of Amusement Games Control

9. SEIZURE - FORFEITURE PROCEEDINGS - UNLAWFUL SALE OF ALCOHOLIC BEVERAGES IN A RESTAURANT - CLAIM OF BAILEE FOR RETURN OF CASH DEPOSITED REJECTED - CASH BOND FOR SEIZED PROPERTY ORDERED FORFEITED ABSENT: GOOD FAITH.

In the Matter of the Seizure	:	Case No. 12,494
on June 2, 1971 of a quantity	:	
of alcoholic beverages and	:	On Hearing
various fixtures, furnishings,	:	
equipment and foodstuffs in the	:	CONCLUSIONS and ORDER
unlicensed premises of the Blue	:	
Shutter Steak House, located at	:	
214 Bloomfield Avenue, in the	:	
City of Newark, County of Essex	:	
and State of New Jersey.	:	

.....
 Marvin Schondorf, Esq., appearing for claimant, Stanley Music System.
 Harry D. Gross, Esq., appearing for the Division.

BY THE DIRECTOR:

The Hearer has filed the following Report herein:

Hearer's Report

This matter came on for hearing, pursuant to the provisions of N.J.S.A. 33:1-66 and State Regulation No. 28 and further, pursuant to a stipulation dated August 3, 1971, signed by Sidney Greenberg, Agent for and on behalf of Stanley Music System, to determine whether one juke box, set forth in an inventory attached hereto, made part hereof and marked Schedule "A" seized on June 2, 1971, at unlicensed premises of the Blue Shutter Steak House, located at 214 Bloomfield Avenue, Newark, constitutes unlawful property and should be forfeited; and further, to determine whether the sum of \$250.00 deposited, under protest, with the Director, pursuant to the above stipulation by Stanley Music System, representing the appraised value of one juke box, which was retained by the Stanley Music System, should be forfeited or returned to it.

It should be noted that other personalty seized herein is not made the subject of this report because the stipulation with reference thereto has not been executed as of the date of the hearing herein. N.J.S.A. 33:1-66(a).

The seizure was made by ABC agents who were fortified with a search warrant. The Division file which was admitted into evidence by stipulation of the claimant, contained the agents' reports and established the following: Agent C and G entered the premises located at 214 Bloomfield Avenue, Newark. They observed on the second floor of the premises a bar and alcoholic beverages behind the bar, booths, a juke box and approximately 19 males and seven females in the barroom.

Agents G and C made several buys of scotch and water from the bartender, known as "Frankie" and paid him \$1.25 per drink. Samples of the drinks retained by the agents were turned over to the Division chemist for analysis, and a certified report of his chemical analysis established that one six-ounce bottle of alleged scotch and water seized in the instant matter contained alcoholic beverages fit for beverage purposes with alcoholic content, by volume of 8.05%. The Division file also contains a certification by the Director that no alcoholic beverage license or special permit of any kind has ever been issued to the Blue Shutter Steak House located at 214 Bloomfield Avenue, Newark or to any person at those premises; an inventory of the seized items; and proof of publication and notice of hearing.

Stanley Greenberg testified that he is an officer of the Stanley Music System, and that he had placed a juke box in the Blue Shutter Steak House premises about eight years prior to the date of seizure herein and there have been three subsequent owners of the premises in the interim. He placed an extension of the juke box on the second floor where there was a bar, booths and alcoholic beverages behind the bar. Further, he asked the owner if the premises was licensed to sell alcoholic beverages and the owner replied that he had a club license. Admittedly, he made no personal investigation regarding the issuance of a license to sell alcoholic beverages at the said premises.

An application for the return of seized property on the ground that claimant has acted in good faith and did not know or have any reason to believe that its property would be used in unlawful activities may be made by presenting evidence to that effect at the hearing. N.J.S.A. 33:1-66(e) and Rule 3 (b) of State Regulation No. 28. Further, a claim for the return of the seized property such as a juke box installed on unlicensed premises will not be permitted if no investigation is made of the unlicensed premises. Seizure Case No. 12,252, Bulletin 1919, Item 5; N.J.S.A. 33:1-2; N.J.S.A. 33:1-66.

The claimant testified that he questioned the proprietor of the premises with respect to the existence of a license to dispense alcoholic beverages. He was, therefore, aware that the alcoholic beverage activity was being conducted. His failure to properly and completely investigate with respect to the lawful issuance of a license to dispense alcoholic beverages, betrays the kind of careless indifference to the conduct of premises which manifests an absence of good faith. Seizure Case No. 10,444, Bulletin 1391, Item 5; Seizure Case No. 12,252, *supra*. Absent the element of good faith, the Director has no authority to order the return of seized property. Rule 3(b) Regulation No. 28.

Accordingly, it is recommended that the claim of the claimant be denied, and that an order be entered forfeiting the monies deposited under the stipulation herein.

Conclusions and Order

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

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

Accordingly, it is, on this 30th day of June, 1972

DETERMINED and ORDERED that the claim of Stanley Music System for the return of \$250.00 deposited with the Director, under protest, pursuant to the aforementioned stipulation, representing the appraised retail value of one juke box, be and the same is hereby denied, and the said \$250.00 be and the same is hereby forfeited, in accordance with law.

Robert E. Bower,
Director

By:

Joseph H. Lerner,
Deputy Director

SCHEDULE "A"

1 - juke box

10. DISCIPLINARY PROCEEDINGS - ALCOHOLIC BEVERAGES NOT TRULY LABELED - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA - APPLICATION FOR IMPOSITION OF FINE IN LIEU OF SUSPENSION GRANTED.

In the Matter of Disciplinary Proceedings against)

Moffa's Farm, Inc.)
S. W. Almonesson Rd., Lower Landing Rd.)
Gloucester Twp. P.O. Box 158)
Blackwood, N.J.)

CONCLUSIONS
and
ORDER

Holder of Plenary Retail Consumption License C-8 issued by the Township Committee of the Township of Gloucester)

Wilinski, Coruzzi & Suski, Esqs., by Robert W. Wilinski, Esq., Attorneys for Licensee.
Walter H. Cleaver, Esq., Appearing for Division

BY THE DIRECTOR:

Licensee pleads non vult to a charge alleging that on December 28, 1971, it possessed four bottles of alcoholic beverages, the labels of which did not truly describe their contents, in violation of Rule 27 of State Regulation No. 20.

Absent prior record, the license would normally be suspended for twenty days with remission of five days for the plea entered, leaving a net suspension of fifteen days. Re Jones, Shute & Williams, Bulletin 2029, Item 14.

However, the licensee has made application for the imposition of a fine in lieu of suspension in accordance with the provisions of Chapter 9 of the Laws of 1971.

Having favorably considered the application in question, I have determined to accept an offer in compromise by the licensee to pay a fine of \$825.00 in lieu of suspension.

Accordingly, it is, on this 29th day of June, 1972

ORDERED that the payment of a fine in the amount of \$825.00 by the licensee is hereby accepted in lieu of the suspension of license for fifteen days.

ROBERT E. BOWER
DIRECTOR

11. STATE LICENSES - NEW APPLICATION FILED.

All Brand Importers, Inc.
308 West Main St.
Smithtown, New York

Application filed August 28, 1972 for limited wholesale license.

Robert E. Bower
Robert E. Bower
Director