

STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 839

APRIL 11, 1949.

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STATE OF NEW JERSEY
Department of Law and Public Safety
DIVISION OF ALCOHOLIC BEVERAGE CONTROL
1060 Broad Street Newark 2, N. J.

BULLETIN 839

APRIL 11, 1949.

1. DISCIPLINARY PROCEEDINGS - FAILURE OF RETAIL LICENSEE TO HAVE INVOICE OR MANIFEST ON VEHICLE DELIVERING LIQUOR TO CUSTOMERS - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

JOHN KUCINSKI
120 Passaic Street
Passaic, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-59, issued by the
Board of Commissioners of the
City of Passaic.

John Kucinski, Defendant-licensee, Pro Se.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that he violated Rule 3 of State Regulations No. 17.

Defendant, on February 5, 1949, transported and delivered to customers, quantities of alcoholic beverages in his licensed vehicle bearing transportation insignia. However, the defendant did not have in his possession any invoice or manifest covering said shipment, as required by the provisions of Rule 3 of State Regulations No. 17.

Defendant contends, in mitigation of penalty, that he had standing orders for the alcoholic beverages delivered or to be delivered, but he admits that he did not prepare any invoice or manifest for these deliveries.

Defendant has no previous adjudicated record. Therefore, I shall suspend defendant's license for a period of ten days. Five days will be remitted for the plea entered herein, leaving a net suspension of five days.

Accordingly, it is, on this 24th day of March, 1949,

ORDERED that Plenary Retail Consumption License C-59, issued by the Board of Commissioners of the City of Passaic to John Kucinski, for premises 120 Passaic Street, Passaic, be and the same is hereby suspended for a period of five (5) days, commencing at 3:00 a.m. April 4, 1949, and terminating at 3:00 a.m. April 9, 1949.

ERWIN B. HOCK
Director.

2. LICENSEES - MANUFACTURER MAY PAINT TRUCK OF WHOLESALE LICENSEE OTHER THAN STATE BEVERAGE DISTRIBUTOR - NO "TIED HOUSE" PERIL.

BULLETIN 231, ITEM 15 MODIFIED.

March 28, 1949

Mr. Charles Nash
Jersey City 7, N. J.

Dear Sir:

The Alcoholic Beverage Law, R.S. 33:1-43, prohibits any manufacturer or wholesaler of alcoholic beverages from being interested in any way, directly or indirectly, in the retailing of such beverages in New Jersey. This provision is designed to eliminate the so-called "tied house" whereby a manufacturer or wholesaler owns, controls or dominates a retail outlet. To implement this statutory prohibition, Rule 1 of State Regulations No. 21 restricts a manufacturer or wholesaler as to the advertising material or equipment or similar items which it may furnish to a retail licensee.

On the basis of the foregoing, it was ruled in Re Paramount Liquors, Inc., Bulletin 316, Item 2, that a brewer may not paint the truck of a retail licensee inasmuch as this does not fall within the permissible categories of advertising material, etc. which a manufacturer or wholesaler may furnish to a retail licensee under the above Rule 1 of State Regulations No. 21. In similar vein, I have ruled that a brewer may not paint the truck of a State Beverage Distributor since this latter licensee, while enjoying limited wholesale privileges, is also invested with certain retail privileges. Also cf. R.S. 33:1-11(2)c.

However, you hold a limited wholesale license under which you may sell brewed malt alcoholic beverages and naturally fermented wines at wholesale in New Jersey but under no circumstances at retail. You raise question as to whether a brewer may paint your trucks, or the trucks of any other licensee who has the privilege of selling only at wholesale, and may specify thereon the brewer's products being handled by you.

There is an old "ruling", Re Klein, Bulletin 231, Item 15, which, though pointing out that there is nothing in the Alcoholic Beverage Law or in our Rules and Regulations to prohibit a brewery from painting the trucks of an outright wholesaler, specifically disapproved of the practice. On careful study of the matter, I do not see any present peril in any such practice from the viewpoint of sound liquor control. The "tied house" fear does not prevail in such a case since that relates only as between manufacturer or wholesaler and retailer and not, as here, between manufacturer and wholesaler. Indeed, there is nothing in the law or in the Rules and Regulations or in present policy which would prevent a manufacturer, whether a brewery or otherwise, from actually holding a wholesaler's license.

Hence, superseding Re Klein, supra, I hereby advise that, so far as we are concerned, it is permissible for an alcoholic beverage manufacturer to paint your trucks (or the trucks of any other licensee who has the privilege of selling only at wholesale) and to specify thereon such of its products as are being handled by you. Of course, the painting or affixing of such brands thereon should be dignified and kept within reasonable and proper bounds.

Very truly yours,
ERWIN E. HOCK
Director.

3. APPELLATE DECISIONS - MANNO AND EL ZEBRA v. CLIFTON.

CHRISTINE MANNO, trading as
CHRIST TAVERN,

Appellant,

EL ZEBRA, a corporation of New
Jersey,

Substituted Appellant,

-vs-

ON APPEAL
O R D E R

MUNICIPAL COUNCIL OF THE CITY OF
CLIFTON,

Respondent

Abraham Feltman, Esq., Attorney for Appellant and Substituted
Appellant.

John G. Dluhy, Esq., Attorney for Respondent.

BY THE DIRECTOR:

Appellant, Christine Manno, filed an appeal from the action of respondent whereby it denied an application by El Zebra, a corporation, for a transfer to it of a license issued to Christine Manno for premises at 242 Lakeview Avenue, Clifton. At the hearing, by consent, El Zebra, a corporation (the proper party to file the appeal), was substituted as appellant in the case.

Subsequent to the hearing held herein, Christine Manno and the two other individuals who owned the stock of the aforesaid corporation filed an application with respondent for a transfer of the license to the three individuals as partners. In accordance with said application the license was transferred by respondent to the members of the partnership.

Because of the facts cited above, the attorney for appellant and substituted appellant has requested leave to discontinue the pending appeal. The attorney for respondent has consented to this request. No cause appearing to the contrary,

It is, on this 28th day of March, 1949,

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

ERWIN B. HOCK
Director.

4. MORAL TURPITUDE - CRIME OF RECEIVING STOLEN GOODS (ALCOHOLIC BEVERAGES) FOUND TO INVOLVE MORAL TURPITUDE UNDER CIRCUMSTANCES OF CASE.

DISQUALIFICATION - APPLICATION TO LIFT - FIVE YEARS GOOD CONDUCT - APPLICATION TO LIFT GRANTED.

In the Matter of an Application)
to Remove Disqualification because)
of a Conviction, Pursuant to R. S.)
33:1-31.2.)

CONCLUSIONS
AND ORDER

Case No. 744.
- - - - -)

BY THE DIRECTOR:

On September 21, 1943 petitioner pleaded non vult to a criminal charge of receiving stolen goods and was sentenced by a Police Judge to probation for a period of one year. This charge resulted from the purchase by the petitioner of approximately five cases of alcoholic beverages from a non-licensee on three separate occasions between the middle of July 1943 and August 29, 1943.

The crime of receiving stolen goods ordinarily involves moral turpitude. Re Case No. 424, Bulletin 506, Item 3. Nothing appears in the instant case to free petitioner's conviction of that element.

Petitioner testified that during the past five years he has been employed as a blacksmith by a smelting and refining company.

Petitioner produced three character witnesses (a municipal employee, a merchant and an employee of an industrial company) who testified that they have known petitioner ten or more years and that he bears a good reputation for being a law-abiding person in the community in which he resides.

The Police Department of petitioner's home municipality has no complaints, charges or investigations now pending involving the petitioner.

I find that petitioner has conducted himself in a law-abiding manner during the five years last past and that his association with the alcoholic beverage industry will not be contrary to public interest.

Accordingly, it is, on this 28th day of March, 1949,

ORDERED that petitioner's statutory disqualification because of the conviction described herein be and the same is hereby removed, in accordance with the provisions of R. S. 33:1-31.2.

ERWIN B. HOCK
Director.

5. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary
Proceedings against

MARIO CASTELLI
660 River Street
Paterson 4, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-
tion License C-88, issued by the
Board of Alcoholic Beverage Control
of the City of Paterson.

Mario Castelli, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage
Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that, in violation of Rule 28 of State Regulations No. 20, he possessed one 4/5 quart bottle labeled "Canadian Club Blended Canadian Whisky", which bottle bore a label which did not truly describe its contents.

On March 9, 1949 an ABC agent tested 21 opened bottles of alcoholic beverages on defendant's premises and seized the bottle mentioned in the charge when the contents thereof appeared to be off color. Subsequent analysis by the Division chemist established that the contents of the seized bottle did not conform with the description thereof on the label.

At the time of the seizure, defendant admitted to the ABC agent that he had poured "Harwood" whiskey into the seized bottle.

Defendant has no prior record. I shall suspend his license for the minimum period of fifteen days, less five days for the plea, leaving a net suspension of ten days. See Bulletin 836, Item 6.

Accordingly, it is, on this 31st day of March, 1949,

ORDERED that Plenary Retail Consumption License C-88, issued by the Board of Alcoholic Beverage Control of the City of Paterson to Mario Castelli, for premises 660 River Street, Paterson, be and the same is hereby suspended for ten (10) days, commencing at 3:00 a.m. April 11, 1949, and terminating at 3:00 a.m. April 21, 1949.

ERWIN B. HOCK
Director.

6. APPELLATE DECISIONS - ARLINSKY v. PASSAIC AND DANKNER.

DAVID ARLINSKY,

Appellant,

-vs-

BOARD OF COMMISSIONERS OF THE
CITY OF PASSAIC and DAVID DANKNER,)Respondents.)
-----ON APPEAL
CONCLUSIONS AND ORDER

Theodore D. Rosenberg, Esq., Attorney for Appellant.
 Oscar R. Wilensky, Esq., Attorney for Respondent Board of
 Commissioners of the City of Passaic.
 Feder & Rinzler, Esqs., by Jack Rinzler, Esq., Attorneys for
 Respondent David Dankner.

BY THE DIRECTOR:

Appellant appeals from the action of respondent Board of Commissioners whereby it transferred a plenary retail distribution license held by Weston & Company for premises at 3 Hoover Avenue to respondent David Dankner for premises at 49 Market Street, Passaic.

Appellant, who holds a plenary retail distribution license for premises at 38 Market Street, alleges (1) that the renewal of the license at 3 Hoover Avenue by Weston & Company for the present fiscal year was not made in good faith and (2) that there is no need for additional licensed premises at 49 Market Street.

Weston & Company originally obtained a plenary retail distribution license in the City of Passaic in 1945 for premises known as 580 Main Avenue. It operated at said premises for only a few months and, thereafter, duly obtained a transfer of its license to 692 Main Avenue where it continued to operate for a period of about two and one-half years. It ceased to operate at the latter address in March 1948 and, on June 12, 1948, applied to respondent Board of Commissioners for a transfer of its license to 3 Hoover Avenue. After all the statutory requirements as to the transfer of the license had been complied with, the Board reserved decision on the application at its meeting held on June 22, 1948 and, subsequently, at a meeting held on July 27, 1948, granted a transfer of the license to 3 Hoover Avenue and the renewal of the license for the present fiscal year at 3 Hoover Avenue. Such procedure was permissible. Re Schloeder, Bulletin 338, Item 8.

The President of Weston & Company testified that his company intended in good faith to operate at 3 Hoover Avenue when it obtained the transfer and renewal of the license but that it subsequently decided not to operate at said premises after it received estimates of the cost of equipping the said premises for business. It had leased the premises at 3 Hoover Avenue for a period of one year. About November, 1948, it consented to a transfer of its license to respondent David Dankner and the license was transferred to David Dankner by respondent Board of Commissioners on December 28, 1948. Under these circumstances there is no evidence that the license was not renewed in good faith and, hence, the first ground of appeal sets forth no valid reason for reversing the action of respondent Board.

As to the second ground of appeal: Respondent David Dankner is the owner of 49 Market Street. More than two years ago John Kranyak, a tenant of said premises, obtained a plenary retail distribution license and operated there under said license until October 26, 1948,

when his license was transferred to 89 Broadway. At that time Kranyak also obtained the transfer of a plenary retail consumption license from 89 Broadway to 49 Market Street, but he vacated the premises in November, 1948 and never operated under the latter license. The evidence shows that there is a large number of consumption and distribution licenses in this section of Market Street, but the section is one of the largest shopping centers in the city and the question as to the number of licenses which should be issued in the district is confided primarily to the sound discretion of the local issuing authority. On the record before me, and with particular thought to the fact that these premises have been licensed for more than two years and that respondent Board's action did not result in an additional license in the neighborhood, the proof does not establish that the respondent Board abused its discretion in transferring a plenary retail distribution license to respondent David Dankner for the said premises. The action of respondent Board will be affirmed.

Accordingly, it is, on this 31st day of March, 1949,

ORDERED that the action of the Board of Commissioners be and the same is hereby affirmed, and the appeal be and the same is hereby dismissed.

ERWIN B. HOCK
Director.

7. SEIZURE - FORFEITURE PROCEEDINGS - ALCOHOLIC AND OTHER BEVERAGES, FURNISHINGS AND EQUIPMENT IN RESTAURANT SPEAKEASY ORDERED FORFEITED - MUSIC BOX RETURNED TO OWNER WHO ESTABLISHED GOOD FAITH AND ABSENCE OF KNOWLEDGE THAT RESTAURANT WAS USED OR INTENDED TO BE USED AS SPEAKEASY.

In the Matter of the Seizure on)	Case No. 7362
December 18, 1948 of a quantity of)	
alcoholic beverages, soda, a music)	
box and other fixtures and furnish-)	ON HEARING
ings at premises occupied by Olis)	CONCLUSIONS AND ORDER
Patterson, located on Edward Avenue,)	
Potters Section, Township of Raritan,)	
County of Middlesex and State of New)	
Jersey.)	

P M T Music, Inc.; by Sam Paresso, Treasurer.
Harry Castelbaum, Esq., appearing for the State Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes, to determine whether a quantity of beer, whiskey, soda, a music box, and various fixtures and furnishings, itemized in a schedule attached hereto, seized on December 18, 1948 at premises occupied by Olis Patterson, located on Edward Avenue, Potters Section, Raritan Township, New Jersey, constitute unlawful property and should be forfeited.

It appears that Patterson was operating a speakeasy in the basement of his dwelling at the above address. An ABC agent entered the place on December 18th and observed about twenty-five persons there purchasing and drinking beer and whiskey. The agent also purchased drinks of beer and whiskey from Patterson. Thereafter other ABC agents and local police officers entered the basement and disclosed their identity.

Patterson gave the officers a written statement in which he declared that he had been selling alcoholic beverages without a license since November 1948, and admitted that the ABC agent and

other persons had purchased beer and whiskey from him shortly before the officers entered.

It is clear that the whiskey and beer seized by the ABC agents were intended for sale in violation of the Alcoholic Beverage Law. Such whiskey and beer, therefore, are illicit alcoholic beverages, subject to seizure and forfeiture, as is all personal property seized therewith on the premises. R.S. 33:1-1(i) and (y), R.S. 33:1-2, R.S. 33:1-66.

When the matter came on for hearing pursuant to R.S. 33:1-66, Sam Paresso appeared and sought return of the music box and an amplifier to the P M T Music, Inc., of which he is treasurer. No one appeared to oppose forfeiture of the other property seized.

Paresso presented a document which established that the music company is the owner of the machine and amplifier in question. According to Paresso, he placed the machine in Patterson's premises in the spring of 1948, after he inspected the place when Patterson requested a machine.

Paresso says when he went there Patterson had a large barbecue pit and a dance floor outside the dwelling. He placed the music machine in the cellar, with a speaker on the outside over the dance floor. There were booths, tables and chairs in the basement. There was also a furnace room, with an icebox and a home-made counter with cigarettes and candy on shelves behind the counter. There was a restaurant license on the wall.

The evidence indicates that Paresso was justified in concluding that Patterson was operating a small restaurant or dance establishment or like commercial enterprise. It does not appear that Patterson had a reputation as a liquor law violator, nor was ever arrested or convicted for an offense of that or any other nature. Paresso says that he spoke with a number of men, including the Chief of the local Fire Department, concerning Patterson and was told that Patterson was a "nice fellow".

Patterson's establishment can be characterized as a restaurant, and nothing has been developed to indicate that Paresso, when placing the music machine there, or on his visits to service the machine, knew or should have suspected that Patterson was carrying on speak-easy activities there. Hence, the music machine and amplifier will be returned to the claimant. See Seizure Case No. 7088, Bulletin 760, Item 7.

Accordingly, it is DETERMINED and ORDERED that if, on or before the 11th day of April, 1949, P M T Music, Inc. pays the costs of seizure and storage of the music machine and amplifier seized in this case, those articles will be returned to such company; and it is further

DETERMINED and ORDERED that the balance of the seized property, more fully described in Schedule "A" attached hereto, including the currency in the music machine, constitutes unlawful property, and that the same be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, and that it be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part, at the direction of the State Director of Alcoholic Beverage Control.

ERWIN B. HOCK
Director.

Dated: March 31, 1949.

SCHEDULE "A"

- 72 - bottles of beer
- 44 - bottles of soda
- 3 - 4/5 qt. bottles of whiskey
- 1 - Wurlitzer Multi-Selection Phonograph,
Serial No. 204206, Model 616-A, and
currency therein
- 1 - Amplifier
- 6 - wooden tables and benches
- 1 - wooden bar
- 1 - ice box
- 10 - whiskey glasses

8. SEIZURE - FORFEITURE PROCEEDINGS - HOME MADE WINE MANUFACTURED WITHOUT PERMIT AND SOLD IN RESTAURANT - WINE, OTHER ALCOHOLIC BEVERAGES AND RESTAURANT FURNISHINGS AND EQUIPMENT DECLARED UNLAWFUL PROPERTY AND ORDERED FORFEITED.

In the Matter of the Seizure on) Case No. 7327
 October 11, 1948 of a quantity of
 home made wine and other alcoholic)
 beverages and various fixtures,)
 furnishings and equipment at 206) ON HEARING
 Second Street, in the City of) CONCLUSIONS AND ORDER
 Elizabeth, County of Union and)
 State of New Jersey.)

-----)
 Forman & Forman, Esqs., by Louis L. Forman, Esq., Attorneys for
 Alvaro Pinto Valas.

Harry Castelbaum, Esq., appearing for the Division of Alcoholic
 Beverage Control.

BY THE DIRECTOR:

This matter comes before me pursuant to the provisions of Title 33, Chapter 1 of the Revised Statutes, to determine whether a quantity of home made wine and other alcoholic beverages and various furnishings, fixtures and equipment, itemized in the schedule attached hereto, seized on October 11, 1948 in a restaurant operated by Alvaro Pinto Valas located at 206 Second Street, Elizabeth, New Jersey, constitute unlawful property and should be forfeited.

It appears that this is a typical case where wine is sold with meals in a restaurant or boarding house on claim that it is an old "Spanish" custom. See Seizure Case No. 6917, Bulletin 693, Item 1. Following the pattern of such cases, Valas, in the instant case, manufactured a large amount of wine without first obtaining a permit from the Division of Alcoholic Beverage Control. In addition, he also sold other alcoholic beverages.

An ABC agent purchased meals and drinks of various alcoholic beverages at the place on October 7 and 8, 1948. On October 9, 1948 this agent returned with another agent, and both purchased meals and drinks of alcoholic beverages.

A search warrant was obtained on the basis of these unlicensed sales of alcoholic beverages at the restaurant, and such warrant was executed on October 11, when the agents seized about 400 or 500 gallons of home made wine, over 300 bottles of beer, some whiskey, and the furnishings and equipment of the restaurant.

Valas gave the agents a signed statement in which he declared that he had been operating the restaurant from about July 1948, and from the outset engaged in the practice of selling alcoholic beverages, and admitted the various sales of alcoholic beverages to the ABC agents on the dates hereinbefore mentioned.

Pending the seizure hearing in this case, all of the seized property, except the wine, wine press, other alcoholic beverages, empty beer bottles and empty wine barrels, was returned to Valas upon payment by him to the State Director of Alcoholic Beverage Control of its appraised retail value of \$300.00, under protest, pursuant to R. S. 33:1-66. Valas has stipulated that said Director shall determine in this proceeding whether this money shall be returned to him.

When the matter came up for hearing pursuant to R.S. 33:1-66 and the stipulation, Valas appeared with counsel and sought return of the aforesaid sum of \$300.00. Forfeiture of the alcoholic beverages and empty containers was not contested.

Valas did not deny that he manufactured the wine without a permit, nor that he sold the wine and other alcoholic beverages without a license to the ABC agents and his other patrons.

All of the wine is illicit because it was not manufactured pursuant to a license or permit. R.S. 33:1-2, R.S. 33:1-1(i). Valas could not have obtained a permit for its manufacture, under the provisions of R.S. 33:1-75, because such wine was not intended for his personal consumption and exceeded the limit of 200 gallons which may be manufactured for personal consumption. The wine and the other alcoholic beverages are likewise illicit because Valas possessed them for the purpose of illegal sale. The illicit alcoholic beverages and the restaurant equipment, fixtures and furnishings, foodstuffs, and other property seized with the illicit alcoholic beverages in the restaurant, constitute unlawful property and are subject to forfeiture. R. S. 33:1-1(y); R.S. 33:1-66.

Under the provisions of R. S. 33:1-66(e), I have the discretionary authority to return property subject to forfeiture to a person who has established to my satisfaction that he has acted in good faith and has unknowingly violated the law.

It is urged on Valas' behalf that all or some part of the \$300.00 should be returned to him because he is in this country only a short while (although it appears that he first came to this country in 1940), speaks and understands but little English, has no previous record, is a poor man, and made an honest mistake in that he did not know it was illegal to sell alcoholic beverages without a license. It is further urged that the wine press should be returned to him so that he may be able to manufacture wine for his personal use.

Residents of this country must conform to our laws. Those who operate restaurants catering to patrons of Spanish origin should by this time be fully aware that it is unlawful to sell wine or other alcoholic beverages without a license. Seizure Case No. 6917, supra. Indeed, Valas admits that he knows that in Portugal, the country of his origin, it is necessary to have a license to sell wine.

I am not satisfied that Valas acted in good faith and unknowingly violated the law. Valas' alleged good background, poor financial condition, and the other circumstances urged in his behalf are not pertinent factors, and do not warrant relieving him from forfeiture. See Seizure Case No. 7322, Bulletin 829, Item 7. The wine press cannot be returned because it is the direct instrumentality used in the manufacture of the illicit wine. See Seizure Case No. 7229, Bulletin 809, Item 6. The sum of \$300.00 was arrived at after a careful appraisal of the retail value of the property returned to Valas.

It follows that the seized property, including the money deposited in place of that part of the property which was returned, must be forfeited. Alvaro Pinto Valas' request for return of all, or part of the money which he deposited with me and for return of the wine press is therefore denied.

Accordingly, it is DETERMINED and ORDERED that the wine, beer, whiskey, empty beer bottles and empty wine barrels, itemized in Schedule "A" attached hereto, constitutes unlawful property and the same be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, and that it be retained for the use of hospitals and state, county and municipal institutions, or destroyed in whole or in part at the direction of the State Director of Alcoholic Beverage Control; and it is further

DETERMINED and ORDERED that the various furnishings, fixtures and equipment seized at the premises, as itemized in an inventory made thereof, which inventory is referred to as if incorporated herein at length, constitutes unlawful property, and the sum of \$300.00 representing the retail value thereof, paid under protest to the State Director of Alcoholic Beverage Control by Alvaro Pinto Valas, be and hereby is forfeited in accordance with the provisions of R. S. 33:1-66, to be accounted for in accordance with law.

ERWIN B. HOCK
Director.

Dated: March 31, 1949.

SCHEDULE "A"

- 10 - 50 gal. bbls. of wine
- 1 - 25 gal. bbl. of wine
- 2 - 10 gal. bbls. of wine
- 1 - wine press
- 2 - 50 gal. bbls. wine mash
- 13 - cases of 12 oz. bottles of beer
- 3 - 4/5 bottles of whiskey
- 3 - 1 gal. jugs of wine
- 5 - cases of empty beer bottles
- 12 - empty 50 gal. bbls.

Quantity of foodstuffs, merchandise, fixtures and equipment at premises itemized in an inventory made thereof in the case and which is referred to as if incorporated herein at length.

April 1, 1949

ACTIVITY REPORT FOR MARCH 1949

9.

ARRESTS:
 Total number of persons arrested - - - - - 27
 Licensees and employees - - - - - 12
 Bootleggers - - - - - 15

SEIZURES:
 Stills - 50 gallons or under - - - - - 2
 Mash - gallons - - - - - 800.00
 Distilled alcoholic beverages - gallons - - - - - 12.01
 Wine - gallons - - - - - 12.11
 Brewed malt alcoholic beverages - gallons - - - - - 14.42

RETAIL LICENSEES:
 Premises inspected - - - - - 862
 Premises where alcoholic beverages were gauged - - - - - 1,039
 Bottles gauged - - - - - 19,302
 Premises where violations were found - - - - - 41
 Violations found - - - - - 52
 Type of violations found:
 Unqualified employees - - - - - 25 Gambling devices - - - - - 1
 Prohibited signs - - - - - 5 Probable fronts - - - - - 1
 Other mercantile business - - - - - 5 Disposal permit necessary - - - - - 1
 Other violations - - - - - 14

STATE LICENSEES:
 Premises inspected - - - - - 30
 License applications investigated - - - - - 22

COMPLAINTS:
 Complaints assigned for investigation - - - - - 343
 Investigations completed - - - - - 373
 Investigations pending - - - - - 128

LABORATORY:
 Analyses made - - - - - 160
 "Shake-up" cases (alcohol, water and artificial color) - bottles - - - - - 20
 Liquor found to be not genuine as labeled - bottles - - - - - 26

IDENTIFICATION BUREAU:
 Criminal fingerprint identifications made - - - - - 33
 Persons fingerprinted for non-criminal purposes - - - - - 185
 Identification contacts made with other enforcement agencies - - - - - 157
 Motor vehicle identifications via N. J. State Police Teletype - - - - - 11

DISCIPLINARY PROCEEDINGS:
 Cases transmitted to municipalities - - - - - 13
 Violations involved:
 Sale to minors - - - - - 5 Permitting brawls on premises - - - - - 1
 Sale during prohibited hours - - - - - 5 Permitting gambling on premises - - - - - 1
 Sale to non-members by clubs - - - - - 2 (prize fight bets) - - - - - 1
 Permitting bookmaking on premises - - - - - 1 Possessing contraceptives on prem. - - - - - 1
 Sale to intoxicated persons - - - - - 1
 Cases instituted at Division - - - - - 18
 Violations involved:
 Sale to minors - - - - - 7 Failure to file notice of change in
 Possessing illicit liquor - - - - - 6 application - - - - - 1
 Fraud and front - - - - - 2 Peddling alcoholic beverages from
 Sale under Fair Trade price - - - - - 2 vehicle - - - - - 1
 Delivery without bona fide invoice - - - - - 1 Purchase from improper source - - - - - 1
 Sale of alcoholic beverages off
 licensed premises - - - - - 1
 Cases brought by municipalities on own initiative and reported to Division - - - - - 9
 Violations involved:
 Sale to minors - - - - - 5
 Permitting brawls on premises - - - - - 2 Permitting gambling on premises - - - - - 1
 Failure to afford view into premises during prohibited hours - - - - - 1

HEARINGS HELD AT DIVISION:-
 Total number of hearings held - - - - - 28
 Appeals - - - - - 2 Tax revocation - - - - - 1
 Disciplinary proceedings - - - - - 13 Application for license - - - - - 1
 Eligibility - - - - - 6 Hearing on petition - - - - - 1
 Seizures - - - - - 4

PERMITS ISSUED:
 Total number of permits issued - - - - - 714
 Employment - - - - - 112 Social affairs - - - - - 255
 Solicitors - - - - - 124 Miscellaneous - - - - - 99
 Disposal of alcoholic beverages - - - - - 124

ERWIN B. HOCK
 Director

10. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1948 TO MARCH 31, 1949 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption No. Issued	Fees Paid	Plenary Retail Distribution No. Issued	Fees Paid	Club No. Issued	Fees Paid	Limited Retail Distribution No. Issued	Fees Paid	Seasonal Retail Consumption No. Issued	Fees Paid	Number Surren- dered Revoked Expired	Number Licen- ses in Effect	Total Fees Paid
Atlantic	488	\$ 189,004.73	68	\$ 23,200.00	15	\$ 1,416.64						571	\$ 223,621.43
Bergen	819	295,993.59	295	77,722.55	57	5,653.56	53	\$ 2,235.82	6	\$ 1,609.55	9	1221	383,220.07
Burlington	183	72,325.00	30	3,343.84	38	5,316.71	1	25.00			1	254	86,010.55
Camden	455	217,650.00	83	29,925.00	57	5,400.61			1	375.00	1	595	253,350.61
Cape May	133	65,750.00	11	3,700.00	13	1,371.23						157	70,821.23
Cumberland	81	35,300.00	13	3,500.00	29	3,872.20						123	42,672.20
Essex	1376	759,110.07	349	203,608.00	97	12,979.31	33	1,650.00			1	1854	977,347.38
Gloucester	106	33,600.00	14	3,300.00	14	1,391.30						134	38,291.30
Hudson	1563	677,830.00	298	117,810.00	78	9,325.06	75	3,179.94			1	2013	808,145.00
Hunterdon	79	22,820.00	6	1,637.50	5	600.00						90	25,057.50
Mercer	425	255,000.00	51	20,557.88	41	5,650.00			1	140.00	2	516	281,347.88
Middlesex	636	296,450.00	70	21,095.00	54	5,061.04	5	225.00			1	764	322,831.04
Monmouth	551	271,585.93	109	37,014.00	29	3,438.15	9	350.00	29	12,525.62	29	698	324,913.70
Morris	355	116,775.00	95	29,513.08	35	3,740.87	6	131.99	6	1,237.50	8	489	151,398.44
Ocean	187	104,936.04	42	17,636.00	12	1,300.00					1	240	123,872.04
Passaic	882	361,760.00	164	50,790.00	33	4,089.80	11	500.00			1	1089	417,139.80
Salem	50	18,900.00	7	1,300.00	10	834.18						67	21,034.18
Somerset	186	77,934.73	33	8,900.00	20	2,083.80						239	88,918.53
Sussex	170	44,055.00	15	3,005.00	6	353.70			1	225.00	1	191	47,638.70
Union	546	291,100.00	142	56,900.00	61	6,993.29	20	987.50				769	355,980.79
Warren	148	41,370.46	17	3,307.50	26	2,574.04			2	238.42	2	191	47,490.42
Totals	9422	\$4,259,255.61	1912	\$722,765.35	730	\$83,445.49	213	\$9,285.25	46	\$16,351.09	58	12265	\$5,091,102.79

Respectfully submitted
John H. Michelson, Deputy Director.

ERWIN B. HOCK, DIRECTOR.

11. APPELLATE DECISIONS - MORAITIS v. LOWER PENNS NECK TOWNSHIP.

CHRIS MORAITIS, t/a CHRIS' CAFE,)

Appellant,)

-vs-)

TOWNSHIP COMMITTEE OF THE TOWNSHIP)
OF LOWER PENNS NECK,)

Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER-----
Joseph Narrow, Esq., Attorney for Appellant.

No appearance on behalf of Respondent.

Objectors appearing Pro Se.

BY THE DIRECTOR:

This is an appeal from the denial by respondent of appellant's application for transfer of his plenary retail consumption license from 528 North Broadway to 578 North Broadway, Deepwater, Lower Penns Neck Township.

Respondent alleges in its answer that the application for transfer was denied because of (1) the objections of members of the church located a short distance from the proposed premises, and (2) the objections of residents living near the site of the proposed licensed premises.

The premises to which appellant seeks to transfer his license is on the same side of the street, approximately five blocks north of its present location. The evidence indicates that Broadway is a main business street in Deepwater, but there are a number of residences directly opposite the premises to which the transfer is sought.

Appellant testified that he has been operating a liquor establishment at the present location for a period of about eight years. The reason advanced by appellant for making application for a transfer of the license is that the landlord of the premises which he now occupies will not give him a lease and has increased the rent a number of times in the past few years. Appellant further testified that the proposed premises, which he purchased a year ago, were used until 1945 as a dry goods store. Since 1945 part of the premises were used for a period of time for housing facilities but of late years the entire premises have been vacant.

A minister, two members of his congregation, and three other persons who reside near the proposed location appeared at the hearing herein and protested against the transfer on the ground that the granting thereof would be contrary to the welfare of the community.

The proposed premises are apparently less than three hundred feet from the church. Since they are not within two hundred feet of the church, the transfer was not barred by the provisions of R.S. 33:1-76. Nevertheless, it is well established that an issuing authority may, in the exercise of reasonable discretion, decline to issue licenses for premises located in close proximity to a church. Cf. Staciewicz v. Trenton, Bulletin 35, Item 10; Purpuro v. Passaic, Bulletin 425, Item 1.

Furthermore, the question whether a particular location is suitable for a licensed premises is a matter also confided to the sound discretion of the issuing authority; the members thereof know the place and the people. Their opinion is worthy of great weight. The burden of showing that the issuing authority abused its discretion rests with appellants. Segal et al. v. Clifton et al., Bulletin 732, Item 5. Mooney v. Kearny, Bulletin 830, Item 6.

Appellant contends that he would suffer great financial loss if the transfer applied for were not approved. In a conflict, however, between private interests and the interests of the community at large, the latter must prevail. Lingelbach v. North Caldwell, Bulletin 180, Item 8.

Under all of the circumstances, the appellant has not sustained the burden of proof in establishing that respondent Township Committee abused its discretionary power in denying the transfer referred to herein. I therefore cannot hold that the action of the respondent Township Committee is so unreasonable as to require reversal of its action. The action of respondent is, therefore, affirmed.

Accordingly, it is, on this 1st day of April, 1949,

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

ERWIN B. HOCK
Director.

12. STATE BEVERAGE DISTRIBUTORS - RETAIL LICENSEES - PERMISSIBLE TO LEND COOLERS ON RETAIL SALE OF KEG BEER - BULLETIN 331, ITEM 4 SUPERSEDED TO THIS EXTENT.

April 4, 1949

State Beverage Distributors' Association
Newark 2, N. J.

Att: Leo J. Berg, Counsel.

Gentlemen:

This acknowledges your letter of March 28th.

Rule 20 of State Regulations No. 20 provides as follows:

"No retail licensee shall, directly or indirectly, offer or furnish any gifts, prizes, coupons, premiums, rebates, discounts or similar inducements with the sale of any alcoholic beverage for consumption off the licensed premises; provided, however, that nothing herein contained shall prohibit retail licensees from furnishing advertising novelties of nominal value."

In Re Berkeley Beverage Co., Inc., Bulletin 331, Item 4, it was held, among other things, that lending a beer cooler in connection with the retail sale of keg beer was a prohibited "inducement" within the meaning of the above Rule.

Pursuant to your letter, I have reviewed this ruling, made by one of my predecessors, and I believe it to be unduly restrictive. The purpose of the above quoted Rule is to eliminate any practice of soliciting or inducing retail "package goods" patronage by dangling gifts or similar lures before the public. In my opinion, lending a beer cooler in connection with a retail sale of keg beer cannot fairly be called an "inducement" to the sale within the meaning of the above Rule. Rather, in view of the type of sale, lending the beer cooler is an incidental and reasonably to be expected adjunct to the transaction itself.

Hence, I hereby supersede Re Berkeley Beverage Co., Inc., supra, to the extent that it holds that lending a beer cooler in connection with the retail sale of keg beer falls within the ban of the above Rule. So far as our regulations are concerned, it is permissible for a licensee privileged to make retail sales of keg beer to lend a beer cooler in connection therewith. However, by way of caution, I may point out that this present ruling in no way authorizes the licensee to furnish the free services of any bartender or other person to dispense the beer. Unlike the cooler, this cannot be viewed as a reasonable adjunct of the transaction of sale.

Very truly yours,
ERWIN B. HOCK
Director.

13. STATE LICENSES - NEW APPLICATIONS FILED.

Noel C. Ceria and Arthur Pressler
T/a Grape-Vine Winery
4542-44 Bergenline Ave.
Union City, N. J.

Application filed April 5, 1949 for transfer of Plenary Winery License V-27 (with retail privileges) from Louis Ardito, t/a Grape-Vine Winery.

Pierce Freight Lines, Inc.
Highway 17 and Prospect Ave.
Rochelle Park, N. J.

Application for Transportation License filed April 6, 1949.

Erwin B. Hock
Director.