

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

Director Davis
Sent to Immediate Release List

BULLETIN 1073

JULY 18, 1955.

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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 1073

JULY 18, 1955.

1. APPELLATE DECISIONS - PIKE INN v. KEARNY.

PIKE INN, a corp., trading as)	
Pike Inn,)	
Appellant,)	
v.)	On Appeal
MAYOR AND COUNCIL OF THE TOWN)	
OF KEARNY,)	O R D E R
Respondent.)	
-----)	

Carl J. Yagoda, Esq., Attorney for Appellant.
Robert J. McCurrie, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent whereby it suspended appellant's license C-29 for a period of forty-five days, effective at 6:00 a.m. June 1, 1955, after finding it guilty on a charge of selling alcoholic beverages to minors. Appellant's premises are located at 228 Belleville Pike, Kearny.

Upon the filing of the appeal I entered an order, dated May 31, 1955, staying the effect of respondent's order pending entry of a further order herein. R.S. 33:1-31.

Prior to the date fixed for hearing, the attorney for appellant advised me in writing that his client requested leave to withdraw the appeal, and that the attorney for respondent consented to said request. No reason appearing to the contrary,

It is, on this 20th day of June, 1955,

ORDERED that the appeal herein be and the same is hereby discontinued; and it is further

ORDERED that the suspension of forty-five days hereinbefore imposed by respondent against appellant's license be and the same is hereby reimposed; that said license be suspended for the balance of its term, effective at 6:00 a.m. June 27, 1955, and that, if any license be issued to appellant or to any other person for the premises in question for the 1955-56 licensing year, such license shall be under suspension until 6:00 a.m. August 11, 1955.

William Howe Davis,
Director.

2. APPELLATE DECISIONS - ACCARDI, INC. v. PATERSON.

ACCARDI, INC., t/a Accardi's)
 Restaurant & Grill,)
 Appellant,)
 v.)

ON APPEAL

Board of Alcoholic Beverage)
 Control for the City of Paterson,)

O R D E R

Respondent.)

 Saltzman, Rubenstein & Kosoff, Esqs., by J. Mortimer Rubenstein,
 Esq., Attorneys for Appellant.
 James D. Ward, Esq., by Bruno L. Leopizzi, Esq., Attorney for
 Respondent.

BY THE DIRECTOR:

This is an appeal from a suspension of appellant's plenary retail consumption license for a period of fifteen days effective May 16, 1955. Appellant's premises are located at 978 Main Street, Paterson.

Respondent had instituted disciplinary proceedings against appellant alleging that it allowed, permitted and suffered the sale of alcoholic beverages on Sunday, March 13, 1955, between 3 a.m. and 1 p.m., on its licensed premises. On May 9, 1955, respondent found appellant guilty of permitting consumption of alcoholic beverages on said date and suspended appellant's license as aforesaid.

Upon the filing of the appeal I entered an order, dated May 12, 1955, staying the effect of respondent's order pending the entry of a further order herein. R.S. 33:1-31.

Prior to the date fixed for a hearing, the attorney for respondent forwarded to me a copy of a resolution adopted by respondent on June 8, 1955, which recites the aforesaid facts and sets forth the following resolution:

"NOW, THEREFORE, BE IT RESOLVED, that the Law Department be and it is hereby authorized and directed to consent to a reversal of the decision of this Board in the disciplinary proceedings against Accardi (sic), Inc. by the Division of Alcoholic Beverage Control, and

"BE IT FURTHER RESOLVED, that the Law Department be and it is hereby directed to prefer new and proper charges against Accardi (sic), Inc. for violation of the local regulations, on March 13, 1955 ***."

A copy of the resolution having been forwarded by me to the attorneys for appellant, they advised me that they had no objection to the dismissal of the pending appeal.

Accordingly, it is, on this 20th day of June, 1955,

ORDERED that the action of respondent be and the same is hereby reversed, without prejudice.

William Howe Davis,
 Director.

3. APPELLATE DECISIONS - FUER v. NEWARK.

EUGENE W. FUER, t/a Gene's Tavern,)	
)	
Appellant,)	On Appeal
v.)	
MUNICIPAL BOARD OF ALCOHOLIC BEVERAGE CONTROL OF THE CITY OF NEWARK,)	CONCLUSIONS AND ORDER
)	
Respondent.)	

Joseph A. D'Alessio, Esq., Attorney for Appellant.
 Vincent P. Torppey, Esq., by Jacob M. Goldberg, Esq., Attorney
 for Respondent.

BY THE DIRECTOR:

This is an appeal from respondent's action in disciplinary proceedings whereby it suspended for ten days appellant's License C-787, issued for premises 76 South Street, Newark. The suspension was imposed after finding appellant guilty of a charge alleging that he allowed, permitted and suffered a brawl in and upon his licensed premises in violation of Rule 5 of State Regulations No. 20.

Upon the filing of the appeal I entered an order on April 13, 1955, staying respondent's action pending entry of a further order herein, pursuant to R. S. 33:1-31.

A transcript of the testimony taken before respondent Board was submitted in evidence at the hearing herein and additional testimony was presented as provided by Rule 8 of State Regulations No. 15.

Appellant's petition alleges in substance that the action of respondent was erroneous in that the finding of guilt was contrary to the clear weight of the evidence.

The record herein discloses that at about 5:30 p.m. Sunday, June 13, 1954, an incident occurred in appellant's licensed premises which was precipitated by a disparaging remark addressed to the wife of a patron, Robert Moore, by another patron, Steven Bailya, and which terminated in a fight in which Bailya was injured.

Since the account of the incident, as related by the witnesses for the respective parties, is essentially at variance, a resume of the material facts upon which my determination is predicated is herein below set forth.

Bailya, respondent's sole witness, admitted he addressed a remark to Mrs. Moore which her husband resented, and he testified that, as a result, Moore invited him to "come outside" and later punched him, and that other patrons in the licensed premises kicked and knocked him down. He stated that the "brawl" stopped after "five to ten minutes" as the licensee was "coming in" and that the licensee took him into a kitchen of his home where he washed up and put on a clean shirt.

He further stated that he returned to the barroom where he was treated to a glass of beer and there learned for the first time the name of his assailant. On cross-examination he admitted that the bartender stopped the fight. It may be noted here that a city detective assigned to investigate the case testified that Bailya, in a statement made shortly after the affray, made no mention of being kicked or knocked down.

Ernest Romeo, appellant's bartender, testified that he reported for duty on the day in question at 5 p.m.; that he heard Bailya's remark and the discussion that followed, and that he notified all concerned that "if they didn't cut it out" he "would ask them to leave;" that, after the discussion ended and as he was about to serve a customer, his attention was drawn to "the two fellows going at one another" and that he immediately "jumped over the bar and got between them *** and ordered them to leave the tavern;" that Bailya, Moore and his wife left the premises and did not return; that he did not see Bailya "kicked" or "punched" and "that the incident lasted" two or three minutes "at its most."

Moore and his wife corroborated the bartender's testimony and each testified that they left the licensed premises through the rear entrance and were forty feet away from the tavern when Bailya attacked Moore from the rear and that Moore punched him on the nose from which blood started to flow.

Fuer, the licensee, testified that he was in his home adjacent to his tavern until 6 p.m., when he went out into the back yard for a little air; that he noticed Bailya, whom he knew, standing outside of the rear entrance to the tavern, and that his shirt and face were spattered with blood; that Bailya said he had had a fight; that he, Fuer, invited Bailya into his home, where Bailya cleaned up and was given a clean shirt and a glass of beer. Fuer further testified that he was not in the tavern until after he talked with Bailya in his home, and that Bailya did not return to the tavern after leaving Fuer's home.

I have carefully reviewed the uncorroborated testimony of Bailya and the testimony of appellant and his witnesses. The evidence leads me to conclude that a "brawl", though imminent, was averted on the licensed premises by the prompt and effective action of appellant's bartender, and that the ensuing combat in which Bailya was injured occurred off the licensed premises. I, therefore, conclude that the evidence herein is not sufficient to sustain a finding that the licensee allowed, permitted or suffered a brawl on his licensed premises. Cf. Woodland Rod and Gun Club v. Belleville, Bulletin 569, Item 3; Zicherman v. Newark, Bulletin 613, Item 5.

Under the circumstances I have no alternative except to reverse respondent's action.

Accordingly, it is, on this 21st day of June, 1955,

ORDERED that the action of respondent in finding appellant guilty of allowing, permitting and suffering a brawl on his licensed premises on June 13, 1954, be and the same is hereby reversed.

William Howe Davis,
Director.

4. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES
(FEMALE IMPERSONATORS) - ALLOWING PREMISES TO BE CONDUCTED
AS A NUISANCE - LICENSE SUSPENDED FOR 180 DAYS.

In the Matter of Disciplinary)
Proceedings against)

ALBERT BADER,
t/a Bader's Bar,
2 Main Street,
Paterson, N. J.,)

CONCLUSIONS

AND

Holder of Plenary Retail Consumption)
License C-115, issued by the Board of)
Alcoholic Beverage Control for the)
City of Paterson.)

ORDER

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

BY THE DIRECTOR:

Defendant pleaded non vult to the following charges:

"1. On February 24, 25, March 2, 3, 4 and 5, 1955, you allowed, permitted and suffered female impersonators in and upon your licensed premises; in violation of Rule 4 of State Regulations No. 20.

"2. On all the occasions aforesaid, you allowed, permitted and suffered lewdness and immoral activity and foul, filthy and obscene language and conduct in and upon your licensed premises and your licensed place of business to be conducted in such manner as to become a nuisance in that you permitted persons who appeared to be homosexuals to congregate on your licensed premises and to engage and participate in foul, filthy and obscene language and conduct and to mingle with, solicit and make overtures for and arrangements with patrons for acts of perverted sexual relations and to solicit patrons to purchase numerous drinks of alcoholic beverages for consumption by them and otherwise conducted your place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulations No. 20."

The file herein discloses that two ABC agents were at defendant's licensed premises in the late evening and early morning hours of February 24-25, March 2-3 and March 4-5. They remained at the premises for about 3 hours on their first two visits and about an hour on their last visit. During all their visits there were four homosexuals present, named "Toni," "Harriet," David and Bruce. They wore feminine attire at times, and spoke and acted in a feminine manner. They did not merely order and consume alcoholic beverages and keep to themselves, but attached themselves to the agents, solicited the agents to purchase drinks of alcoholic beverages for them and made indecent proposals to the agents. Some of the persons present, presumably aware that they were homosexuals, invited one of them to partake in perverted sexual relations.

In specific detail of what occurred, "Jack" and "Tony" were on duty as bartenders on February 24-25. The agents observed the homosexuals dance with each other, cheek to cheek, swaying their hips in female fashion, and coming in close contact

with the lower part of their bodies. After a conversation with a woman concerning whether "Toni" could develop an affection for one of the agents, this woman introduced "Toni" to the agents. "Toni" then introduced "Harriet," David and Bruce to the agents. "Toni" remarked to the agents that they could have their perverted services at any time. These perverts referred to each other as "whores." "Jack" the bartender, called them "dolls" or "honey." David had long curly hair, wore mascara; his eyebrows were tweezed and penciled and he wore a woman's brooch around his neck and a woman's elastic waistband.

On March 2-3, "Jack" and "Harry" were on duty as bartenders. "Harriet," "Toni," Bruce, and another of their ilk were present. "Harriet" approached the agents and asked them whether they were going to buy him and the other "girls" a drink. The agents told "Harry," the bartender, to give "her" and her "girlfriends" a drink. "Harry" laughingly repeated "give the girls a drink." "Harry" served drinks to the group of homosexuals at the agents' expense and thereafter on each instance when the agents ordered a drink for themselves. "Harriet" blew on the back of the neck of one of the agents, placed his arms around him, and fondled the agent sexually. The homosexuals referred to each other as "whores," "queers," and "gays" in the presence of the agents and one or the other of the bartenders. Bruce was referred to as the "Queen Mother." These homosexuals proposed to the agents to indulge with them in acts of sexual perversion.

The other homosexual aforementioned, not previously observed by the agents, was known as "Franky." He was seated a few seats distant from the agents. They overheard him, in a loud voice, tell a man, "You would make a very good husband," and "I'd love to make love to you." He also fondled another man. He appeared to have had a number of drinks. Both bartenders participated in the general merriment at "Franky's" actions. However, when he fondled the patron, "Jack" the bartender told him, "I think you had enough to drink, doll; no more for you honey, I think you had better go home to mother." Nevertheless, "Franky" was permitted to remain in the tavern and continue to consume alcoholic beverages. At one time "Franky" placed his arm around one of the agents and pressed the lower part of his body against the agent.

David was again wearing mascara, with penciled eyebrows and wearing woman's attire. Several of the homosexuals danced together and pressed their bodies against each other. Bruce did a dance during the course of which he did bumps, grinds and made other indecent gestures.

On March 4-5 "Jack" and "Harry" were on duty as bartenders. "Jack" has been identified as Albert Bader, the licensee. "Harry" has been identified as Daniel Joseph Bolen. "Harriet" approached the agents and asked them to buy him a drink, which they did. Shortly thereafter, David, Bruce, "Toni" and another homosexual referred to as "Josephine" joined the agents. These homosexuals wore various articles of feminine attire and used feminine make-up. They conducted themselves in a feminine manner. One or more of them offered to indulge with the agents in acts of sexual perversion. The agents informed Bolen, the bartender, of this offer and he replied, "It's all right if you want to."

During the entire period that the agents were in the

licensed premises on this occasion, one of this group of homosexuals was seated on each side of an agent and the balance of the group stood behind the agents. During the course of the evening five men entered the tavern. One of these men approached "Harriet" and invited "Harriet's" and his "girlfriends" perverted services for himself and his companions. "Harriet" told this person that two agents were their "husbands" for that evening. Later, two other men approached "Harriet." One of these men made a lewd remark, whereupon "Harriet" fondled this man who said, "Let's go." "Harriet" replied, "No I have a date for tonight."

At about 12:35 a.m., by previous arrangement, other ABC agents and local police officers entered the tavern. The officers identified themselves to Albert Bader, the licensee, and asked him to account for the presence of the homosexuals in his tavern. Bader replied that since the suspension of the license of a neighboring tavern homosexuals and lesbians had made a practice of frequenting his tavern.

The ABC agents obtained sworn signed statements from both Bader and Bolen. Bader, in his statement, repeated that he permitted men dressed in female attire to frequent his tavern, but attempted to claim that he chased them out at every opportunity, but that when they came in four or five at a time he could not do anything. He describes these persons as "queers," some of whom do not act or talk like a man, and that they have been frequenting his tavern for about a month. Further, that if there were only one or two of them he would chase them out, but that there are always four or five of them in his place and he cannot chase them because they told him that their money is as good as anyone elses; that there is nothing he can do about it; that if he called the police he would have to go to police headquarters and he has no one to take care of the tavern while he is away.

It is to be noted that when verbally interrogated by the agents Bruce claimed that he had been patronizing the tavern for the past seven or eight years; David claimed that he had been patronizing the tavern for the past year and "Harriet" claimed that he had been patronizing the tavern for the past month.

Bolen, in his statement, confirms the fact that the agents told him of the indecent proposals made to them by the "queers" and claims that he replied, "I don't know from nothing"; that four "queers" have been frequenting the licensed premises.

The charges herein are amply established by the evidence. The practices described are most offensive. Oral argument was had before me at which time the defendant's attorney urged that the penalty to be imposed should reflect what he considers to be mitigating circumstances.

His first contention is that the presence of homosexuals on licensed premises presents a problem difficult for a licensee to cope with; that their presence does not constitute a violation so long as they conduct themselves properly. The basic premise underlying this contention has no application to the instant case. These homosexuals did not attempt to conceal their abnormality and seek the advantages which a tavern affords to normal persons, restricting themselves to their mutual companionship. On the contrary they flaunted their feminine characteristics and cajoled strangers for drinks and offered to indulge with strangers in abnormal sexual practices. Surely this is highly reprehensible

and improper conduct, and constitutes a violation of the Rules and Regulations of the Division of Alcoholic Beverage Control.

The final contention is advanced that the licensee could not eject these undesirable persons; that he turned off the music box when they danced together and repeatedly tried to eject them from his tavern. This is not borne out by his actions when speaking to "Franky" as aforementioned on March 2-3, nor do the agents report that the defendant, although present on each of their visits, made any attempt to stop the music box, eject the homosexuals or object to their cadging drinks from the agents.

In any event it is simple common sense that a licensee is not helpless to rid himself of undesirable patrons; he is master in his own house if he sincerely wishes so to be. This principle has been referred to and publicized in the early days of this Division. Commissioner Burnett, in Re Dorsey, Bulletin 226, Item 11, quoted from the opinion of Judge, afterwards Justice, Fort, in State v. Lynch, 23 N.J.L.J. 45, wherein he said:

"A saloon is not a public place. No one has a right to be or remain therein if the proprietor objects to his being there. Persons there, as in any other place of business, are mere licensees, subject to be ejected at the will of the proprietor."

Decisions of this Division to the same effect are Re Rollka, Bulletin 142, Item 4, Re Plaza Hotel-O'Leary, Bulletin 188, Item 9, and Re Griffin, Bulletin 200, Item 7.

A similar contention that homosexuals cannot be barred from licensed premises has recently been rejected. Re Kaczka & Trobiano, Bulletin 1063, Item 1.

It is difficult to believe that the defendant was ignorant of this common sense principle. His excuse that he could not call the police because he could not absent himself from the tavern is flimsy. He had two bartenders. It appears more likely that he welcomed the influx of this new business, not realizing the penalty which he was inviting. He may have been shortsighted, but not helpless.

The offense is a major violation of our Rules and Regulations. As I said in Re Kaczka & Trobiano, supra:

"... it is clear that homosexuals may well have a harmful effect on some members of the public. Furthermore where they congregate and conduct themselves in the manner hereinbefore related, they are a threat to the safety and morals of the public."

Considering whatever has been presented in defendant's behalf in the most favorable light, including the fact that defendant has no prior adjudicated record, the minimum penalty I can impose is suspension of defendant's license for a period of one hundred eighty days. Re Kaczka & Trobiano, supra and cases cited therein.

Accordingly, it is, on this 21st day of June 1955,

ORDERED that Plenary Retail Consumption License C-115, issued by the Board of Alcoholic Beverage Control for the City of Paterson to Albert Bader, t/a Bader's Bar, 2 Main Street, Paterson, be and the same is hereby suspended for the balance of its term, effective at 3 a.m. June 27, 1955; and it is further

ORDERED that if any license be issued to this licensee or to any other person for the premises in question for the 1955-56 licensing year, such license shall be under suspension until 3 a.m. December 24, 1955.

William Howe Davis,
Director.

5. APPELLATE DECISIONS - GRUBER v. NEWARK - AMENDED ORDER.

HARRY GRUBER, trading as
Harry's Wines and Liquors,

Appellant,

v.

Municipal Board of Alcoholic
Beverage Control of the City
of Newark,

Respondent.

On Appeal

AMENDED ORDER

Edmond J. Dwyer, Esq., Attorney for Appellant.
Vincent P. Torppey, Esq., by Jacob M. Goldberg, Esq., Attorney
for Respondent.

BY THE DIRECTOR:

Pursuant to leave granted in Conclusions and Order heretofore entered herein, appellant has filed a verified petition requesting that the order herein be amended to provide merely for a reversal of the action of respondent.

Accordingly, it is, on this 22nd day of June, 1955,

ORDERED that the Order heretofore entered herein be and the same is hereby amended to read as follows:

"ORDERED that the action of respondent in denying appellant's application to transfer his license to 121 Belmont Avenue, Newark, be and the same is hereby reversed."

William Howe Davis,
Director.

6. DISQUALIFICATION REMOVAL PROCEEDINGS - FIVE YEARS NOT
ELAPSED SINCE DATE OF CONVICTION - DENIED WITH LEAVE TO
REAPPLY.

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

CONCLUSIONS
AND
ORDER

Case No. 1228.
-----)

BY THE DIRECTOR:

Applicant's fingerprint returns show that in 1932 he pleaded non vult to a charge of assault upon a female child under 16 years of age and was sentenced in a County Court to a term of one year in the Workhouse; that in 1950 he was charged with possession of numbers slips and book-making; that he pleaded guilty to the "numbers" charge and was fined \$100 by a local magistrate; and that on December 8, 1950, after he pleaded non vult to an indictment charging bookmaking, he was fined \$1000 and placed on probation for five years which latter was lifted after two years. In 1953, he requested this Division to determine his eligibility to engage in the alcoholic beverage industry in this State and was advised that his conviction in 1932 disqualified him, since the crime involved the element of moral turpitude. He was further advised that the disqualification could not then be removed because of his conviction in 1950 and his denial under oath, when he applied for a solicitor's permit in 1953, that he was ever convicted of crime. Re Eligibility Case No. 643.

The statute (R. S. 33:1-31.2), under which applicant may be afforded relief, requires satisfactory proof, inter alia, that he has conducted himself in a law-abiding manner for at least five years preceding his application. Applicant's conviction on December 8, 1950 precludes relief at this time. However, he is advised that his status will be determined upon consideration of a further application which he may file after December 8, 1955.

Accordingly, it is, on this 27th day of June 1955,

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

William Howe Davis,
Director.

7. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF
ILLICIT ALCOHOL - ALCOHOL ORDERED FORFEITED - MOTOR
VEHICLE RETURNED TO INNOCENT LIENOR.

In the Matter of the Seizure on)
April 3, 1955 of a pint bottle) Case No. 8851
containing an alcoholic beverage)
and a Chevrolet sedan, on Highland) On Hearing
Avenue, near Charleston and Park)
Avenues, in the Borough of Lawnside,)
County of Camden and State of New) CONCLUSIONS and ORDER
Jersey.)
-----)

The Pennsylvania Company for Banking and Trusts, by John J.
Kearney, Supervisor.
I. Edward Amada, 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, Revised Statutes of New Jersey, to determine whether a pint bottle containing an alcoholic beverage, and a Chevrolet sedan, described in a schedule attached hereto, seized on April 3, 1955 on Highland Avenue, Lawnside, N. J., constitute unlawful property and should be forfeited.

A local police officer observed the vehicle parked on Highland Avenue on the above date. The car bore Pennsylvania license plates and there were a number of men in the car. The officer inspected the vehicle, and found the pint bottle containing an alcoholic beverage, without a label or stamp indicating the payment of tax on alcoholic beverages on the bottle. He questioned the persons in the car concerning the source of the alcohol, whereupon Saul J. Lewis, the registered owner of the vehicle, told the officer that he purchased the pint bottle of liquor in a private dwelling located in Lawnside, with money contributed by himself and his companions.

The officer took the bottle of alcohol, and the motor vehicle and its occupants into custody, and later turned over the alcohol and the car to ABC agents. The contents of the pint bottle was thereafter analyzed by the Division chemist, who reports that it is alcohol and water fit for beverage purposes with an alcoholic content by volume of 32.5 per cent.

When the matter came on for hearing pursuant to R.S. 33:1-66, an appearance was entered on behalf of the Pennsylvania Company for Banking and Trusts, which sought recognition of its alleged lien on the motor vehicle. Forfeiture of the alcohol was not opposed.

Reports of ABC agents and other documents in the file which establish the facts above related were admitted into evidence with consent of the claimant.

The alcohol in the pint bottle is illicit because of the absence of a label, or tax stamp thereon, and further because it was obviously purchased from an unlicensed source. R.S. 33:1-1(1), R.S. 33:1-88. Such illicit alcohol and the motor vehicle in which it was transported and found, constitute

unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

The Pennsylvania Company for Banking and Trusts has presented a Pennsylvania Motor Vehicle Installment Sale Contract, dated October 6, 1954, reserving title in the seller, covering the sale of the motor vehicle in question to Saul J. Lewis, securing an unpaid balance of \$604.08, on which there is presently due, after rebate for prepayment, the sum of \$296.35. The bank holds such contract by assignment from the motor vehicle dealer. The bank has also presented an official Pennsylvania Certificate of Title of the motor vehicle having the lien of the bank noted thereon.

Prior to purchasing such contract, the bank was furnished with the name of Mr. Lewis' landlord and his address, with further information that he was 30 years of age, married, had three dependents, and was employed for about a year in the shipping department of an industrial concern at a salary of \$300.00 a month. The bank also received the names of various credit references.

The bank checked with the employer, who verified Lewis' employment, address, and marital status. The bank also checked with one of the references, with an independent credit investigating bureau, and with the record room of the police authorities and did not uncover any record against Lewis, or any derogatory information.

I am satisfied that the Pennsylvania Company for Banking and Trusts acted in good faith and did not know or have any reason to suspect that the motor vehicle would be used to transport illicit alcoholic beverages. I shall therefore recognize its lien upon the Chevrolet sedan to the extent of \$296.35. R.S. 33:1-66(f).

It appears that the appraised value of the Chevrolet sedan does not exceed the amount of the lien claim and the costs of its seizure and storage. The motor vehicle will therefore be returned to the Pennsylvania Company for Banking and Trusts upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 7th day of July, 1955, the Pennsylvania Company for Banking and Trusts pays the costs incurred in the seizure and storage of the Chevrolet sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to it; and it is further

DETERMINED and ORDERED that the pint bottle of alcohol listed in the aforesaid Schedule "A" 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 Director of the Division of Alcoholic Beverage Control.

Dated: June 27, 1955.

William Howe Davis,
Director.

SCHEDULE "A"

- 1 - pint bottle of alcohol
- 1 - Chevrolet sedan, Engine and Serial No. 14GKF43971, Pennsylvania Registration 355-P7.

8. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF
ILLICIT ALCOHOL - ALCOHOL ORDERED FORFEITED - MOTOR VEHICLE
RETURNED TO INNOCENT LIENOR.

In the Matter of the Seizure on)
March 27, 1955 of a pint bottle) Case No. 8843
of alcohol and a Ford sedan, on)
Evesham Avenue, in the vicinity) On Hearing
of White Horse Pike, in the Borough)
of Magnolia, County of Camden and) CONCLUSIONS and ORDER
State of New Jersey.)

Green and Yanoff, Esqs., by Leo Yanoff, Esq., Attorneys for
Commercial Credit Corporation.

I. Edward Amada, 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, Revised Statutes of New Jersey, to determine whether a pint bottle of alcohol, and a Ford sedan, described in a schedule attached hereto, seized on March 27, 1955 on Evesham Avenue in the vicinity of White Horse Pike, Magnolia, New Jersey, constitute unlawful property and should be forfeited.

Local police officers halted the motor vehicle at the time and place aforesaid during the course of their routine traffic duty. The motor vehicle was being driven by Angel Francis Quinis, its registered owner, who appeared to be intoxicated. Three other persons were in the car. The officers found a pint bottle of alcohol, without a label or stamp indicating the payment of tax on alcoholic beverages. The officers took into custody the bottle of alcohol and the motor vehicle and thereafter turned them over to ABC agents.

The Division chemist analyzed the contents of the pint bottle and reports that it is alcohol and water fit for beverage purposes with an alcoholic content by volume of 39.6 per cent.

When the matter came on for hearing pursuant to R.S. 33:1-66, an appearance was entered on behalf of Commercial Credit Corporation, which sought recognition of its alleged lien on the motor vehicle. Forfeiture of the alcohol was not opposed.

Reports of ABC agents and other documents in the file, which establish the facts above related, were admitted into evidence with consent of counsel for the finance company.

The alcohol in the pint bottle is illicit because of the absence of a label or tax stamp on the bottle. R.S. 33:1-1(i), R.S. 33:1-88. Such illicit alcohol, and the motor vehicle in which it was transported and found, constitute unlawful property and are subject to forfeiture. R.S. 33:1-1(y), R.S. 33:1-2, R.S. 33:1-66.

Commercial Credit Corporation has presented a lease agreement dated March 10, 1955 between Angel Francis Quinis and Folcroft Motors, Inc., assigned to Commercial Credit Corporation, whereby title to the motor vehicle in question is retained by the

dealer and its assignee until the purchase price of the motor vehicle is paid in full. The finance company also presented Certificate of Title to the motor vehicle issued by the Department of Revenue of the State of Pennsylvania, with the notation that the Commercial Credit Corporation has an encumbrance thereon. The original amount due on the lease agreement is \$1314.72. Quinis did not make any payment on account thereof.

Prior to extending credit to Angel Francis Quinis, the finance company received information that he had resided at a Philadelphia address for a period of five years, and was employed by an industrial concern as a laborer; that he was formerly employed by a railroad; that he had previously purchased a motor vehicle and financed its purchase by obtaining a loan from a bank; and was furnished with the names of three trade references.

The finance company contacted Quinis' employer, and the aforementioned bank, who confirmed his residence, and employment, and reported that he had a favorable financial standing. Its inquiry did not develop any detrimental information concerning his background. Apparently he does not have any previous record for violating any liquor laws.

I am satisfied that the Commercial Credit Corporation acted in good faith and did not know or have any reason to suspect that the motor vehicle would be used to transport illicit alcoholic beverages. I shall therefore recognize its lien upon the Ford sedan to the extent of \$1314.72. R.S. 33:1-66(f).

It appears that the appraised value of the Ford sedan does not exceed the amount of the lien claim and the costs of its seizure and storage. The motor vehicle will therefore be returned to the Commercial Credit Corporation upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 7th day of July, 1955, Commercial Credit Corporation pays the costs incurred in the seizure and storage of the Ford sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to it; and it is further

DETERMINED and ORDERED that the pint bottle of alcohol listed in the aforesaid Schedule "A" 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 Director of the Division of Alcoholic Beverage Control.

William Howe Davis,
Director.

Dated: June 27, 1955.

SCHEDULE "A"

- 1 - pint bottle of alcohol
- 1 - Ford sedan, Serial and Engine No. B3CG117658,
1955 Pennsylvania Registration 58PS3.

9. DISQUALIFICATION REMOVAL PROCEEDINGS - FIVE YEARS NOT
ELAPSED SINCE DATE OF CONVICTION - APPLICATION DENIED.

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

CONCLUSIONS

Case No. 1226.
-----)

BY THE DIRECTOR:

Petitioner herein, pursuant to R.S. 33:1-31.2, seeks to have any disqualification removed by reason of his being convicted of a crime involving moral turpitude.

The evidence herein discloses that on May 10, 1951, petitioner pleaded non vult to the crime of bookmaking, as a result of which he was fined \$1,000 and costs and was committed to a penal institution until payment thereof. It appears that payment of the fine and costs was made on June 20, 1951.

Petitioner testified that he operated a bookmaking establishment at his home for a period of 1-1/2 months before he was apprehended by law-enforcement authorities. I am satisfied that he was engaged as a principal in commercialized gambling and the crime of bookmaking to which he pleaded non vult involves moral turpitude. Cf. Re Case No. 1018, Bulletin 956, Item 7. Therefore, petitioner is disqualified from working for a liquor licensee or holding a liquor license in this State. R.S. 33:1-25, 26.

Inasmuch as petitioner was apparently released from the penal institution on June 20, 1951, the merits of the within petition cannot be considered at this time. One of the requirements necessary for the lifting of a disqualification is that petitioner must have conducted himself in a law-abiding manner for a period of five years last past. R.S. 33:1-31.2; Re Case No. 250, Bulletin 546, Item 4. It has been held, in determining whether a petitioner's conduct has been law-abiding for five years last past, that the time of confinement in a penal institution because of conviction of crime is not part of the probationary period. See Re Case No. 16, Bulletin 222, Item 12; Re Case No. 270, Bulletin 565, Item 10.

Since five years have not elapsed from the time petitioner was released from the penal institution, I shall deny the within petition.

William Howo Davis,
Director.

Dated: June 28, 1955.

10. STATE LICENSES - NEW APPLICATIONS FILED.

Idadot Corp.,
Ft. 18th Street,
Barnegat Light Yacht Basin,
Boat "Dolphin II"

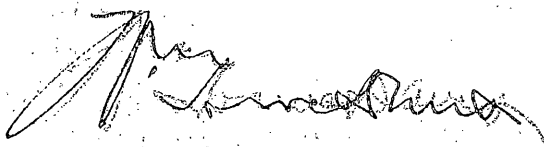
Application filed July 8, 1955 for Plenary
Retail Transit License.

Kremer Beverage Co., Inc.,
102-116 North Virginia Avenue,
Atlantic City, New Jersey.

Application filed July 11, 1955, for an
additional warehouse at 118-20 West Spruce Street,
North Wildwood, New Jersey.

Louis Crescenzi,
t/a Warren Delivery Service,
266 Pomona Avenue,
Newark, N. J.

Application filed July 12, 1955, for
Transportation License.



William Howe Davis,
Director.