Harold Miller DP
41 Sheffield St.
Jersey City 5, N. J.

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

BULLETIN 943 SEPTEMBER 8, 1952.

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ITEM

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

BULLETIN 943 SEPTEMBER 8, 1952.

1. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE) - AGGRAVATED CIRCUMSTANCES - LICENSE SUSPENDED FOR 40 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against M. P. CORPORATION T/a PADDOCK INTERNATIONAL 1643 Atlantic Avenue Atlantic City, N. J., Holder of Plenary Retail Consumption License C-97 for the 1951-52 licensing year and C-237 for the 1952-53 licensing year, issued by the Board of Commissioners of the City of Atlantic City.	CONCLUSIONS AND ORDER

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

BY THE DIRECTOR:

Defendant has pleaded non vult to a charge alleging that it allowed, permitted and suffered lewd, indecent and immoral activities (strip-tease and other lewd dances by its female employees and indecent stories by a male employee), in violation of Rule 5 of State Regulations No. 20.

The file herein discloses that on the night of June 10, 1952, at 11:20 p.m., ABC agents visited defendant's licensed premises and remained thereon until 1:05 a.m. the following morning. They returned to the defendant's licensed premises approximately an hour and a half later. On both occasions the ABC agents witnessed the floor show, the second performance being a repetition of the prior one. The entertainment included "strip-tease" dances by three female performers in the usual burlesque tradition, with "bumps" and "grinds" and ultimately with the appearance of practically complete nudity. Another female performer executed a dance consisting of "bumps" and "grinds" and other sexually suggestive movements, ending with the performer lying on the floor to make the simulation of sexual intercourse more realistic. A male performer recited indecent stories during the course of the shows in question.

Such performances have no place on licensed premises.

Defendant has no prior adjudicated record. Ordinarily in a matter of this kind where no aggravating circumstances are present, a suspension of the license for thirty days is imposed. Cf. Re Bajewicz, Bulletin 902, Item 4; Re Corma, Bulletin 913, Item 4; Re Primiceri, Bulletin 916, Item 3. However, in the case under consideration, where a number of strip-tease acts were executed by different female performers, a more severe penalty is warranted. Under the circumstances, I shall suspend defendant's license for a period of forty days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty-five days.

Although this proceeding was instituted during the 1951-52 licensing period, it does not abate but remains fully effective against the renewal license for the 1952-53 licensing period. State Regulations No. 16.

Accordingly, it is, on this 2nd day of September, 1952,

ORDERED that Plenary Retail Consumption License C-237 issued for the 1952-53 licensing year by the Board of Commissioners of the City of Atlantic City to M. P. Corporation, t/a Paddock International, 1643 Atlantic Avenue, Atlantic City, be and the same is hereby suspended for a period of thirty-five (35) days, commencing at 7:00 a.m. September 8, 1952, and terminating at 7:00 a.m. October 13, 1952.

DOMINIC A. CAVICCHIA
Director.

2. DISCIPLINARY PROCEEDINGS - LEWDNESS AND IMMORAL ACTIVITIES (INDECENT DANCE) - LICENSE SUSPENDED FOR 30 DAYS.

In the Matter of Disciplinary Proceedings against

CLIQUOT CLUB, INC.
T/a CLUB 15
15 North Illinois Avenue
Atlantic City, N. J.,

Holder of Plenary Retail Consumption License C-181, issued by the Board of Commissioners of the City of Atlantic City.

CONCLUSIONS AND ORDER

- - - - - - - - - - - - - - - - - -

Albert N. Shahadi, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On Tuesday night, June 10 and early Wednesday morning, June 11, 1952, you allowed, permitted and suffered lewdness and immoral activity in and upon your licensed premises in that female entertainers, known as Sharon --- and Ilona ---, performed in a lewd, indecent and immoral manner; in violation of Rule 5 of State Regulations No. 20."

Two ABC agents testified that they entered defendant's licensed premises at 10:45 p.m. on June 10, 1952, and sat at the rear end of the bar near a small stage provided for entertainers. At approximately 11:30 p.m. a mistress of ceremonies opened the "show" which consisted of six separate "acts". The Division raised no question as to the propriety of four of these "acts". One of the agents described in detail the two remaining "acts". The first of these was performed by Sharon --- under a "bluish light", all of the regular lights near the stage having been extinguished. The agent testified that Sharon appeared on the stage wearing a large cape which she soon removed revealing what appeared, under the then existing lighting conditions, to be the silhouette of a woman's body with hands upon it. The agent described it as follows: "When she took the cape off I observed a female-silhouetted figure with small phosphorous hands, one each, sort of cupping the breasts and a large simulated male hand covering the center portion of her body with the fingers extending down into the vulva of the body. When she turned to the rear, on her buttocks were two large simulated male hands sort of with the fingers pointing toward each other and into the center of the buttocks grasping the fleshy part of each buttock." The same agent, in describing her motions and movements, testified that as she "....danced around

the stage, the first impression was when her breasts were moving in such a manner to give the impression the two hands painted on her breasts were rotating and pushing her breasts up and down. Then the next portion I observed was the large simulated male hand which was painted in the front portion of her body and she flexed in a circular motion, back and forth. The fingers gave the impression of flexing in and out the vulva part of her body. Then when she turned to the rear, the movement of her body back and forth gave the impression as the two large simulated male hands were grasping the buttocks and pushing inward then outward, inward and out." He further testified that the lighting made the hands yellow in color and "made them stand out" and that, when the lights were turned on at the conclusion of her dance, Sharon was dressed in a black "bra", black tights and black stockings.

On cross-examination he stated that the hands were "painted" on the costume over the breasts, near the vulva and on the buttocks, and that they were five in number.

As to the other "act", the same agent testified that the last performer of the show was a young red-haired woman introduced as "Ilona ---" who came onto the stage wearing what appeared to be a white gown and a white fur stole. He further testified that, as she danced in a light which was "not normal" but was "turned down a bit", she removed first the stole and then the upper part of the gown leaving her attired in a white "bra" and a long white skirt split up the front so that it revealed one or the other of her limbs whenever she moved. Thus attired she assumed a posture which the agent described as "a sort of a crouched catcher's position with her hands extended to the floor of the stage" and did "bumps and grinds" (in typical burlesque fashion). Both agents identified Mrs. Leone Thurston, President of defendant corporation, as the person who was introduced as Ilona --- at the licensed premises on the night in question and who performed the above described dance which included the "bumps and grinds". (As to all other matters it was stipulated that the testimony of the second agent would be the same as that of the first agent.)

With respect to the performance of Sharon, defendant's manager admitted that she performed there on the night in question under a special blue light, "when the room is all blacked out". He further testified that, under the lighting conditions as described, "...you just see her gown and everything that she does because it's all fluorescent material". When asked whether he meant a "silhouette" he replied, "Well, silhouette yes, I'd call it that."

Sharon admitted that her costume consisted of the cape, black pants, black tights, black stockings and two "bras", a solid one on top which looks yellow under the lights and a black one underneath with small fluorescent centers. She further admitted that she removed the cape and the outer "bra" but denied that her costume had hands "painted" on it as described by the agents. She testified that there were ten or twelve "tiny" hands sewed on the tights which "...from the floor....look like flowers" but that no other part of her costume had hands on it, the illusion of hands on her costume or body being achieved by the use of fluorescently treated gloves which, because of their color and the lights, "clearly stand out".

On cross-examination Sharon admitted that the hands were "larger than my hands" and explained the technique of her dance as follows:

"Q Did you come close to your body? A Yes.

"Q Did it give an illusion that you were touching your body with your fluorescent covered hands? A I imagine so.

"Q And at times did you have your hands, either one of them, on your stomach pointed downwards? A No. I move my hands in all directions when I'm on the floor. The object of it is so they can't see my body at all under the light. As the agent said before, it gives just a silhouette of a woman's body.

"Q Of a female's nude body? A Yes. I don't know whether it's supposed to be nude or not. It's supposed to be an exotic dance; that's all."

As to the dance allegedly performed by Ilona ---, Mrs. Thurston testified that, to the best of her knowledge, Ilona --- performed a dance at the end of the show on the night in question and denied that she (Mrs. Thurston) had performed in any manner on the stage at the licensed premises that night. She admitted that she had been an entertainer performing similar dances but denied having performed as such during the past three years. She also admitted that both she and Ilona --- have red hair but pointed out several differences in their physiques. She further testified that, if Ilona --- was not at the licensed premises on the night in question, no one else substituted for her and that if a girl were introduced as Ilona --- "It had to be Ilona ---."

Defendant's manager testified that, while Ilona --- had been hired to perform a dance in their show for the period which was to have begun May 30, 1952, and to terminate June 5 or 6, 1952, she did not actually start her engagement until a few days after May 30 and consequently stayed on until June 9. He denied that she performed at defendant's licensed premises on June 10 and 11 as testified by the agents. He testified that the show was closed that night by the mistress of ceremonies and that no one substituted for Ilona ---. He admitted, however, that her picture was displayed outside the licensed premises on the night in question and was not removed until the following day.

From all of the evidence I am satisfied that, although the agents may have been mistaken as to the minute details of Sharon's costume and the exact identity of the person who was introduced by the mistress of ceremonies as Ilona ---, nevertheless their testimony fairly depicts what occurred on the licensed premises on the night of June 10-11, 1952.

In the case of the performance by Sharon, it is immaterial whether the hands were painted or sewed on her costume or whether the hands touched her body or merely appeared to do so. Clearly the impression created in the minds of the people in the audience was of "roving" hands caressing or fondling her breasts and other parts of her body in simulation of a sensuous embrace. This illusion was designedly effected and heightened by the use of fluorescently treated materials and special lighting. As in the case of simulated nudity when, in fact, the body is partly covered, it is not the actual fact but the appearance which is controlling. See Re Turner, Bulletin 214, Item 10, where the late Commissioner Burnett said, in a case where the dancer wore so-called net gauze, "Whatever has the appearance of evil and is separated from it only by a 'so-called net gauze' is not fit for taverns." Similarly, in the instant case, the illusion of the "roving hands" has no place on licensed premises.

As to the last "act" in which, according to the agents, a female who was introduced as Ilona --- performed a dance which included "bumps and grinds", I am convinced that such a dance took place on that night. (In fact, defendant's witnesses did not deny that Ilona --- performed such a dance in such a costume at the licensed premises during the same week.) I am equally convinced that the agents were in error when they pointed to Mrs. Thurston as

the person who performed that dance. Considering the lighting conditions at the time of the performance, the general resemblance between Mrs. Thurston and Ilona ---, and the period of time which elapsed between the night when the agents made their observations and the date of the hearing, such mistake in identity is readily understandable. By the same token, I believe that the manager was in error as to the exact date upon which Ilona --- terminated her engagement at the licensed premises.

Despite the mistake in identity, I am still confronted with the testimony of Mrs. Thurston, already alluded to and to the effect that to the best of her knowledge Ilona --- performed a dance at the end of the show on the night in question and that if a girl were introduced as Ilona --- it had to be Ilona --- (which testimony does not lose its probative significance by her further testimony, also already alluded to, that if Ilona --- was not at the licensed premises on the night in question no one substituted for her).

While the dance may not have been strictly a "strip tease" it included the vulgarly suggestive "bumps and grinds" common to burlesque. Such performances will not be tolerated on licensed premises. Re The MLC Corporation, Bulletin 934, Item 7; Re Eagle Bar & Grill, Inc., Bulletin 935, Item 2; Re Corma, Bulletin 913, Item 4; Re Russell's Bar & Restaurant, Inc., Bulletin 879, Item 6.

Defendant has no prior adjudicated record. Under the circumstances I shall suspend the license for thirty days. Re The MLC Corporation, supra; Re Corma, supra; Re DiAngelo, Bulletin 753, Item 4.

Accordingly, it is, on this 2nd day of September, 1952,

ORDERED that Plenary Retail Consumption License C-181, issued by the Board of Commissioners of the City of Atlantic City to Cliquot Club, Inc., t/a Club 15, 15 North Illinois Avenue, Atlantic City, be and the same is hereby suspended for a period of thirty (30) days, commencing at 7:00 a.m. September 8, 1952, and terminating at 7:00 a.m. October 8, 1952.

DOMINIC A. CAVICCHIA
Director.

3. CANCELLATION PROCEEDINGS - HOLDER OF LICENSE CEASED TO BE A BONA FIDE CLUB - LICENSE CANCELLED.

In the Matter of Cancellation Proceedings against

TWO-IN-ONE CLUB
118 Spring Street
Morristown, N. J.,

Holder of Club License CB-4 for the 1951-52 and 1952-53 licensing years, issued by the Board of Aldermen of the Town of Morristown.

CONCLUSIONS AND ORDER

Charles H. Smith, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant-licensee was ordered to show cause why its 1951-52 club license should not be suspended, revoked, cancelled or declared null and void as having been improvidently issued in that, at the time of issuance of such license and prior thereto, it had ceased to be a bona fide club.

Under the Alcoholic Beverage Law (R. S. 33:1-12(5)) and State Regulations No. 7 a club license may be issued only to corporations, associations and organizations organized for benevolent, charitable, fraternal, social, religious, recreational, athletic or similar purposes, and not for private gain. Thus, in order to qualify for a club license initially and in order to qualify for a renewal of such club license an organization must have been organized for, and must have continued to operate for one of the aforesaid purposes and not for the benefit of any other person or group of persons.

At the hearing herein various officers of defendant-licensee appeared and testified. In addition, numerous sworn statements obtained from them during the course of the Division's investigation were introduced in evidence. From all of the evidence it appears that, sometime prior to 1911, a fraternal lodge, hereinafter referred to as the "Lodge", was organized in Morristown and that, when the Lodge acquired a building for a meeting room and other purposes an association was formed, hereinafter designated the "Association", for the purpose of owning and operating the building (118 Spring Street, Morristown, which includes the licensed premises). Thereafter, in 1911, the younger members of the Lodge organized, from among its members, the Two-in-One Club, which was duly incorporated and which is hereinafter referred to as the "Club". The original purposes of the Club although not set forth in the constitution and by-laws are alleged to have been the raising of funds for charitable and social purposes. Originally, the Association and the Club each had the same five trustees (three of whom survive) and some of the same officers.

In 1934, at the time the Club obtained its first club license, it was partially reorganized and its membership was opened to members of other fraternal lodges in Morristown. For many years the Club has occupied the basement of the building at 118 Spring Street and, since 1934, said basement has constituted its licensed premises. There is no written lease between the Association and the Club. It appears, however, that within the past several years, and because of the need of the Association for funds with which to defray the expenses of maintaining the building, the club agreed to pay to the Association at least $20.00 to $25.00 per week. The records introduced in evidence disclose that, while there were periods during which the Club paid no rent to the Association, payments for the period beginning January 1951 and ending February 1952 were between $40.00 and $75.00 per month.

According to defendant's witnesses, the Club barroom has been managed by its steward who was selected by and is under the direct supervision of the president of the Club. The steward tends bar, deposits the money from the operation of the bar in the cash register, purchases alcoholic beverages and pays his own salary (formerly $40.00 but now $55.00 per week) out of the cash receipts and, once a week, after retaining a small sum for petty cash, pays over the balance to the Club president who in turn pays it over to John H. Tanner, who is a trustee of the Club and also a trustee and the financial secretary of the Association. The Club has no bank account. Recently, the steward has deposited some Club funds in his own personal account in a local bank and has drawn checks upon that account in payment of some of the Club's bills. It was admitted that the Club's bar business had been mismanaged prior to the election of its present president in 1950 and it was claimed that a former steward had misappropriated Club funds and property. An examination of the Club's more recent records discloses a discrepancy of approximately $400.00 for a two-month period which has not been satisfactorily accounted for. Claim was made that all or part of this amount may have been used to repay to the president moneys loaned by him to the Club, but the proofs offered do not completely explain the discrepancy.

It was admitted that in the past two years the Club has experienced difficulties with some of its officers, one of whom refused to serve, and has been unable to hold regular meetings for the past year or more. Although it is claimed that regular annual elections of officers were held in 1950 and 1951, it was admitted that there was no quorum at the annual meeting in 1952 and that the officers previously elected held over, except that a new secretary was designated to replace the former secretary who had refused to serve. No minutes of regular meetings were produced at the hearing. One of the three trustees (Lexington L. Taylor) said that he had never met in an official capacity with the other trustees and that he has not been in the building during the past twelve years. Another trustee (John W. Tolar) said, "If there is any business to transact the trustees usually meet each other during the course of business on the outside and talk things over, sometimes in our cars or at our place of business. I operate my own taxi business and so does John Tanner".

According to the by-laws submitted by defendant, the Club members are entitled to vote on applicants for membership. Yet, it was admitted that Club membership is obtained without any formal application being submitted to the members and merely by (1) verbal application to the Club president or steward, (2) being vouched for by members in good standing (the number not specified) and (3) payment of 25¢ (formerly $1.00), whereupon a membership card is issued on the spot and the name and address of the new member entered in the membership book. The membership fees are not kept in a separate account. The steward allegedly places these fees in the cash register with the regular daily bar receipts and no audit is made of these fees. The membership book contains nearly 400 names but the president testified that there are only 75 or 80 active members who come to the Club with any degree of regularity. It was admitted that some "visitors" and "summer residents" desiring to drink at the Club are admitted to membership in the manner hereinabove described.

Several of defendant's witnesses testified that the Club provides for its members various facilities other than drinking privileges but, at best, they could point only to an occasional card party or dinner and one bus trip to a baseball game, the bus trip being open to the general public.

Several of the witnesses who are interested in the Association as trustees or officers or both testified that they had loaned money to the Association to repair the building and that they were interested in the payment of as much money as possible by the Club to the Association so that the debt on the building ($7,000.00) could be cleared and they could get back the money which they had invested.

The Division conceded that perhaps at one time defendant constituted a bona fide club but contended that before the 1951-52 club license application was filed defendant had ceased to be such. From all of the foregoing I conclude that this contention has been established by a preponderance of the evidence. The Club's entire modus operandi is inconsistent with its continued existence as a bona fide club. The conclusion is inescapable that for several years last past the membership has not controlled the club and that the principal reason for its existence has been to provide as much financial assistance as possible to the Association so that it, in turn, might maintain the building owned by the Association. The business conducted under the license is the major source of the Club's revenues which, instead of being deposited in the Club's treasury (which was nonexistent), for all practical purposes have

been turned over to the Association in toto (except for some unaccounted for funds as hereinabove indicated). In fact, as John H. Tanner testified, it was intended that "Whatever money they took in over what it took to run the club they would turn it over to the Association".

The conclusion hereinabove expressed is further supported by the irregular and perfunctory method of inducting new members in violation of the by-laws. Under R. S. 33:1-12(5) the holder of a club license may sell alcoholic beverages only to bona fide members and their guests; and in Rule 1 of State Regulations No. 7 a "club member" is defined as "Any person in good standing who has been admitted to membership in the manner regularly prescribed by the by-laws of a club, and who maintains his membership in a bona fide manner...." Whatever may have been the original status and purposes of the Club in the instant case, the licensed premises have become in recent years hardly more than a drinking place for persons "vouched for" by members (whose own membership, under such procedure, may have been effected in like manner). Nor does the issuance of membership cards make the holders thereof bona fide members within the intendment of the statute and the Regulations. Cf. Perth Amboy Colored Democratic Club, Bulletin 915, Item 10; Tadeusz Kosciuzko Polish American Democratic Club, Bulletin 827, Item 14.

I find that defendant had ceased to be a bona fide club before the time it filed its 1951-52 application for a club license. Hence I shall cancel the license now held by the defendant. Unity Political and Social League, Inc., Bulletin 894, Item 3; Perth Amboy Colored Democratic Club, supra.

The license existing at the time these proceedings were instituted expired June 30, 1952. However, in accordance with the provisions of State Regulations No. 16, the proceedings do not abate. Any order herein shall be effective against the license for the current licensing year. Perth Amboy Colored Democratic Club, supra.

Accordingly, it is, on this 18th day of August, 1952,

ORDERED that Club License CB-4, issued for the 1952-53 licensing year by the Board of Aldermen of the Town of Morristown to Two-in-One Club, 118 Spring Street, Morristown, be and the same is hereby cancelled and declared null and void, effective at 2:00 a.m. August 21, 1952.

DOMINIC A. CAVICCHIA
Director.

4. DISCIPLINARY PROCEEDINGS - SALES TO MINOR - LICENSE SUSPENDED FOR 10 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

HOTEL DIX CORPORATION
T/a HOTEL DIX
N/W Corner Main St. & Fort Dix Road
Wrightstown, N. J.,

Holder of Plenary Retail Consumption License C-9, issued by the Borough Council of the Borough of Wrightstown.

CONCLUSIONS AND ORDER

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Felcone & Felcone, Esqs., by Joseph J. Felcone, Esq., Attorneys for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that it sold, served and delivered alcoholic beverages to minors at its licensed premises, and permitted consumption thereof, in violation of Rule 1 of State Regulations No. 20.

The file discloses that on July 12, 1952, a bartender employed by defendant sold and served to Pvt. Howard H. ---, 20 years of age, a glass of beer which the latter consumed at the bar, and also sold and delivered a quart bottle of Port wine to Pvt. William M. ---, 19 years of age. Neither minor was questioned with respect to his age.

Defendant has no previous adjudicated record. Under the circumstances I shall suspend the license for ten days, the minimum penalty in such cases. Five days will be remitted for the plea entered herein, leaving a net suspension of five days. Re Lippitt and Applebaum, Bulletin 923, Item 7.

Accordingly, it is, on this 11th day of August, 1952,

ORDERED that Plenary Retail Consumption License C-9, issued by the Borough Council of the Borough of Wrightstown to Hotel Dix Corporation, t/a Hotel Dix, N/W Corner Main St. & Fort Dix Road, Wrightstown, be and the same is hereby suspended for a period of five (5) days, commencing at 2:00 a. m. August 18, 1952, and terminating at 2:00 a. m. August 23, 1952.

DOMINIC A. CAVICCHIA
Director.

5. MORAL TURPITUDE - CONSPIRACY AND BOOKMAKING.

DISQUALIFICATION - 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.

Case No. 987.

CONCLUSIONS AND ORDER

BY THE DIRECTOR:

In January 1945 petitioner pleaded guilty to two charges of an indictment, namely, charges of conspiracy and bookmaking, as a result of which he was fined $1,000.00 and sentenced to serve one year in a County Penitentiary. He was released from custody after serving approximately ten months. Since that time he has not been convicted of any crime. Since the crime of which petitioner was convicted involves moral turpitude, he was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this state.

At the hearing herein petitioner produced three witnesses, a businessman, an architect and a municipal official, all of whom have known him for at least ten years. All three testified that he bears a good reputation in the community, and that he has been law-abiding for at least five years last past.

Petitioner testified that since his release from custody in 1945 he has been retired and, except for managing his own properties and liquidating several corporate enterprises, he has not engaged or been employed in any business. He explained that for the most part he has supported himself on the proceeds of the sale of capital assets. He introduced into evidence a statement showing substantial income from such sources. He denied having any difficulty with the law or any connection with gambling activities, other than as above indicated, and says that he seeks to have his disqualification resulting from conviction of crime removed because he desires to return to the restaurant business, in which business he was engaged for many years and because he may seek to obtain a license to sell and dispense alcoholic beverages in connection therewith.

Under all the circumstances I find that petitioner has been law-abiding for more than five years last past, and that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 14th day of August, 1952,

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.

DOMINIC A. CAVICCHIA
Director.

6.

ACTIVITY REPORT FOR AUGUST, 1952

ARRESTS:			
Total number of persons arrested			26
Licensees and employees	12		
Bootleggers	12		
ABC agent impersonators	2		
SEIZURES:			
Motor vehicles - cars			2
Stills - 50 gallons or under			2
Distilled alcoholic beverages - gallons			52.32
Wine - gallons			4.80
Brewed malt alcoholic beverages - gallons			25.61
RETAIL LICENSEES:			
Premises inspected			843
Premises where alcoholic beverages were gauged			745
Bottles gauged			13,592
Premises where violations were found			98
Violations found			157
Type of violations found:			
Unqualified employees	80	Gambling devices	1
Other mercantile business	6	Prohibited signs	1
Disposal permit necessary	4	Other violations	63
Reg. #38 sign not posted	2		
STATE LICENSEES:			
Premises inspected			21
License applications investigated			6
COMPLAINTS:			
Complaints assigned for investigation			439
Investigations completed			414
Investigations pending			173
LABORATORY:			
Analyses made			134
Refills (from licensed premises) - bottles			5
Bottles from unlicensed premises			17
IDENTIFICATION BUREAU:			
Criminal fingerprint identifications made			28
Persons fingerprinted for non-criminal purposes			216
Identification contacts made with other enforcement agencies			247
Motor vehicle identifications via N. J. State Police Teletype			2
DISCIPLINARY PROCEEDINGS:			
Cases transmitted to municipalities			14
Violations involved:			
Sale to minors	6	Permitting females to tend bar	1
Sale during prohibited hours	6	Failure to afford view into premises during prohibited hours	1
Sale to non-members by club	1		
Cases instituted at Division			11
Violations involved:			
Sale to minors	5	Sale to intoxicated persons	1
Sale beyond scope of license	2	Sale during prohibited hours	1
Permitting immoral activity on premises	2	Permitting hostesses on premises	1
Hindering investigation	2	Failure to afford view into premises during prohibited hours	1
Possessing illicit liquor	1		
Cases brought by municipalities on own initiative and reported to Division			6
Violations involved:			
Sale during prohibited hours	3		
Sale to minors	2		
Sale to intoxicated persons	2		
Permitting bookmaking on premises	1		
HEARINGS HELD AT DIVISION:			
Total number of hearings held			24
Appeals	3		
Disciplinary proceedings	15		
Eligibility	4		
Seizures	2		
PERMITS ISSUED:			
Total number of permits issued			928
Employment	295	Social affairs	380
Solicitors'	57	Special wine	19
Disposal of alcoholic beverages	39	Miscellaneous	138

DOMINIC A. CAVICCHIA
Director.

Dated: September 2, 1952.

7. MORAL TURPITUDE - BREAKING, ENTERING AND LARCENY.

DISQUALIFICATION - 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. 997.	

BY THE DIRECTOR:

In April 1932, petitioner was adjudged a disorderly person and fined $1.00 in a municipal court. In October 1932, he pleaded guilty in a municipal court to a charge of assault and battery, as a result of which he was sentenced to thirty days in jail, which sentence was suspended. In September 1935 petitioner pleaded guilty in a county court to the crime of breaking, entering and larceny, as a result of which he received a suspended sentence. A complaint of assault and battery in August 1943 was dismissed by the Grand Jury. Since the crime of breaking, entering and larceny involved moral turpitude, petitioner's conviction of that crime (in 1935) rendered him ineligible to be engaged in the alcoholic beverage industry in this state.

At the hearing petitioner produced as witnesses three aircraft plant workers, all of whom have known him for at least ten years. Each testified that he bears a good reputation in the community and that he has been law-abiding for at least five years last past.

Petitioner testified that, for the past five years, he has been employed as a polisher by several well known manufacturers in northern New Jersey, one of them being the aircraft factory where the character witnesses are employed. He further testified that he resides with his wife and family and has had no difficulties with the law since the incident in 1943, hereinabove recited, which he described as a quarrel between neighbors resulting in cross complaints which were withdrawn by mutual consent. He gave as his reason for seeking removal of his disqualification resulting from conviction of crime his desire to operate a tavern in New Jersey.

Under all of the circumstances, I find that petitioner has been law-abiding for more than five years last past, and that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 25th day of August, 1952,

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

DOMINIC A. CAVICCHIA
Director.

8. MORAL TURPITUDE - LARCENY OF AUTOMOBILE.

DISQUALIFICATION - 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.

Case No. 996.

CONCLUSIONS AND ORDER

BY THE DIRECTOR:

In March 1947 petitioner pleaded guilty in Special Sessions Court to the crime of larceny (automobile) as a result of which he was given a suspended sentence and was placed on probation for two years. Since the crime of which he was convicted involved moral turpitude, petitioner was thereby rendered ineligible to be engaged in the alcoholic beverage industry in this state.

At the hearing petitioner produced as witnesses three persons, a municipal employee, a truck driver and a neighbor who is unemployed due to illness, all of whom have known him for at least five years. Each testified that petitioner bears a good reputation in the community and that he has been law-abiding for at least five years last past.

Petitioner testified that, since his conviction in 1947 he has worked as a truck driver and has not been in any difficulty with the law. He resides with his mother whom he supports. He admitted that, for the past year he has been employed as a truck driver by a New Jersey wholesaler of alcoholic beverages. He claims that, until he filed an application with this Division for a solicitor's permit in June 1952 (in which application he disclosed his conviction), he did not know that he was ineligible for employment in the alcoholic beverage industry in this state. On his sworn testimony I conclude that he was actually unaware of such disqualification. Knowledge of the law is not a necessary ingredient of the good faith essential in rehabilitation proceedings. See Case No. 594, Bulletin 767, Item 6; Re Case No. 929, Bulletin 921, Item 10.

Under the circumstances I find that petitioner has been law-abiding for more than five years last past, and that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 25th day of August, 1952,

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.

DOMINIC A. CAVICCHIA
Director.

9. MORAL TURPITUDE - ATTEMPTED ASSAULT, SECOND DEGREE.

DISQUALIFICATION - 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. 991.

BY THE DIRECTOR:

On May 11, 1945, petitioner was sentenced by a Judge of a Court of General Sessions of another state to serve six months in a penitentiary as a result of his plea of guilty to Attempted Assault, Second Degree. He was discharged from the penal institution on September 6, 1945.

The criminal reports received at this Division disclose that petitioner by the use of a pen knife inflicted injuries upon a police officer and another man. The crime aforesaid of which petitioner was convicted is a crime involving moral turpitude. Petitioner has not been convicted of any other crime.

Petitioner is employed as a platform man for a company licensed to transport alcoholic beverages. He disclosed in the questionnaire filed with the Division, the conviction of the crime aforementioned.

At the hearing herein, three witnesses testified that they have known petitioner six or more years and that he bears a reputation for being a law-abiding person in the community in which he resides.

The Police Department of the municipality wherein petitioner lives has indicated that there are no complaints or investigations pending at the present time relating to petitioner.

From the evidence presented at the within hearing, I conclude that petitioner has conducted himself in a law-abiding manner during the past five years and that his association with the alcoholic beverage industry will not be contrary to the public interest.

Accordingly, it is, on this 27th day of August, 1952,

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.

DOMINIC A. CAVICCHIA
Director.

10. MORAL TURPITUDE - GRAND LARCENY OF AUTOMOBILE BY PERSON UNDER EIGHTEEN YEARS OF AGE HELD TO INVOLVE MORAL TURPITUDE UNDER CIRCUMSTANCES OF CASE.

In the Matter of)
ON REHEARING
Eligibility Case No. 619.) CONCLUSIONS

BY THE DIRECTOR:

On May 26, 1950, petitioner was advised that he was ineligible to be employed by any liquor licensee (or to hold any liquor license) in New Jersey because he had been convicted in 1934 of a crime involving moral turpitude. See R.S. 33:1-25 and 26.

Thereafter, petitioner requested a reconsideration in the matter, pointing out that he was, when convicted in 1934, only 17 years of age and not 18½ as had been recited in the Division's statement of facts. In due course petitioner was advised on December 13, 1951 that, notwithstanding his aforesaid age, the conviction in 1934 was nonetheless for a crime involving moral turpitude and hence disqualified him. Petitioner subsequently sought a further reconsideration and, on May 27, 1952, the Acting Director at the time conducted a rehearing in the matter. Such is the status of the case as it now comes before me.

Petitioner was born on February 22, 1917. In 1929, when 12 years of age, he was convicted of juvenile delinquency because of theft of an automobile with another boy on an alleged "joy ride". In connection therewith or because of truancy, he was sent to the Jamesburg State Home for Boys where he remained for nine months.

In 1934, when he was almost 17 years and 8 months of age, petitioner was arrested for grand larceny because of stealing an automobile with several other boys, again allegedly for a "joy ride". At about the same time, or shortly thereafter, he was also arrested for breaking, entering and larceny. It appears that he and several other boys broke into a building and stole a quantity of brass and copper valued at $200.00. Petitioner was convicted in both matters; was fined $25.00 (and was apparently ordered to make restitution); and was sentenced to Annandale Reformatory for an indefinite period, where he remained for about 14 months.

In 1950, when almost 33 years of age, petitioner was arrested for selling alcoholic beverages to a minor in violation of the Alcoholic Beverage Law. He pleaded *non vult*, and was fined $100.00. At the time, petitioner was working as a bartender at a New Jersey tavern owned by his brother. Petitioner's arrest resulted from his sale of a bottle of whiskey to a 17-year-old girl. There is indication that this girl had been a patron of the tavern for some months and that petitioner may have been selling her alcoholic beverages throughout that period.

Although the crime of selling alcoholic beverages to a minor in violation of the Alcoholic Beverage Law does not, *per se*, involve the element of moral turpitude (*Re Davis*, Bulletin 648, Item 8), there is much to suggest that petitioner's above crime of this character involved aggravating circumstances actually warranting a finding of moral turpitude. But it is here unnecessary to decide this point, since I completely agree with the finding of my predecessor that the crime of grand larceny of an automobile and of breaking, entering and larceny, of which petitioner was convicted in 1934, involved the element of moral turpitude.

It is true that in *Re Case No. 36*, Bulletin 149, Item 1, the late Commissioner Burnett laid down the benign doctrine that, where the age of the offender is under 18 when committing the crime, such

fact is to be viewed as a strongly ameliorating circumstance in determining whether moral turpitude is present. Commissioner Burnett followed this doctrine in Re Case No. 146, Bulletin 167, Item 4, in the instance of a 17-year-old youth who had stolen an automobile for a "joy ride". However, in commenting on this latter decision in Re Case No. 72, Bulletin 375, Item 6, the Commissioner clearly indicated the limitations of the above doctrine when stating:

"That decision was intended to apply only to cases where the conviction, which occurred before the person was eighteen years of age, was the only blot upon his record. Under such circumstances I concluded that a single thoughtless offense committed in early youth should not be a fatal and permanent barrier to present employment where it appeared that the individual had turned over a new leaf and gone straight ever since."

Hence it was that my predecessor, Director Hock, in his aforesaid reconsideration in the present matter, specifically stated:

"While I generally agree that a single thoughtless offense committed in early youth should not necessarily involve moral turpitude, where the individual has committed a number of offenses, this ruling does not pertain. In your case it appears that when about 12 years of age you were convicted for larceny of an automobile which resulted in your confinement in the State Home for Boys at Jamesburg. This is in addition to your later convictions for grand larceny (auto) and for breaking, entering and larceny for which you were sentenced respectively to a fine of $25.00, and probation, and were committed as indicated above. Further, in 1950 you were convicted on a charge of sales to minors and fined $100.00.

"In view of the above circumstances my finding of May 26, 1950 will not be disturbed and removal of your disqualification will not be considered until after February 24, 1955."

I fully concur. In good conscience, I can see no sound reason for disturbing the finding of May 26, 1950 that petitioner is ineligible to be connected with the alcoholic beverage industry in New Jersey. Accordingly, I herewith reaffirm said finding.

DOMINIC A. CAVICCHIA
Director.

Dated: September 3, 1952.

11. STATE LICENSES - NEW APPLICATIONS FILED.

Jacob Lee
N/S State Highway 25, Mansfield Township, P.O. R.F.D. 1, Bordentown, N. J.
Application filed August 22, 1952 for Limited Winery License.

James E. Reed, t/a Ramapo Home Beverages
E. Maple Street, Oakland, N. J.
Application filed August 21, 1952 for State Beverage Distributor's License.

The Scotch Liqueur Company
1 Exchange Place, Jersey City, N. J.
Application filed August 22, 1952 for transfer of Plenary Wholesale License from Stephen E. Somers.

Sacramental Wine Importers, Inc.
116 Market Street (Room 60), Newark, N.J.
Application filed August 22, 1952 for Wine Wholesale License.

Erven Lucas Bols, Inc.
362-400 South Dean St., Englewood, N.J.
Application filed August 28, 1952 for Public Warehouse License.

Dominic A. Cavicchia
Director