STATE OF NEW JERSEY 26 Rose Avenue,
Department of Law and Public Safety Madison,
DIVISION OF ALCOHOLIC BEVERAGE CONTROL Morris County, New Jersey.
1060 Broad Street Newark 2, N. J.

BULLETIN 1029 AUGUST 30, 1954.

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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 1029 AUGUST 30, 1954.

1. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF LOCAL REGULATIONS - HINDERING INVESTIGATION - LICENSE SUSPENDED FOR 35 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

PYRAMID HOLDING CO., INC.
T/a HOTEL EAST ORANGE
101 North Grove Street
East Orange, N. J.,

Holder of Plenary Retail Consumption License C-22 for the 1953-54 and 1954-55 licensing years, issued by the Municipal Board of Alcoholic Beverage Control of the City of East Orange.

CONCLUSIONS AND ORDER

Russell A. Riley, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to charges alleging that it (1) sold, served and delivered alcoholic beverages and permitted the consumption of such beverages on its licensed premises on Sunday, in violation of local regulation; and (2) failed to facilitate and hindered an investigation by investigators of this Division, in violation of R. S. 33:1-35.

The local ordinance prohibits not only sale, service and delivery of alcoholic beverages on Sunday but also permitting consumption thereof on licensed premises.

The file herein discloses that, at approximately midnight, Saturday, June 12, 1954, while two ABC agents were upon defendant's licensed premises, a waitress served a round of drinks of alcoholic beverages and announced that it was the "last round." However, at 12:30 a.m., Sunday, June 13, 1954, the same waitress asked the agents if they wanted another drink, adding "...it's got to be quick. This 12 o'clock closing is rough." The agents indicated that they would like another round of drinks and the waitress went to the bar and returned with another round of drinks of alcoholic beverages which she served at 12:35 a.m. Several other patrons had been served similar drinks between midnight and 12:30 a.m.

The agents identified themselves to the bartender and the aforementioned waitress and proceeded to assemble; for evidential purposes, the drinks which had been served at 12:35 a.m. The waitress became loud and abusive to the agents and shouted "you're not going to take anything out of here." Meanwhile, she grabbed the glasses containing the drinks (except one seized by one of the agents) and spilled their contents. She then attempted to seize the remaining glass from the agent. Being unsuccessful in this, she shook his arm until the contents of the glass were spilled on the floor. She then, in abusive language, ordered the agents to leave the premises and she and the bartender refused to produce a copy of the license application as requested by the agents. She followed the agents from the premises, threatened to have them jailed, delayed their departure by

standing in front of their automobile, and then pursued them in another vehicle until the agents reported the incident to police officers who questioned her.

Defendant has no prior adjudicated record. The minimum penalty for the violation set forth in charge (1) is a fifteen-day suspension of the license. Re Camden Lodge #111, Loyal Order of Moose, Bulletin 1023, Item 3. The violation set forth in charge (2) goes to the very heart of control. Furthermore, the use of force to prevent the lawful seizure of evidence can lead to most serious consequences.

In mitigation it has been represented that the management of defendant corporate-licensee was wholly unaware of the aforementioned unlawful conduct, and this appears to be the fact. Furthermore, far from condoning this conduct defendant, whose record is otherwise clear, immediately discharged those responsible for it. Nevertheless, despite these facts defendant cannot escape the consequences of the acts of its employees, particularly the violence and persistence of the waitress and her castigation of the agents. Under the circumstances I shall suspend the license for twenty days on charge (2). Re A. & J. Cocktail Lounge, Bulletin 1014, Item 8. This makes a total suspension of thirty-five days. Five days will be remitted for the plea entered herein, leaving a net suspension of thirty days.

Accordingly, it is, on this 10th day of August, 1954,

ORDERED that Plenary Retail Consumption License C-22, issued for the 1954-55 licensing year by the Municipal Board of Alcoholic Beverage Control of the City of East Orange to Pyramid Holding Co., Inc., t/a Hotel East Orange, 101 North Grove Street, East Orange, be and the same is hereby suspended for a period of thirty (30) days, commencing at 2:00 a.m. August 14, 1954, and terminating at 2:00 a.m. September 13, 1954.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - UNQUALIFIED EMPLOYEE - HINDERING INVESTIGATION - PRIOR RECORD - LICENSE SUSPENDED FOR 25 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

MICHAEL McGINN
W/s Delsea Drive above Fox Run Rd.
Deptford Township
P.O. R.D. Sewell, N. J.,

Holder of Plenary Retail Consumption License C-13, issued by the Township Committee of Deptford Township.

CONCLUSIONS AND ORDER

Martin F. Caulfield, Esq., Attorney for Defendant-licensee.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded non vult to the following charges:

"1. From in or about 1950 until on or about June 7, 1954, you knowingly employed and had connected with you in a business capacity Herman Kettler, a person who had been convicted of crime involving moral turpitude, viz., the crime of burglary in the Gloucester County Court on or about December 21, 1939; in violation of Rule 1 of State Regulations No. 13.

"2. On April 22, 1954, while an investigator of the Division of Alcoholic Beverage Control of the Department of Law and Public Safety was conducting an investigation, inspection and examination at your licensed premises, you failed to facilitate and hindered and delayed and caused the hindrance and delay of such investigation, inspection and examination; in violation of R. S. 33:1-35."

The file herein discloses that on April 22, 1954, an ABC agent, while making a retail inspection of defendant's licensed premises, obtained from defendant a sworn statement in which he denied knowing that his bartender, Kettler, had been convicted in 1938 "on charges of possessing illicit alcoholic beverages." On June 7, 1954, defendant, in a second sworn statement, admitted that Kettler was an employee since 1950 and had been convicted in 1939 "for stealing beer and liquor from my tavern" but stated therein, respecting an alleged discrepancy in his previous statement concerning Kettler's criminal record, "I didn't figure it was out of the way for the violation of the liquor traffic." Defendant's previous statement contains no denial of his knowledge of Kettler's conviction of burglary and the agent's report states that defendant "is quite old (72 years) and he shows his age." Elsewhere the report states "I received full cooperation of both licensee and bartender * * *." Fingerprint records disclose that Kettler was arrested on December 3, 1939, on a charge of burglary resulting from the fact that he had broken into defendant's premises and stolen a quantity of assorted liquors. On December 21, 1939, Kettler pleaded guilty in a Court of Special Sessions to a charge of burglary and was sentenced to serve four months in a County jail. He is ineligible for employment on licensed premises, and has been discharged by defendant.

Defendant has a prior adjudicated record. Effective September 18, 1950, his license was suspended for ten days by the State Director for sale of alcoholic beverages in other than the original containers for off-premises consumption. Re McGinn, Bulletin 885, Item 8.

Under all the circumstances I shall suspend defendant's license for a period of twenty-five days, less five for the plea, leaving a net suspension of twenty days. Cf. Re Larry Corbo's Inc., Bulletin 908, Item 9.

Accordingly, it is, on this 9th day of August, 1954,

ORDERED that Plenary Retail Consumption License C-13, issued by the Township Committee of Deptford Township to Michael McGinn, for premises on w/s Delsea Drive above Fox Run Rd., Deptford Township, be and the same is hereby suspended for twenty (20) days, commencing at 2:00 a.m. August 18, 1954, and terminating at 2:00 a.m. September 7, 1954.

WILLIAM HOWE DAVIS
Director.

3. DISCIPLINARY PROCEEDINGS - ILLICIT LIQUOR - PRIOR RECORD - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against

HELEN POIRIER
T/a PARISIAN BAR-LOUNGE RESTAURANT
2329 White Horse Pike
Galloway Township
R.D. Egg Harbor, N. J.,

Holder of Plenary Retail Consumption License C-27, issued by the Township Committee of the Township of Galloway.

CONCLUSIONS AND ORDER

Brown and Frank, Esqs., by Myrtile Frank, Jr., Attorneys for Defendant-licensee.

William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that she possessed on her licensed premises alcoholic beverages in bottles bearing labels which did not truly describe the contents thereof, in violation of Rule 27 of State Regulations No. 20.

The file herein discloses that on June 10, 1954, an ABC agent examined 82 opened bottles of alcoholic beverages on defendant's licensed premises and seized two 4/5 quart bottles labeled "Canadian Club Blended Canadian Whisky 90.4 Proof" when his field tests indicated a variance between the description on the labels and the contents of the bottles. Subsequent analysis by the Division Chemist disclosed that the contents of the seized bottles were not genuine as labeled. Defendant denied any knowledge of the discrepancy.

Defendant has a prior record. Her license was suspended by the State Director for twenty days, effective May 20, 1953, for sale of alcoholic beverages to minors. Bulletin 970, Item 4. The minimum period of suspension for the violation in the instant case is fifteen days. Re Hunting Lodge, Inc., Bulletin 979, Item 7. In view of defendant's prior dissimilar record within the five-year period, I shall suspend her license for twenty days. Re Arrow Inn, Inc., Bulletin 985, Item 7. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 9th day of August, 1954,

ORDERED that Plenary Retail Consumption License C-27, issued by the Township Committee of the Township of Galloway to Helen Poirier, t/a Parisian Bar-Lounge Restaurant, 2329 White Horse Pike, Galloway Township, be and the same is hereby suspended for a period of fifteen (15) days, commencing at 7:00 a.m. August 16, 1954, and terminating at 7:00 a.m. August 31, 1954.

WILLIAM HOWE DAVIS
Director.

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

In the Matter of Disciplinary Proceedings against ALFRED A. TIMINSKI T/a ADAM'S TAVERN 553-555 Forest Street Orange, N. J., Holder of Plenary Retail Consumption License C-37, issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange.	CONCLUSIONS AND ORDER

George B. Astley, Esq., Attorney 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 he sold, served and delivered alcoholic beverages to a minor, and permitted the consumption of such beverages by said minor in and upon his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that on Thursday night, July 15, 1954, ABC agents entered defendant's licensed premises and observed a group of males seated at a table therein, consuming beer. One of the males, apparently a minor, took five glasses to the bar, had them refilled by the bartender, who accepted payment therefor but made no inquiry as to his age. The young man carried the refilled glasses to the table and was sipping his beer when the agents identified themselves and inquired of the youth his name and age. Upon being informed that he was Richard ---, age 19, an agent seized the glass of beer. The bartender, identifying himself as the licensee herein, readily admitted the aforesaid sale without making inquiry as to age, but stated that about three months previously Richard had presented some kind of an Army card showing him to be 21 years old. Richard stated that he had frequented the licensed premises about fifteen times where he purchased and was served alcoholic beverages, and had never been questioned concerning his age nor had he exhibited documentary proof thereof.

Defendant has no previous adjudicated record. Under the circumstances I shall suspend defendant's license for ten days, less five for the plea entered herein, leaving a net suspension of five days. Re Kicey, Bulletin 1009, Item 9.

Accordingly, it is, on this 12th day of August 1954,

ORDERED that Plenary Retail Consumption License C-37, issued by the Municipal Board of Alcoholic Beverage Control of the City of Orange to Alfred A. Timinski, t/a Adam's Tavern, for premises 553-555 Forest Street, Orange, be and the same is hereby suspended for five (5) days, commencing at 2:00 a.m. August 23, 1954, and terminating at 2:00 a.m. August 28, 1954.

WILLIAM HOWE DAVIS
Director.

5. DISCIPLINARY PROCEEDINGS - MISLABELED BEER TAP - LICENSE SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.

In the Matter of Disciplinary Proceedings against JAMES V. FRASSA T/a BARON'S BAR & GRILL Ridge Road Jefferson Township P. O. Oak Ridge, N. J., Holder of Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Jefferson.	CONCLUSIONS AND ORDER

James V. Frassa, Defendant-licensee, Pro Se.
William F. Wood, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded guilty to a charge alleging that he allowed, permitted and suffered a mislabeled beer tap on his licensed premises, in violation of Rule 26 of State Regulations No. 20.

The file herein discloses that on July 12, 1954, during the course of a retail inspection, an ABC agent found a barrel of Krueger beer connected to a tap which bore the brand name "Schaefer.

Defendant has no prior adjudicated record.

I shall suspend defendant's license for a period of three days. One day will be remitted for the plea entered herein, leaving a net suspension of two days. Re Palazzo, Bulletin 1025, Item 11.

Accordingly, it is, on this 9th day of August, 1954,

ORDERED that Plenary Retail Consumption License C-1, issued by the Township Committee of the Township of Jefferson to James V. Frassa, t/a Baron's Bar & Grill, Ridge Road, Jefferson Township, be and the same is hereby suspended for two (2) days, commencing at 2:00 a.m. August 16, 1954, and terminating at 2:00 a.m. August 18, 1954.

WILLIAM HOWE DAVIS
Director.

6. "COMBINATION" SALE - RULE 19 OF STATE REGULATIONS NO. 20 PROHIBITS RETAIL LICENSEE FROM SELLING ASSORTED UNITS AT SINGLE SPECIAL PRICE - ALCOHOLIC BEVERAGE MANUFACTURER OR WHOLESALER MAY FURNISH ADVERTISING ITEMS OR NOVELTIES TO RETAIL LICENSEE ONLY AS PERMITTED BY RULE 1a OF STATE REGULATIONS NO. 21 - PROMOTIONAL SCHEME HEREIN DISCUSSED DISAPPROVED.

August 9, 1954

Anheuser-Busch, Inc.
St. Louis 18, Mo.

Gentlemen:

In your letter of July 30th, you state that you are contemplating distribution of a so-called "Get Acquainted Case".

This case is to be a carton containing assorted units of your beer, viz., eight 7-ounce returnable bottles; four 12-ounce non-returnable bottles; four 12-ounce returnable bottles; six 12-ounce cans; one 32-ounce non-returnable bottle; and one 32-ounce returnable bottle.

In addition, you plan to have the case contain the following consumer novelties -- a small tray, two cups, a package of paper napkins, a cook book, a package of coasters, a bottle opener, and a can opener, all of which would bear Budweiser beer advertising. This aggregate of novelties would cost your company 79¢ but would be given free to wholesale licensees handling your beer. These wholesalers would, from their own stock, make up the above "Get Acquainted Case"; would put the assorted beer units in a cardboard carton furnished by your company, and would also include therein the above mentioned novelties. The retail licensee would buy the case (with no extra charge for the novelties) and, we gather, would resell such case at a single special price to the public.

The foregoing plan is <u>not</u> permissible in New Jersey for the following reasons:

1. Since the case consists of assorted units of your beer, the sale of such case by the retailer at a single special price would constitute a type of "combination" sale prohibited by Rule 19 of State Regulations No. 20.

2. Other than the can opener and bottle opener (and possibly the cook book if it constitutes merely a recipe pamphlet), the advertising novelties in question go beyond the items recited or contemplated in Rule 1a of State Regulations No. 21, as permissible advertising items which an alcoholic beverage manufacturer or wholesaler may, directly or indirectly, furnish or forward to retail licensed establishments for distribution to patrons or members of the public. The fact that these advertising novelties would come to the retail licensee encased in the above carton and would reach the patron or member of the public only by purchase of the carton in no way alters the matter since the retail licensee would still be the vehicle through which the distribution of the advertising items to the public would be effected.

If you have any further question, please advise.

Very truly yours,
WILLIAM HOWE DAVIS
Director.

7. ELIGIBILITY - FALSE SWEARING - COMMERCIALIZED GAMBLING - CRIMES FOUND TO INVOLVE MORAL TURPITUDE.

August 10, 1954.

Re: Eligibility No. 655

Applicant seeks a determination as to whether or not he is ineligible for employment by the holder of a liquor license in New Jersey by reason of his conviction of crime.

In May 1951, applicant was found guilty on a charge of conspiracy (bookmaking) and sentenced to a term of two to three years in State Prison and fined $1,000.00. Subsequently, he entered confessive pleas to nine other conspiracy (bookmaking) indictments and was sentenced to one and a half to three years in State Prison and fined $1,000.00 on five of the indictments. The prison terms were to run concurrently. On the remaining four indictments prison sentences of one and a half to three years and fines of $1,000.00 were suspended and the applicant was placed on probation for five years.

In December 1953, after his conviction of the crime of false swearing, applicant was sentenced to serve two to three years in State Prison. He was subsequently released in bail pending an appeal which has not yet been determined.

The conspiracy (bookmaking) convictions apparently resulted from applicant's activities with several other persons whereby, for a considerable period of time, they secured locations and rented telephones from subscribers to be used in receiving bets on horse races and other sporting events. The conviction of false swearing appears to have arisen out of contradictory statements made in appearances before the Grand Jury.

It has uniformly been held that one who has been convicted of commercialized gambling as a principal has been convicted of crime involving moral turpitude. Re Case No. 653, Bulletin 1023, Item 13. The same is true where a person is a lieutenant or other important participant. Re Case No. 645, Bulletin 987, Item 8; Re Case No. 635, Bulletin 946, Item 10. It would appear that applicant's convictions for conspiracy (bookmaking) involved moral turpitude.

In any event applicant's conviction of false swearing must be viewed as a conviction of crime involving moral turpitude. Re Arnold, Bulletin 829, Item 11; Re Case No. 363, Bulletin 444, Item 6. This is so even though the conviction is on appeal (presently pending), since, unless and until reversed, the conviction stands.

I recommend, therefore, that applicant be advised that, in the opinion of the Director, he has been convicted of crime involving moral turpitude, and that any licensee who employs him or permits him to be connected in any business capacity with his licensed premises would subject his license to suspension or revocation. R. S. 33:1-25, 26.

Anthony Meyer, Jr.
Attorney.

APPROVED:
WILLIAM HOWE DAVIS
Director.

8. DISQUALIFICATION - PRIOR APPLICATION DENIED - 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. 1173.

BY THE DIRECTOR:

On June 19, 1942, petitioner was sentenced to serve from one to two years in a State Prison after he had been convicted on a charge of accepting earnings of a prostitute. He was paroled on April 11, 1943. A prior petition to remove disqualification was denied on July 20, 1951 because petitioner, on July 22, 1949, had pleaded guilty to a charge of being a disorderly person and fined $25.00. Re Case No. 904, Bulletin 914, Item 13.

At the hearing held herein, petitioner testified that since July 22, 1949 he has not been convicted of any crime or had any difficulty with the law and the Police Department of the municipality in which he resides has reported to me that no complaints or investigations are pending against him. Petitioner further testified that during the past year he has been employed as a dye worker and that prior thereto he had conducted an unlicensed restaurant for more than four years.

Three witnesses (an owner of a service station, a truck driver and a dye worker) testified that they have known petitioner for more than five years last past and that during that time he has been a law-abiding citizen.

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

Accordingly, it is, on this 11th day of August, 1954,

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.

WILLIAM HOWE DAVIS
Director.

9. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF STOLEN ALCOHOLIC BEVERAGES FOR PURPOSE OF UNLAWFUL SALE - MOTOR VEHICLE RETURNED TO INNOCENT OWNER - ALCOHOLIC BEVERAGES RETURNED TO LICENSEE FROM WHOM STOLEN.

In the Matter of the Seizure on May 13, 1954, of 24 4/5 pint bottles of whiskey and 21 pint bottles of whiskey and a Mercury sedan on U. S. Highway No. 1, in the Township of Plainsboro, Middlesex County and State of New Jersey.	Case No. 8609 ON HEARING CONCLUSIONS AND ORDER

Jesse McKella, Pro Se.
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, Revised Statutes of New Jersey, to determine whether 24 four-fifth pint bottles and 21 pint bottles of whiskey, and a Mercury sedan, described in a schedule attached hereto, seized on May 13, 1954 on U. S. Highway No. 1, Plainsboro, New Jersey, constitute unlawful property and should be forfeited.

The motor vehicle and alcoholic beverages were seized on the above date by a New Jersey State Trooper during the course of his routine patrol of traffic on the highway. Jerome Robinson was driving the car, and the passengers therein were his brother, Sam Robinson and Jesse McKella, the owner of the vehicle.

The Division of Alcoholic Beverage Control was notified of the seizure, and the alcoholic beverages and motor vehicle were turned over to its agents. Such agents thereafter obtained a signed statement from Jerome Robinson wherein he stated that he stole the alcoholic beverages in April, 1954 from his employer, Shore Beverage Company, a licensed wholesaler; that he transported such alcoholic beverages on the day in question to McKella's residence in Highland Park, and there transferred them to McKella's Mercury, and was transporting the alcoholic beverages to Trenton with the purpose of selling them there without a license.

The quantity of alcoholic beverages being transported exceeds the permissible amount which may be transported for personal consumption in an unlicensed vehicle, and in any event the alcoholic beverages were intended for sale and were illegally transported in a vehicle not licensed to transport alcoholic beverages. Hence the alcoholic beverages constitute illicit alcoholic beverages, and such alcoholic beverages and the motor vehicle wherein such alcoholic beverages were transported and found constitute unlawful property and are subject to forfeiture. 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, Jesse McKella appeared and sought return of the Mercury sedan. The Shore Beverage Company advised that it was unable to have its representative present, due to business conditions, and requested a later opportunity to establish that the seized alcoholic beverages were actually those stolen from its establishment.

Jesse McKella claims that he had absolutely no knowledge that the alcoholic beverages were in his car. The essence of his account of his part in the transaction is that Jerome Robinson and Sam Robinson arrived at McKella's residence on a casual visit,

and during the course thereof, suggested that McKella ride with them to Trenton. McKella agreed, and suggested that his car be used, because Robinson had an old car. McKella gave Jerome Robinson the keys to his car while McKella completed dressing. When McKella entered the car, Jerome took the wheel. Presumably Jerome Robinson in the meantime had transferred the alcoholic beverages from his car to McKella's. McKella states that he did not know the alcoholic beverages were in the car until the trooper opened the trunk of the car. However, Jerome Robinson, in his signed statement, asserts that he asked McKella for the keys and told him that he intended to remove a couple of packages from his Plymouth and place them in the Mercury.

Jerome Robinson does not appear to have any previous record of violating any liquor laws. McKella knew that Robinson was employed as a truck driver. McKella has no previous criminal record. He is 39 years of age, married, and resides at Highland Park with his wife and has been employed by various industrial concerns since he came to New Jersey in 1946, and his average earnings are over $150.00 a week.

It therefore appears that McKella has a clean background, and that seemingly he has no economic need to engage in the illegal sale of alcoholic beverages. I shall accept his statement that he was not aware of the presence of the alcoholic beverages in his car (even if in fact Robinson told him that he wanted to remove a couple of packages, there was nothing in Robinson's background to alert McKella to suspect that Robinson meant alcoholic beverages) and therefore find that McKella acted in good faith and unknowingly violated the Alcoholic Beverage Law. This does not mean that McKella may not be guilty in criminal proceedings for aiding and abetting in the possession and transportation of illicit alcoholic beverages. The Mercury sedan will therefore be returned to McKella upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 23rd day of August, 1954, Jesse McKella pays the costs incurred in the seizure and storage of the Mercury sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to him; and it is further

DETERMINED and ORDERED that the alcoholic beverages be returned to the Shore Beverage Company after they are no longer needed for evidential purposes and upon presentation of evidence that they are the property of such Company.

WILLIAM HOWE DAVIS
Director.

Dated: August 13, 1954.

SCHEDULE "A"

24 - 4/5 pint bottles of whiskey
21 - pint bottles of whiskey
1 - Mercury sedan, Serial No. 53MB75614M, 1954 N. J. Registration KZ594

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

In the Matter of the Seizure on February 28, 1954, of 60 two-quart jars of alcohol and a Ford sedan on the New Jersey Turnpike, in Raritan Township, County of Middlesex and State of New Jersey.	Case No. 8539 ON HEARING CONCLUSIONS AND ORDER

Albert J. Hordes, Esq., Attorney for Leroy Tucker Sally.
Abraham Weiss, Esq., Attorney for Tilden Commercial Alliance, Inc.
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, Revised Statutes of New Jersey, to determine whether 60 two-quart jars of alcohol and a Ford sedan, described in a schedule attached hereto, seized on February 28, 1954 on the New Jersey Turnpike in Raritan Township, New Jersey, constitute unlawful property and should be forfeited.

It appears that a New Jersey State Trooper stopped the vehicle on the Turnpike because the rear of the car appeared to be overloaded. He then discovered the 60 two-quart jars of alcohol in the car. The jars did not bear any labels or stamps indicating the payment of tax on alcoholic beverages. The motor vehicle and jars of alcohol were thereafter turned over to the Division of Alcoholic Beverage Control.

ABC agents questioned Leroy Tucker Sally, the owner and operator of the car, and Charles Lee Barnes and Ruby Sally, passengers therein. Barnes told the agents that he purchased the alcohol in Richmond, Virginia, from a man previously unknown to him, to whom he gave the car and who returned with the alcohol, and Leroy Sally claimed that he did not know the alcohol was in the car.

The contents of one of the jars was analyzed by the Division chemist, who reports that it is an alcoholic beverage, containing alcohol and water, fit for beverage purposes, with an alcoholic content by volume of 40 per cent.

When the matter came on for hearing pursuant to R.S. 33:1-66, Leroy Tucker Sally appeared and sought return of the Ford sedan. Thereafter, while decision in the case was pending, Tilden Commercial Alliance, Inc. was granted a supplemental hearing to afford it an opportunity to present its alleged lien claim on the motor vehicle. Forfeiture of the alcohol was not opposed by any person.

The seized alcohol is illicit because there were no labels or tax stamps on the jars in which the alcohol was contained. 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.

Leroy Tucker Sally claims that he, his wife, Ruby Sally, and his brother-in-law, Charles Lee Barnes left their home in Brooklyn, N. Y. for a pleasure trip to Virginia, and that while there, Barnes purchased the alcohol and placed it in the car without Sally's knowledge or consent, and that Sally was not aware of its presence until stopped by the State Trooper. The account of their

actions given by Barnes and Sally does not convincingly establish that Sally did not know, or should not have known that the alcohol was in his car. However, in any event, counsel for Leroy Tucker Sally has since advised that if the Director shall decide to recognize the lien of Tilden Commercial Alliance, Inc., and return the motor vehicle to such company, such return is to be considered as with Sally's consent. Since the motor vehicle will be returned to the finance company, as appears hereinafter, it is not necessary to further discuss Sally's claim.

On August 8, 1953 Tilden Commercial Alliance, Inc. advanced $1282.80 to Leroy Tucker Sally, Ruby Sally, Charles Lee Barnes and Virginia S. Barnes, secured by their conditional sales contract covering the Ford sedan. The balance presently due the finance company is $801.75.

It further appears that before the finance company advanced the money it investigated the residence, employment and background of the above four persons and ascertained that they were legitimately employed. There appeared to be nothing derogatory uncovered by such investigation. A check by the Division of Alcoholic Beverage Control of the fingerprint record of Leroy Sally and Charles Barnes does not disclose that either of them has any previous criminal arrest or conviction for violating any liquor laws.

I am satisfied that the finance company made a reasonably prudent investigation which did not disclose any unlawful alcoholic beverage activity by Leroy Sally or Charles Barnes in the past, or any likelihood that they would engage in such activities in the future. I shall therefore recognize the lien claim of Tilden Commercial Alliance, Inc., in the amount of $801.75, against the Ford sedan. R. S. 33:1-66(f).

The Director of the Division of Purchase & Property has advised that the State of New Jersey is not interested in retaining the Ford sedan for the use of any state agency upon payment of the lien claim. The retail value of such vehicle does not appear to exceed the amount of such lien and the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if on or before the 27th day of August, 1954, Tilden Commercial Alliance, Inc. pays the costs of seizure and storage of the Ford sedan, described in Schedule "A" attached hereto, it will be returned to such company; and it is further

DETERMINED and ORDERED that the alcoholic beverages listed in the aforesaid Schedule "A", constitute unlawful property, and the same be and hereby are forfeited in accordance with the provisions of R. S. 33:1-66, and that they 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: August 17, 1954.

SCHEDULE "A"

60 - two-quart jars of alcohol
1 - Ford sedan, Enging and Serial #Bieg 108025, 1953 New York Registration 6K61-52

11. SEIZURE - FORFEITURE PROCEEDINGS - TRANSPORTATION OF TAX PAID ALCOHOLIC BEVERAGES THROUGH THIS STATE FOR IMPORTATION INTO NEW YORK - ALCOHOLIC BEVERAGES FORFEITED BECAUSE SUCH IMPORTATION PROHIBITED BY NEW YORK LAW - MOTOR VEHICLE RETURNED TO OWNER VIOLATING LAW UNKNOWINGLY.

In the Matter of the Seizure on March 9, 1954 of 29 cases, each containing 24 pints of whiskey; 5 cases, each containing 12 - 4/5 quarts of whiskey and a Mercury sedan, on the northbound lane of the New Jersey Turnpike, in the City of Elizabeth, County of Union and State of New Jersey.	Case No. 8550 ON HEARING CONCLUSIONS AND ORDER

Nathan Barshay, Esq., Attorney for Willie H. Craddock.
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, Revised Statutes of New Jersey, to determine whether 29 cases each containing 24 pints of whiskey; 5 cases each containing 12 four-fifth quarts of whiskey and a Mercury sedan, described in a schedule attached hereto, seized on March 9, 1954 on the northbound lane of the New Jersey Turnpike, Elizabeth, New Jersey, constitute unlawful property and should be forfeited.

When the matter came on for hearing, pursuant to R.S. 33:1-66, Willie H. Craddock, of New York City, the registered owner of the Mercury sedan, appeared and sought return of the motor vehicle and alcoholic beverages.

The alcoholic beverages are taxpaid and appear to have been purchased in Washington, D. C., and were being transported through this state for importation into New York. The pertinent provisions of the law and regulations governing transportation of such alcoholic beverages in this state are the requirements that Craddock possess an accurate waybill or similar document stating the bona fide name and address of the consignee and consignor, the nature and quantity of the alcoholic beverages being transported, the place or origin and destination, and he must establish further that the beverages may be lawfully delivered to and recieved by the consignee fully authorized by State and Federal Laws to receive the same. R. S. 33:1-2, State Regulations No. 18, Rule 2. He must establish that the alcoholic beverages were intended for legitimate use. See Seizure Case No. 8234, Bulletin 979, Item 2.

Reports of ABC agents and other documents in the file, presented as evidence with consent of counsel for Craddock, disclose the following facts:

The seizure was made by a New Jersey State Trooper. Willie Craddock was operating the vehicle and Dorothy Cutno was a passenger therein. The alcoholic beverages, taxpaid, were packed in various bags and knapsacks. The motor vehicle and alcoholic beverages were turned over to the Division of Alcoholic Beverage Control.

ABC agents questioned Craddock. He produced a bill from Woodridge Veterans Liquor Store of Washington, D. C. naming Harold D. Thompson of 559 W. 157th St., New York City as the customer. According to the agents, Craddock verbally stated that he intended to sell the alcoholic beverages to friends in a club in the Bronx. However, in his signed written statement he claimed that the whiskey was to be delivered to his home and that he did not intend to sell such beverages. Asked to explain the contradiction, he told the agents, "I said I was going to let them (his friends at the club) have it."

The ABC agents were offered for cross-examination by counsel for Craddock, for the purpose of clarifying their version of what Craddock told them, concerning the ultimate use of the alcoholic beverages. One of these agents testified he spoke with Craddock after the written statement was signed by Craddock, at which time Craddock told him that he was in the television repair business, with many customers, and he intended to give some of the liquor away as a sort of gratuity in order to keep his customers happy.

Craddock states that he advanced $1644.75, the purchase price of the alcoholic beverages, under a loose arrangement with 17 members of a "social club" to have the beverages available to them when they repaid its cost. He states that he has a small television and phonograph record business, and intended part of the alcoholic beverages for his personal use and some part to distribute as gifts to his customers. He claims that he used funds under his control as administrator of his father's estate, although the evidence fails to establish that fact conclusively.

Craddock explains that he gave Thompson's name as purchaser because Thompson was the president of the "social club" and because Craddock did not like the idea of buying that much whiskey in his own name.

It is therefore obvious that the alcoholic beverages were not intended for Craddock's personal use. The importation of alcoholic beverages for other than personal use, under these circumstances, is prohibited by law of the State of New York. See Seizure Case 8234, supra. Since the alcoholic beverages cannot lawfully be delivered in New York, they must be forfeited, because they were transported in this state in violation of our law and regulations.

However, if Craddock had no improper or illegal motive when purchasing and transporting such alcoholic beverages and unknowingly violated the law of this state governing transportation of alcoholic beverages, I have the discretionary authority to return the motor vehicle to him. R. S. 33:1-66(e).

Craddock does not appear to have any previous criminal record for violating any liquor laws. He seems to have conducted his own business since 1946. He presented a frank and full disclosure of the manner in which he handled the funds under his control as administrator of his father's estate. While it may be possible that Craddock intended to sell such alcoholic beverages at a profit, he gives a straightforward account to support his claim that actually they were purchased for the accommodation of his fellow members, because the alcoholic beverages could be purchased more cheaply in Washington and he frequently passed through Washington on visits to Georgia in the course of the administration of his father's estate. His story fundamentally does not have the implausible character evidenced in Seizure Case 8234, supra, where a somewhat similar contention was rejected. I shall give Craddock the benefit of the doubt and return his car to him upon payment of the costs of its seizure and storage.

Accordingly, it is DETERMINED and ORDERED that if, on or before the 27th day of August, 1954, Willie H. Craddock pays the costs incurred in the seizure and storage of the Mercury sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to him; and it is further

DETERMINED and ORDERED that the alcoholic beverages listed in the aforesaid Schedule "A", attached hereto, constitute unlawful property, and the same be and hereby are forfeited in accordance with the provisions of R. S. 33:1-66, and that they 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
Dated: August 17, 1954. Director.

SCHEDULE "A"

29 - cases each containing 24 pints of whiskey
5 - cases each containing 12- 4/5 quarts of whiskey
1 - Mercury sedan, Serial No. 9C6347, Engine No. 9M0268177, New York Registration 7U7434

12. MUNICIPAL REGULATIONS - ORDINANCE PROHIBITING ALCOHOLIC BEVERAGES AT "PUBLIC PARKS AND PLAYGROUNDS" IN MUNICIPALITY - DIRECTOR'S EXPRESSION OF APPROVAL, EVEN THOUGH APPROVAL NOT TECHNICALLY REQUIRED FOR SUCH TYPE OF ORDINANCE TO BECOME EFFECTIVE.

August 10, 1954

Stanley H. Maziarz, City Clerk
Trenton, N. J.

My dear Mr. Maziarz:

I have our letter of August 6th enclosing, for our records, a certified copy of ordinance adopted by the Board of Commissioners of the City of Trenton on August 5th.

Such ordinance makes it illegal, under maximum penalty of $100.00 fine or 30 days' imprisonment or both, to "possess, distribute or consume any alcoholic beverages in any of the public parks and playgrounds of the City of Trenton".

Since the ordinance does not deal with conduct of liquor licensed premises (R. S. 33:1-40), it does not require my approval to become effective. Were any such approval required, it would be promptly given. The public purpose being served by the ordinance is self-evident. No one needs liquor to enjoy a public park or playground.

Very truly yours,
WILLIAM HOWE DAVIS
Director.

13. STATE LICENSES - NEW APPLICATION FILED.

Anthony Rotella & Anthony J. Masi, t/a Suburban Beverage Service
45 Downing Street, Newark, N. J.
Application filed August 24, 1954 for transfer of State Beverage Distributor's License from Rotella Beverages, Inc., and to include an additional warehouse at 289 Townsend St., New Brunswick, N. J.

Frank Nahrgang, Belmar Marine Basin
Belmar, N. J.
Application filed August 26, 1954 for Plenary Retail Transit License.

William Howe Davis
Director.