

BULLETIN 1046

JANUARY 12, 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 1046

JANUARY 12, 1955.

1. DISCIPLINARY PROCEEDINGS - FALSE ANSWERS IN APPLICATION (RE BENEFICIAL OWNER AND CONDITIONAL BILL OF SALE) - LICENSE SUSPENDED FOR BALANCE OF TERM, WITH LEAVE TO FILE APPLICATION TO LIFT AFTER EXPIRATION OF 50 DAYS IF ILLEGAL SITUATION CORRECTED.

In the Matter of Disciplinary)
Proceedings against)

LITA'S INC.)
1000 Jefferson Street)
Hoboken, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consump-)
tion License C-113 for the 1953-54)
licensing year, and now holder of)
Plenary Retail Consumption License)
C-225 issued for the 1954-55 licens-)
ing year by the Municipal Board of)
Alcoholic Beverage Control of the)
City of Hoboken.)
-----)

Frank W. Shershin, 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. In your application dated June 10, 1953, filed with the Municipal Board of Alcoholic Beverage Control of Hoboken, upon which you obtained your current plenary retail consumption license, you, after listing your stockholders in answer to Question 22 as Lita Malignano (1 share or 10%), Dorothy Huttemeyer (4 shares or 40%) and George Peterson (5 shares or 50%), falsely stated 'No' in answer to Question 24, which asks: 'Has any stockholder of the applicant corporation any beneficial interest, directly or indirectly, in the stock of any other stockholder of the applicant corporation?', whereas in truth and fact Lita Malignano was the real and beneficial owner of all of your stock; said false statement being in violation of R.S. 33:1-25.

"2. In your aforesaid application you falsely stated 'No' in answer to Question 32, which asks: 'Does any individual, partnership, corporation or association hold any chattel mortgage or conditional bill of sale on any furniture, fixtures, goods or equipment used or to be used in connection with the conduct of the alcoholic beverage business to be operated under the license herein applied for?', whereas in truth and fact the One Thousand Jefferson Club held a conditional bill of sale dated February 3, 1953 on your furniture, fixtures and equipment; said false statement being in violation of R.S. 33:1-25."

The file herein discloses that on April 7, 1953 the license in question was transferred by the local issuing authority from Meyer Pesin, Receiver for 1000 Club, Inc., to defendant corporation for premises 1000 Jefferson Street, Hoboken. The application for transfer listed Lita Malignano as President and Treasurer and holder of 10% of capital stock (1 share); Alexander F. Bronsberg, Vice President and holder of 50% of capital stock (5 shares); and Eleanor

Bronsberg, Secretary and holder of 40% of capital stock (4 shares). Thereafter, when the application for renewal of said license was filed it disclosed that Lita Malignano was still President and Treasurer of the defendant corporation, holding 10% of its capital stock (1 share), but that Dorothy Huttemeyer was Vice President and holder of 40% of the capital stock (4 shares), and George Peterson was Secretary and holder of 50% of the capital stock (5 shares).

It appears from an investigation by an ABC agent that on April 23, 1953 Alexander F. Bronsberg and Eleanor Bronsberg resigned as officers and directors of defendant corporation and that some time thereafter the sum of \$500.00, which Alexander F. Bronsberg invested in the business, was repaid to him by Lita Malignano. The nine shares of capital stock formerly held by the Bronsbergs were assigned to two other persons; four shares thereof to Dorothy Huttemeyer, who allegedly became Vice President, and five shares to George Peterson, who allegedly became Secretary of defendant corporation. Both George Peterson and Dorothy Huttemeyer stated that they have no financial interest in the defendant corporation but as a favor to Lita Malignano permitted their names to be used as stockholders and officers therein. Lita Malignano has corroborated the statements of George Peterson and Dorothy Huttemeyer that neither has any financial interest in the defendant corporation.

Lita Malignano was and still is a native of Canada, unnaturalized at the time, and therefore is precluded under the Alcoholic Beverage Law from holding more than 10% interest in a corporate license. It appears that although Lita Malignano was listed in the application aforementioned as the holder of 10% of the capital stock, she was the real and beneficial owner of all of the stock in said corporation.

It further appears that although a conditional bill of sale on defendant's furniture, fixtures and equipment held by the One Thousand Jefferson Club was in existence, defendant failed to disclose said fact in the application for its 1953-54 license.

Defendant has no prior adjudicated record. In alleged mitigation, attorney for defendant has advised me that, although Lita Malignano was born in Canada, she has resided nearly all her life in the United States and that she intends to apply for United States citizenship as promptly as possible. Nevertheless, it appears that the unlawful situation continues to exist, and, hence, I have no alternative other than to suspend the license for the balance of its term. However, I shall entertain an application by verified petition to lift the suspension herein imposed, if and when the unlawful condition is corrected, but under no circumstances will said suspension be lifted until after fifty days from the effective date thereof. Cf. Re Eva's Tavern, Inc., Bulletin 1037, Item 3.

Accordingly, it is, on this 27th day of December, 1954,

ORDERED, that Plenary Retail Consumption License C-225, issued for the 1954-55 licensing period by the Municipal Board of Alcoholic Beverage Control of the City of Hoboken to Lita's Inc., 1000 Jefferson Street, Hoboken, be and the same is hereby suspended for the balance of its term, effective at 2:00 a.m., January 3, 1955; and it is further

ORDERED that in the event a correction is effected, leave be given, as aforesaid, to make application to the State Director of the Division of Alcoholic Beverage Control to lift the suspension after a period of fifty (50) days has elapsed from the effective date of the suspension imposed herein.

WILLIAM HOWE DAVIS
Director.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - PRIOR RECORD - LICENSE SUSPENDED FOR 30 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against
 RUSSELL HENDERSON
 T/a DOUBLE R BAR
 S. S. Wheat Road
 Buena
 P.O. R.F.D. Vineland, N. J.,
 Holder of Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Buena.

CONCLUSIONS
 AND ORDER

 Harry Adler, 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 he sold, served and delivered alcoholic beverages to minors and permitted consumption thereof by said minors in his licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that ABC agents obtained signed statements from Keith --- (age 19), Lavin --- (age 19), Edna --- (age 19) and May --- (age 20) relating that on November 5, 1954, between 1:00 a.m. and 2:00 a.m., they purchased and consumed in defendant's licensed premises alcoholic beverages which were served by a bar-maid who made no inquiry as to their ages. The four minors identified the premises and Keith and Lavin identified the bar-maid therein as the person who had served them.

Defendant has a prior adjudicated record. Effective December 2, 1951, his license was suspended for five days by the local issuing authority for an "hours" violation and effective June 1, 1954, his license was suspended for ten days by the State Director for a violation similar to the instant one. See Bulletin 1020, Item 7.

Considering the number of minors involved herein and in view of the two prior convictions, one for a similar violation within the past five years, I shall suspend defendant's license for thirty days. Cf. Re Fuccile, Bulletin 786, Item 4. Five days will be remitted for the plea, leaving a net suspension of twenty-five days.

Accordingly, it is, on this 27th day of December, 1954,

ORDERED that Plenary Retail Consumption License C-5, issued by the Borough Council of the Borough of Buena to Russell Henderson, t/a Double R Bar, S. S. Wheat Road, Buena, be and the same is hereby suspended for twenty-five (25) days, commencing at 3:00 a.m. January 3, 1955, and terminating at 3:00 a.m. January 28, 1955.

WILLIAM HOWE DAVIS
 Director.

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary Proceedings against)
)
 ANTHONY & ANNA MOLINARO)
 T/a DUKE'S TAVERN)
 459-461 - 15th Avenue)
 Newark 3, N. J.,)
)
 Holders of Plenary Retail Consumption License C-743, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark.)

DICTIONARY)
)
 CONCLUSIONS)
 AND ORDER)
)

 Ralph A. Villani, Esq., Attorney for Defendant-licensees.
 Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded non vult to a charge alleging that on November 29, 1954, they sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, to minors, and allowed, permitted and suffered the consumption of alcoholic beverages by said minors in and upon their licensed premises, in violation of Rule 1 of State Regulations No. 20.

The file herein discloses that ABC agents obtained signed statements from Michael --- (age 17), Charles --- (age 17) and Stanley --- (age 18), relating that on November 29, 1954, they purchased and consumed in defendants' licensed premises four bottles of beer, one bottle of beer and three bottles of beer and three "shots" of whiskey, respectively. The three minors identified the premises for the agents and two of them definitely identified the male licensee as the person who made the sale.

Defendants have no prior adjudicated record. In view of the fact that two of the minors involved were only 17 years of age and considering the number of minors involved, I shall suspend defendants' license for twenty days. Re Camarota, Bulletin 950, Item 2. Five days will be remitted for the plea entered herein, leaving a net suspension of fifteen days.

Accordingly, it is, on this 27th day of December, 1954,

ORDERED that Plenary Retail Consumption License C-743, issued by the Municipal Board of Alcoholic Beverage Control of the City of Newark to Anthony & Anna Molinaro, t/a Duke's Tavern, for premises 459-461 - 15th Avenue, Newark, be and the same is hereby suspended for fifteen (15) days, commencing at 2:00 a.m. January 3, 1955, and terminating at 2:00 a.m. January 18, 1955.

WILLIAM HOWE DAVIS
 Director

4. DISCIPLINARY PROCEEDINGS - SALE DURING PROHIBITED HOURS IN VIOLATION OF RULE 1 OF STATE REGULATIONS NO. 38 - LICENSE SUSPENDED FOR 15 DAYS, LESS 5 FOR PLEA.

In the Matter of Disciplinary)
 Proceedings against)

KLEMENS PILECKI)
 190 York Street)
 Jersey City 2, N. J.,)

CONCLUSIONS
 AND ORDER

Holder of Plenary Retail Consump-)
 tion License C-218, issued by the)
 Municipal Board of Alcoholic)
 Beverage Control of the City of)
 Jersey City.)

-----)
 Matthew F. Czachorowski, 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 he sold on Sunday alcoholic beverages in their original containers for consumption off the licensed premises, in violation of Rule 1 of State Regulations No. 38.

The file herein discloses that on Sunday, November 28, 1954, between 1:00 p.m. and 1:15 p.m., ABC agents who were in defendant's licensed premises observed the licensee sell to six different patrons bottled beer and wine in original containers for off-premises consumption. At 1:15 p.m. one of the agents purchased six cans of beer. The agents left the premises with the merchandise and immediately re-entered and identified themselves to the licensee who readily admitted the sales.

Defendant, who has held a liquor license for more than twenty years, has no prior adjudicated record. I shall suspend defendant's license for the minimum period of fifteen days. Five days will be remitted for the plea entered herein, leaving a net suspension of ten days. Re Bohling, Bulletin 1036, Item 3.

Accordingly, it is, on this 27th day of December, 1954,

ORDERED that Plenary Retail Consumption License C-218, issued by the Municipal Board of Alcoholic Beverage Control of the City of Jersey City to Klemens Pilecki, for premises 190 York Street, Jersey City, be and the same is hereby suspended for ten (10) days, commencing at 2:00 a.m. January 3, 1955, and terminating at 2:00 a.m. January 13, 1955.

WILLIAM HOWE DAVIS
 Director.

5. NUMBER OF MUNICIPAL LICENSES ISSUED AND AMOUNT OF FEES PAID FOR THE PERIOD JULY 1, 1954 to DECEMBER 31, 1954 AS REPORTED TO THE DIRECTOR OF THE DIVISION OF ALCOHOLIC BEVERAGE CONTROL BY THE LOCAL ISSUING AUTHORITIES PURSUANT TO R.S. 33:1-19

CLASSIFICATION OF LICENSES

County	Plenary Retail Consumption		Plenary Retail Distribution		Club	Limited Retail Distribution		Seasonal Retail Consumption		Number Surrendered Expired	Number Licenses in Effect	Total Fees Paid	
	No. Issued	Fees Paid	No. Issued	Fees Paid		No. Issued	Fees Paid	No. Issued	Fees Paid				
Atlantic	489	\$ 208,750.00	71	\$ 25,575.00	18	\$ 1,750.00					578	\$ 236,075.00	
Bergen	813	303,307.50	299	84,912.00	92	8,829.11	55	\$ 2,586.25	5	\$ 1,398.75	5	1259	401,033.61
Burlington	185	76,440.00	34	9,250.00	41	5,842.74	1	50.00				261	91,582.74
Camden	454	217,338.08	82	31,925.00	69	6,657.81			1	375.00	1	605	256,295.89
Cape May	133	73,550.00	11	4,000.00	18	2,150.00						162	79,700.00
Cumberland	80	39,375.00	14	3,850.00	31	4,182.58						125	47,407.58
Essex	1372	773,710.00	351	205,700.00	101	13,950.00	30	1,500.00	2	1,500.00	1	1855	996,360.00
Gloucester	108	34,350.00	13	2,750.00	18	1,691.23						139	38,791.23
Hudson	1550	672,605.82	298	117,810.00	75	8,966.17	67	2,900.00				1990	802,281.99
Hunterdon	78	25,850.00	6	1,900.00	6	700.00						90	28,450.00
Mercer	426	258,641.10	51	21,000.00	53	7,500.00					1	529	287,141.10
Middlesex	633	308,255.00	74	22,995.00	84	7,491.01	4	200.00				795	338,941.01
Monmouth	548	277,345.00	120	42,210.00	37	4,257.92	10	435.00	27	11,731.35	27	715	335,979.27
Morris	354	122,115.00	98	31,000.00	51	4,548.08	14	700.00	6	1,468.29	6	517	159,831.37
Ocean	197	106,421.20	47	19,313.00	21	2,248.63						265	127,982.83
Passaic	875	358,380.00	167	50,690.00	38	4,653.27	11	525.00				1091	414,248.27
Salem	51	19,700.00	8	1,600.00	16	1,425.00						75	22,725.00
Somerset	186	79,250.00	40	11,007.49	25	2,583.08						251	92,840.57
Sussex	169	46,105.00	20	3,955.00	9	535.00	1	50.00	1	225.00	1	199	50,870.00
Union	548	291,386.30	144	59,500.00	72	8,011.79	33	1,750.00				797	360,648.09
Warren	148	43,155.00	18	4,232.29	30	3,130.00			2	337.55	2	196	50,854.84
Totals	9397	\$4,336,030.00	1966	\$755,174.78	905	\$101,103.42	226	\$10,696.25	44	\$17,035.94	44	12494	\$5,220,040.39

WILLIAM HOWE DAVIS
Director.

December 30, 1954.

6.

ACTIVITY REPORT FOR DECEMBER 1954

ARRESTS:		
Total number of persons arrested	-----	34
Licensees and employees	----- 14	
Bootleggers	----- 20	
SEIZURES:		
Motor vehicles - cars	-----	5
-trucks	-----	2
Stills - over 50 gallons	-----	1
- 50 gallons or under	-----	2
Alcohol - gallons	-----	680.00
Mash - gallons	-----	26,421.00
Distilled alcoholic beverages - gallons	-----	115.19
Wine - gallons	-----	2.43
Brewed malt alcoholic beverages - gallons	-----	2.50
RETAIL LICENSEES:		
Premises inspected	-----	749
Premises where alcoholic beverages were gauged	-----	589
Bottles gauged	-----	10,770
Premises where violations were found	-----	56
Violations found	-----	72
Type of violations found:		
Unqualified employees	----- 31	Disposal permit necessary - 5
Other mercantile business	----- 10	Reg. #38 sign not posted - 4
		Other violations - 22
STATE LICENSEES:		
Premises inspected	-----	2
License applications investigated	-----	7
COMPLAINTS:		
Complaints assigned for investigation	-----	461
Investigations completed	-----	398
Investigations pending	-----	158
LABORATORY:		
Analyses made	-----	154
Bottles from unlicensed premises	-----	50
IDENTIFICATION BUREAU:		
Criminal fingerprint identifications made	-----	30
Persons fingerprinted for non-criminal purposes	-----	135
Identification contacts made with other enforcement agencies	-----	139
Motor vehicle identifications via N. J. State Police teletype	-----	7
DISCIPLINARY PROCEEDINGS:		
Cases transmitted to municipalities	-----	16
Violations involved:		
Sale during prohibited hours	----- 12	
Sale to minors	----- 1	
Permitting bookmaking on premises	----- 1	
Permitting slot machines on premises	----- 1	
Employing female bartender (local reg.)	----- 1	
Cases instituted at Division	-----	21
Violations involved:		
Sale to minors	----- 13	Unauthorized transportation - 1
Sale during prohibited hours	----- 5	Act of violence on premises - 1
Sale below minimum resale price	----- 4	Possessing indecent advertising matter - 1
Hindering investigation	----- 2	
Cases brought by municipalities on own initiative and reported to Division	-----	17
Violations involved:		
Sale to minors	----- 7	Permitting persons of ill repute on premises - 1
Permitting brawls on premises	----- 5	Conducting business as a nuisance - 1
Sale to intoxicated persons	----- 2	Sale during prohibited hours - 1
Permitting immoral activity on premises	----- 2	Failure to afford view into premises during prohibited hours - 1
Permitting prostitutes on premises	----- 1	Permitting foul language on premises - 1
Permitting lottery activity (football pool & lottery slips) on premises	----- 1	Aiding & abetting sale w/o license - 1
Hindering investigation	----- 1	
HEARINGS HELD AT DIVISION:		
Total number of hearings held	-----	34
Appeals	----- 4	Seizures - 7
Disciplinary proceedings	----- 16	Tax revocations - 2
Eligibility	----- 3	Applications for license - 2
STATE LICENSES AND PERMITS ISSUED:		
Total number issued	-----	1,068
Licenses	----- 5	
Employment permits	----- 113	Wine permits - 104
Solicitors'	----- 36	Miscellaneous permits - 235
Disposal "	----- 99	Transportation insignia - 231
Social affair "	----- 234	Transportation certificates - 11

WILLIAM HOWE DAVIS
Director.

Dated: January 4, 1955.

7. WHOLESALE LICENSE - OBJECTIONS TO REMOVAL OF RESTRICTIONS NOT MERITORIOUS.

In the Matter of a Petition to)
 remove restrictions upon the)
 Plenary Wholesale license held)
 by)

CONCLUSIONS

POPPER MORSON CO.)
 48-52 Essex Street)
 Jersey City, N. J.)

-----)
 Popper Morson Company, Petitioner, by Joseph Billik, partner.
 N. J. Wine & Spirit Wholesalers Ass'n, Objector, by Milton Cooper, Esq.

BY THE DIRECTOR:

The petitioner is currently the holder of a New Jersey Plenary Wholesale license which was renewed subject to the special ruling, made pursuant to Revised Statutes 33:1-39, that no sales thereunder shall be made to retail licensees, the violation of which ruling constitutes cause for the suspension or revocation of this license.

Petitioner requests that the ruling be lifted to permit sales to licensed retailers and the objector opposes this request on the grounds that (1) the petition does not state facts warranting lifting and (2) no public need or necessity is shown.

Petitioner (operating during some license periods as a corporation and during others as a partnership) has held a New Jersey Rectifier and Blenders license for more than twenty years. This license authorizes its holder to sell to licensed wholesalers and retailers, any alcoholic beverages which are rectified, blended, treated or mixed by the license holder and the petitioner has, and still does, sell such products both to wholesalers and retailers in this state. This license does not, however, authorize the sale of alcoholic beverages manufactured or packaged by others and, in 1946, the petitioner applied for and was granted a Plenary Wholesale license to authorize its sale of products manufactured by an out-of-state distillery which the petitioner had acquired, and also to authorize its sale of imported products purchased by the petitioner. The Plenary Wholesale license presently held by the petitioner was issued in 1946 subject to the understanding that any products, other than those manufactured under its Rectifier and Blenders license, would be sold exclusively to wholesalers without any sales being made directly to retailers. The petitioner did not, at that time, desire to deal directly with retailers so far as its other products were concerned under its Plenary Wholesale license.

Over the course of the years since 1946 the petitioner has acquired domestic items or imported items as the exclusive distributor of such items in this state or country. Distribution of these items to retailers was cumbersome in many respects since other wholesalers were not particularly interested in their distribution, or handled competitive products, with the result that the promotion of its products by the other wholesalers is not satisfactory to the petitioner. Hence, the petitioner, from time to time since 1948, has requested permission from the Director to sell specific items directly to retailers and approximately twenty-five requests covering some fifty items have heretofore been received and granted. The petitioner has also found that an additional burden has been imposed in the constant checking necessary to insure that only the items for which permission has been granted are sold directly to retailers and that no other items acquired or imported by it from outside sources are sold directly to the retailers.

Petitioner now maintains a full sales force engaged in selling direct to retailers its products manufactured under its Rectifier and

Blenders license and in selling those other items for which permission has been granted. Petitioner is, therefore, equipped to render full service to retailers with respect to its other items.

I believe that the petitioner who, as aforesaid, has been engaged in the alcoholic beverage industry in the State of New Jersey for many years should no longer be burdened with a restriction which, in its application to the petitioner, now seems unduly harsh. In view of petitioner's past history, the present license restriction tends to stifle its normal operations and the flow of goods to retailers in ordinary course for subsequent distribution by the retailers to the members of the public desiring to purchase the brands. In my judgment, the elements of public necessity and convenience would be served in the lifting of the restriction and the facts submitted at the hearing on the petition so warrant.

Accordingly, I conclude that the foregoing ruling shall be lifted in its entirety and direct that the petitioner shall forward its license certificate to this office for appropriate endorsement to delete the special ruling now contained therein.

WILLIAM HOWE DAVIS
Director.

Dated: December 6, 1954.

8. SEIZURE - FORFEITURE PROCEEDINGS - UNLICENSED TRANSPORTATION OF TAX PAID ALCOHOLIC BEVERAGES FOR PERSONAL CONSUMPTION IN EXCESS OF LIMITED QUANTITY WHICH MAY BE SO TRANSPORTED - TRANSPORTER ESTABLISHED GOOD FAITH AND UNKNOWING VIOLATION OF THE LAW - APPLICATION FOR PERMIT RETROACTIVELY VALIDATING TRANSPORTATION ACCEPTED IN LIEU OF FORFEITURE - MOTOR VEHICLE AND ALCOHOLIC BEVERAGES RETURNED TO TRANSPORTER.

In the Matter of the Seizure on)	Case No. 8709
September 18, 1954, of a quantity)	
of alcoholic beverages and a Ford)	
truck on Sassafras Street, between)	ON HEARING
High and Second Streets, in the City)	CONCLUSIONS AND ORDER
of Millville, County of Cumberland)	
and State of New Jersey.)	

Samuel Adler, Esq., Attorney for Adalaide Perry.
Cobbin and Farr, Esqs., by William R. Farr, Esq., Attorneys for
Automobile Banking 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 quantity of tax paid alcoholic beverages and a Ford truck, described in a schedule attached hereto, seized on September 18, 1954 on Sassafras Street, between High and Second Streets, Millville, New Jersey, constitute unlawful property and should be forfeited.

Local police officers detained the truck and alcoholic beverages on the above date and location because the transportation of the alcoholic beverages appeared to be in violation of the Alcoholic Beverage Law. The truck was being operated by Adalaide Perry, its registered owner. The Division of Alcoholic Beverage Control was notified, and the truck and alcoholic beverages were turned over to its agents.

The motor vehicle was not licensed to transport alcoholic beverages; there had been no permit issued by the Division of Alcoholic

Beverage Control authorizing such transportation, and Adalaide Perry did not have any document in her possession indicating the source and destination of the alcoholic beverages. Mrs. Perry had verbally stated that she was transporting the alcoholic beverages for her husband to take on his boat the next day because he had a fishing party going out.

The quantity of alcoholic beverages being transported was in excess of the limited quantity permitted to be transported even for personal consumption without a license or permit (R.S. 33:1-2), and it appeared to be another case involving the intended unlicensed sale of alcoholic beverages aboard a party fishing boat.

When the matter came on for hearing, pursuant to R.S. 33:1-66, an appearance was entered on behalf of Adalaide Perry, who sought return of the truck and alcoholic beverages; and an appearance was entered on behalf of Automobile Banking Corporation, which sought recognition of its alleged lien on the truck.

It appears that Mrs. Perry and her husband, Harold Perry, have conducted a wholesale fish and oyster business in Bivalve, New Jersey, for over 23 years. Two boats and the truck are used in the business. The truck is registered in the name of Mrs. Perry because her husband does not drive a motor vehicle. Mr. Perry does not charter any of his boats for fishing parties. He employs from three to ten men, according to the season of the year, who work on a profit-sharing basis. The minimum net income of the Perrys is given as \$10,000.00, and this year's income is \$20,000.00. The catch of fish and shell fish are sold to merchants located in various cities.

During the course of the year, when his business activities permitted, Mr. Perry invited friends, customers, and members of a gun club to parties aboard his boat, and furnished them with food and drink without charge. Such was the purpose of use of the seized alcoholic beverages, some purchased in one or more retail liquor stores, and some taken from the Perry home on route to the liquor stores or store. These parties cost from \$500.00 to \$1,000.00 a year. These parties were not held at the Perry home because Mr. Perry thought his friends would be more appreciative of a boat ride.

An independent check by ABC agents with various Cumberland County officials, local municipal officers, other officers, and a bank official, developed that Mr. Perry had a law-abiding record, was in the oyster business, and was of good reputation.

I am therefore satisfied that Adalaide Perry acted in good faith and unknowingly violated the law governing the transportation of alcoholic beverages. R. S. 33:1-66(e). However, it may be well to point out that in the future, these parties should be limited to social and not business acquaintances, since the furnishing of alcoholic beverages, even without charge, for the purpose of advancing a person's business interests, is considered a sale of alcoholic beverages. See Re Zoellner, Bulletin 146, Item 10; Re Wallenstein, Bulletin 90, Item 1; Re Majestic Wine and Liquor, Bulletin 55, Item 13.

Although the seized property will not be forfeited, because of Mrs. Perry's unknowing violation, the transportation must be validated by an appropriate permit.

Therefore, Mrs. Perry's application for a permit to retroactively validate the unlawful transportation will be accepted, at a fee of \$10.00, and she will be allowed thereby to transport the alcoholic beverages, when returned to her, to her home. In addition, she will be required to pay the costs of seizure and storage.

Upon issuance of such permit, and the payment of costs of seizure and storage, the motor vehicle and alcoholic beverages,

described in Schedule "A" attached hereto, will be returned to Adalaide Perry.

Under the circumstances, there is no need to determine whether the Automobile Banking Corporation has a lien on the truck, since upon its return to Adalaide Perry, the finance company can pursue whatever legal rights it has.

WILLIAM HOWE DAVIS
Director.

Dated: December 20, 1954.

SCHEDULE "A"

- 18 - one pint bottles of whiskey
- 6 - 4/5 quart bottles of whiskey
- 72 - one pint bottles of wine
- 528 - cans of beer
- 168 - bottles of beer
- 1 - Ford truck, Engine & Serial No. F35R3C-12304, 1954 N. J. Registration XY5098.

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

In the Matter of the Seizure on November 1, 1954, of 60 one-half gallon jars of alcohol and a Packard sedan on the northbound lane of the New Jersey Turnpike, at the 83 Mile Post, in Raritan Township, Middlesex County and State of New Jersey.

Case No. 8747

ON HEARING
CONCLUSIONS AND ORDER

-----)
Green and Yanoff, Esqs., by Leo Yanoff, Esq., Attorneys for Universal C.I.T. 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 60 one-half gallon jars of alcohol, and a Packard sedan, described in a schedule attached hereto, seized on November 1, 1954 on the northbound lane of the New Jersey Turnpike, at the 83 Mile Post, in Raritan Township, New Jersey, constitute unlawful property and should be forfeited.

A New Jersey State Trooper halted the Packard sedan on the above date and place during a routine patrol of traffic on the highway. The motor vehicle was being operated by its registered owner, William V. Sargent, and there were two passengers therein. The trooper discovered the 60 jars of alcohol in the trunk of the car, and thereupon seized the car and alcohol. The Division of Alcoholic Beverage Control was notified and the alcohol and car were turned over to its agents.

None of the jars bore any labels, or stamps indicating the payment of tax on alcoholic beverages. The contents of one of the jars was analyzed by the Division chemist, who reports that it is alcohol and water fit for beverage purposes, with an alcoholic content by volume of 46.5 per cent.

It appears from William Sargent's signed statement that he drove to North Carolina for the purpose of purchasing "white" whiskey, and purchased the alcoholic beverages in question in various places in North Carolina and South Carolina from persons unknown to him.

When the matter came on for hearing, pursuant to R.S. 33:1-66, an appearance was entered on behalf of Universal C.I.T. Credit Corporation, which sought recognition of its alleged lien upon the motor vehicle.

Counsel for the finance company did not seek to controvert the facts above recited. No one opposed forfeiture of the alcohol.

The alcohol is illicit because the jars in which it was contained did not have any labels or tax stamps affixed thereto. R.S. 33:1-1(i), R.S. 33:1-88. The illicit alcohol and the Packard sedan 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.

Universal C.I.T. Credit Corporation has presented a conditional sales contract which it holds by assignment. This document is dated October 29, 1954 and evidences the sale of the Packard sedan to William Sargent for the purchase price of \$1,694.00. The unpaid balance due thereon is \$1,196.05, after rebate for prepayment.

Prior to extending credit to Sargent the finance company was informed that he was employed for three years as a construction worker, with earnings of \$375.00 to \$400.00 per month and was furnished with the name and address of his landlord, and the names of various references. A check was made of this information and it was found to be correct. In addition, the finance company ascertained that it had made a previous loan to Sargent on another motor vehicle and found it to be a satisfactory account. William Sargent does not appear to have any previous criminal record for violating any liquor laws.

I am satisfied that the finance company acted with reasonable prudence and made an adequate investigation of the background and character of William Sargent before it extended credit to him; that it did not discover any facts that should have led it to suspect that the car would be used to transport illicit alcohol. I shall therefore recognize its lien upon the motor vehicle to the extent of \$1,196.05. 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 Packard 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 3rd day of January, 1955, the Universal C.I.T. Credit Corporation pays the costs incurred in the seizure and storage of the Packard sedan, described in Schedule "A" attached hereto, such motor vehicle will be returned to such finance company; and it is further

DETERMINED and ORDERED that the jars of alcohol described 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: December 22, 1954.

SCHEDULE "A"

- 60 - 1/2 gallon jars of alcohol
- 1 - Packard sedan, Serial No. 2592-5700,
Engine No. K211826, 1954 N.Y.
Registration No. 8K4796.

10. SEIZURE - FORFEITURE PROCEEDINGS - SPEAKEASY IN RESTAURANT - VARIOUS ARTICLES RETURNED TO INNOCENT CLAIMANTS - CASH SURRENDERED BY SPEAKEASY OPERATOR FROM HIS PERSON RETURNED - STOCK OF ALCOHOLIC BEVERAGES AND BALANCE OF SEIZED PROPERTY ORDERED FORFEITED.

In the Matter of the Seizure on August 13, 1954 of a quantity of alcoholic beverages, certain fixtures, furnishings and equipment and \$106.47, on premises known as "Bamboo Inn", located on Port Monmouth Road, Port Monmouth, in the Township of Middletown, County of Monmouth and State of New Jersey.)	Case No. 8683
-----)	ON HEARING
)	CONCLUSIONS AND ORDER

Karkus and Kanter, Esqs., by Benjamin I. Kanter, Esq., Attorneys for Samuel Parker.
 William Lloyd, Esq., Attorney for Samuel Butler.
 Melko, Goldsmith & Pollack, Esqs., by George Pollack, Esq., Attorneys for Pete's Inc.
 M. Eskin & Sons, Inc., by David Rosenthal.
 Blue Vending Cigarette & Music, Inc., by James Blumette.
 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 quantity of alcoholic beverages, \$106.47 in cash, and various fixtures, furnishings, and equipment, described in a schedule attached hereto, seized on August 13, 1954 at the "Bamboo Inn" located on Port Monmouth Road, Port Monmouth, in Middletown Township, New Jersey, constitute unlawful property and should be forfeited.

The above property was seized at the "Bamboo Inn" on August 13, 1954 by ABC agents because of alleged unlawful sales of alcoholic beverages therein to several of such agents.

When the matter came on for hearing, pursuant to R. S. 33:1-66, the above named claimants appeared and sought return of various articles as hereinafter described.

It appears from the testimony of ABC agents that one of such agents visited the "Bamboo Inn" on August 11, 1954 to investigate a complaint that alcoholic beverages were being sold there without a license. The first floor consisted of what is described as a front room, a dining room, a kitchen, and another small room. To all outward appearances it was a commercial restaurant. The agent met Samuel Butler, and ordered food from him. During the course of his visit, the agent asked Butler for beer, and was served with a bottle of beer, for which he paid Butler. The agent left without disclosing his identity.

This agent returned to the establishment on August 13th. On this occasion he observed 15 or 20 men and women in the place, eating and some drinking beer and other beverages. The agent purchased

food from Butler, and also purchased two bottles of beer from him. The agent then took a seat in the front room. Samuel Parker was in charge of the business in this room. The agent purchased whiskey and beer from Parker. Parker left, and arranged with one Garfield Turner to take charge. The agent purchased whiskey and beer from Turner. Another agent who entered after the first agent likewise purchased whiskey and beer from Turner.

Neither Parker nor Butler seriously dispute the fact that alcoholic beverages were being sold at the premises. In Butler's signed statement, in evidence with consent of counsel, he refers to a social club ostensibly located there, and states that he knew that beer and whiskey were sold there, and that such a practice existed from the summer of 1954, when the "club" was organized. Parker, in his signed statement, likewise in evidence with consent of counsel, states that beer and whiskey were sold to members of the "club," and admits that he sold beer and whiskey to the ABC agents on August 13th.

Neither Samuel Parker nor Samuel Butler nor Garfield Turner held any license authorizing any of them to sell alcoholic beverages, and the premises were not licensed for that purpose.

On August 13th other ABC agents entered the premises while the two aforementioned agents were there, and all of the agents disclosed their identity. The agents seized two 4/5 quart bottles of whiskey which were underneath the counter of the front room, a pint bottle of whiskey which was on a table, and 63 bottles of beer (some in a Coca Cola cooler, some in a refrigerator in the kitchen, and some in another small room), \$14.40 in the cash register, \$92.00 from a wallet on Parker's person, and the fixtures, furnishings and equipment in the first floor rooms.

The only purpose of Samuel Parker's appearance was to obtain return of the \$92.00 surrendered by him. Without entering into an extensive review of the evidence presented on that score, it is sufficient to say that there is no definitive evidence that such sum represented proceeds from the unlawful sale of alcoholic beverages, or constitutes "fruits of the crime". It is not subject to forfeiture under the Alcoholic Beverage Law. See Seizure Case No. 7375, and Seizure Case No. 8431. Hence, such sum of \$92.00 will be returned to him.

Samuel Butler seeks return of all the property seized, except those articles the other claimants seek to recover. It is difficult accurately to determine the relationship between Butler and Parker in connection with the activities at the premises. Butler claims to be the owner of the building and equipment and to have leased the restaurant to Parker. Nevertheless Butler was active in the conduct of such business, was an officer in the "club" which, it is claimed, had an interest in the venture. In addition, Butler conducted a rooming house on the second floor. At the hearing he testified that on August 11th, he informed the agent that the beer was there for his personal use, but was persuaded by the agent to hand him the beer after the agent ascertained that Butler had beer on hand. However, Butler admits that he accepted money from the agent in payment for the beer.

In the light of all of the foregoing, it is clear that Butler had a considerable proprietary interest in the business activities at the premises, and is to be considered as a principal in the unlawful sale of alcoholic beverages there. As an active wrongdoer, he cannot escape the forfeiture penalty provided for violation of the Alcoholic Beverage Law. His application for return of any part of the seized property is therefore denied.

Pete's Inc. holds a conditional sales contract covering a Jordan refrigerator which it placed in the above restaurant. It sold the

refrigerator to Samuel Butler on July 7, 1950 and there is a present balance due thereon of \$113.00. The present retail value thereof does not exceed that amount and the costs of seizure and storage thereof. M. Eskin & Son, Inc. seeks return of a cigarette machine which it placed in the restaurant in May, 1953. Blue Vending Cigarette and Music Inc. seeks return of a music machine and a pin ball machine which it placed in the above location in June, 1953.

The testimony indicates that each of these claimants placed their property, in the normal course of their business, in what to all outward appearances was a legitimate restaurant, and did not observe any alcoholic beverage activity on the occasions when their personnel was there. Samuel Butler, Samuel Parker and Garfield Turner do not appear to have any previous record for violating any liquor laws. Consequently, the articles claimed will be returned to the claimants upon payment of the costs of seizure and storage of the respective items.

Accordingly, it is DETERMINED and ORDERED, that the Jordan refrigerator be returned to Pete's Inc.; the cigarette machine be returned to M. Eskin & Sons; and the music machine and pin ball machine be returned to Blue Vending Cigarette & Music Co., all as described in Schedule "A" attached hereto, provided that each of these named claimants, on or before the 14th day of January, 1955, pays the costs of seizure and storage, as allocated by the Director, of the respective articles to be returned to them; and it is further

DETERMINED and ORDERED that the balance of the seized property, including the \$14.40 in cash, seized in the cash register, described 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; and it is further

DETERMINED and ORDERED that the \$92.00 in cash taken from the person of Samuel Parker be returned to him.

WILLIAM HOWE DAVIS
Director.

Dated: January 4, 1955.

SCHEDULE "A"

- 1 - pint bottle of whiskey
- 2 - one quart bottles of whiskey
- 63 - bottles of beer
- 49 - assorted bottles of soda
- 1 - National cash register
- 1 - music box with currency therein
- 11 - tables
- 37 - chairs
- 1 - candy dispenser
- 3 - clothes trees
- 1 - counter
- 1 - show case
- 1 - Coca Cola cooler
- 1 - stool
- miscellaneous drinking glasses
- 1 - electric toaster
- 1 - cigarette machine and currency therein
- 1 - pin ball machine
- 1 - Jordan refrigerator
- 1 - General Motors Frigidaire
- 1 - Kelvinator refrigerator
- 1 - Peerless gas range
- 1 - Homart hot water heater
- 1 - complete steam table
- \$106.47 in cash

11. STATE LICENSES - NEW APPLICATIONS FILED.

Samuel Hoffman

555 Westminster Avenue

Elizabeth, N. J.

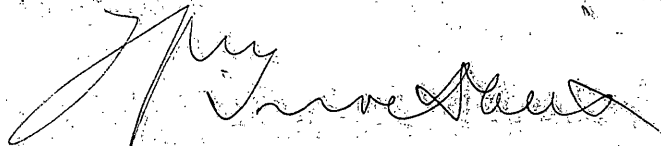
Application filed January 6, 1955 for Transportation License.

R. S. Wood, Inc.

Washington Highway, Route 24 and Hensfoot Road

Lopatcong, N. J.

Application filed January 6, 1955 for transfer of Limited Wholesale License WL-62 from Horlacher Brewing Company, 311 Gordon Street, Allentown, Pa.



William Howe Davis
Director.