

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

BULLETIN 1001

FEBRUARY 11, 1954.

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THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
5708 SOUTH WOODLAND AVENUE
CHICAGO, ILLINOIS 60637

DATE: 10/14/78

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EXPERIMENTAL

The following experimental procedures were used in the study of the reaction of the organotin compound with the organotin compound. The reaction was carried out in a round-bottomed flask equipped with a magnetic stirrer and a nitrogen inlet. The organotin compound (0.1 mole) was dissolved in 100 ml of dry tetrahydrofuran (THF) and the organotin compound (0.1 mole) was added to the solution. The mixture was stirred at room temperature for 24 hours. The reaction mixture was then poured into 500 ml of methanol and the resulting solid was filtered and dried under vacuum. The yield of the product was 85%.

The infrared spectrum of the product showed a strong absorption at 1650 cm⁻¹, characteristic of a carbonyl group. The ¹H NMR spectrum showed a multiplet at 7.2 ppm (d, 2H), a multiplet at 6.8 ppm (d, 2H), a multiplet at 6.4 ppm (d, 2H), a multiplet at 6.0 ppm (d, 2H), a multiplet at 5.6 ppm (d, 2H), a multiplet at 5.2 ppm (d, 2H), a multiplet at 4.8 ppm (d, 2H), a multiplet at 4.4 ppm (d, 2H), a multiplet at 4.0 ppm (d, 2H), a multiplet at 3.6 ppm (d, 2H), a multiplet at 3.2 ppm (d, 2H), a multiplet at 2.8 ppm (d, 2H), a multiplet at 2.4 ppm (d, 2H), a multiplet at 2.0 ppm (d, 2H), a multiplet at 1.6 ppm (d, 2H), a multiplet at 1.2 ppm (d, 2H), a multiplet at 0.8 ppm (d, 2H), a multiplet at 0.4 ppm (d, 2H).

The mass spectrum of the product showed a molecular ion peak at m/z 300, corresponding to the molecular weight of the product. The fragmentation pattern was consistent with the proposed structure of the product.

STATE OF NEW JERSEY
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1060 Broad Street Newark 2, N. J.

LLETIN 1001

FEBRUARY 11, 1954.

APPELLATE DECISIONS - LAKEWOOD ESTONIAN ASSOCIATION v. JACKSON TOWNSHIP.

LAKEWOOD ESTONIAN ASSOCIATION,)
Appellant,)
-vs-)
TOWNSHIP COMMITTEE OF THE)
TOWNSHIP OF JACKSON,)
Respondent.)

ON APPEAL
CONCLUSIONS AND ORDER

Mark Addison, Esq., Attorney for Appellant.
Percy Camp, Esq., Attorney for Respondent.

BY THE DIRECTOR:

This is an appeal from the action of respondent, on November 4, 1953, whereby it denied appellant's application for a club license.

In its petition of appeal, appellant contends that such action was erroneous, in that, despite the fact that appellant meets all requirements as a bona fide club, respondent denied the application for the following reason:

"The chairman of the Township Committee, after a roll call vote wherein each of the committeemen voted against granting a license and in response to a direct question asked by Counsel for the appellant, stated that the appellant's application was denied because the club license available under the municipal ordinance of the Township was being held for a Veterans Organization."

Respondent's answer denies that its action was improper but admits the portion of the petition of appeal above quoted "so far as it goes", adding the following:

"However, the reason expressed by the Chairman of the Township Committee for the denial of the license was not the only reason for the rejection of the license. The other reasons were:

(a) The members of the Township Committee did not feel that the issuance of such a license to the Appellant was necessary or advisable."

It appears that an earlier similar application was denied but no appeal was taken.

At the hearing herein, appellant's president and secretary appeared and testified. From their testimony and the exhibits introduced on behalf of appellant (consisting of the license application, appellant's certificate of incorporation and a letter from the Consulate General of Estonia) it appears that appellant was incorporated in 1946 under Title 15 of the Revised Statutes (Corporations not for Profit) "to gather around Estonians and Americans of Estonia origin who honor their race and their national traditions and to endeavor to develop their spiritual and social life, to give aid to needy members and to foster a friendly social relationship between members of the association."

The association has approximately 180 members all of whom are adults living in or near Lakewood and whose national origin is Estonian. Some of the members of the association are citizens of the United States while others are citizens of Estonia. Appellant has owned the building sought to be licensed (its clubhouse) and three-quarters of an acre of land where said building is located for more than three years and has been in continuous existence and has been in exclusive possession and use of such building for more than three years. The association apparently uses the building almost daily for club functions, including social activities, choral work, athletics and dramatics. It also permits other organizations to use the clubhouse for special occasions. The premises sought to be licensed apparently are approximately 200 yards from premises for which a plenary retail consumption license has been issued.

It further appears that there are approximately 250 persons of Estonian origin living in the general area of Lakewood and Jackson Townships; that 35 members of the association reside in Jackson Township and that, except for churches, there is no other social center for people of Estonian origin in the general area. Appellant, from time to time, has received from this Division, special one-day permits to sell alcoholic beverages at special functions.

All three members of respondent appeared and testified. No question was raised as to the bona fides or qualifications of appellant and it was admitted that the people of Estonian origin who live in this area are "very fine people". The members of the local issuing authority testified that they voted to deny the application because (1) the local ordinance limits the number of club licenses to one and the one license has been reserved for issuance to a local veterans' organization which contemplates the erection of club quarters about ten miles from appellant's premises and at some distance from any existing licensed premises and (2) they felt that no club license should be issued for premises in close proximity to an existing tavern.

As to the first reason, one member of the issuing authority testified as follows:

"Well, prior to my going on the committee the committee at that time more or less promised the Veterans of Foreign Wars, who were then organizing right after the war -- I wasn't a member of the committee at the time -- that if they built a clubhouse we would hold or they would hold the license for them until such time as they conformed with all the regulations necessary. That has been more or less an agreement with the incoming committee members since that time. In other words, we feel that the veterans from Jackson township put their lives on the line and fought for the township and that is the least we could do -- reserve one license for them."

As to the second reason, the same witness testified as follows:

"One of the oldest licensed establishments in the township is within two hundred yards of this club license -- of this Estonian club. We in Jackson township are very proud of the record our tavern keepers have. It is a very good one. We want to keep it good. We do not want to create competition where it doesn't belong, and we want to run them on an orderly basis. We have done just that.

"Another thing, too, is that we feel there are sufficient licenses in Jackson township. I mean we feel that there should not be too many more. Every one seems to get along well."

Testifying further with respect to the second reason the same witness said that, while they did not think that a club license would present as much competition as another plenary retail consumption license or "store" (presumably a plenary retail distribution licensee), the members of the issuing authority considered the fact that "this club, if licensed, might present competition to any licensee in the township."

The other members testified to the same general effect. One member added that one reason he voted to deny the application, but "not the main reason", was the fact that the membership of the club was large and most of the members came from out of the Township and he couldn't "see where it would be a benefit to the township".

A reciprocal trade treaty exists between the United States and Estonia by the terms of which nationals of each country are guaranteed the same trade privileges in the other country as are enjoyed by citizens. Re Aliens, Bulletin 960, Item 3. Consequently, and despite R. S. 33:1-25 and Rule 6 of State Regulations No. 7, the fact that some of the officers and directors of appellant club are not citizens of the United States is no bar to the issuance of the license applied for.

A municipality may, by ordinance, prohibit issuance of club licenses (R. S. 33:1-12(5)). It may also, by ordinance, limit the number of licenses to sell at retail, including club licenses, and may amend or repeal such ordinances. R. S. 33:1-40. An operative numerical limitation ordinance is binding upon the issuing authority. Trenton United Licensed Beverage Association et al. v. Trenton et al., Bulletin 899, Item 2; Local #2111, United Steelworkers of America, C.I.O. v. Trenton, Bulletin 399, Item 3. It is no longer deemed necessary for the municipality to establish the reasonableness of the ordinance. Trenton United Licensed Beverage Association et al. v. Trenton et al., supra.

Respondent has, by ordinance, authorized the issuance of but one club license. None has yet been issued. Thus, the issuance of one club license is permissible under the ordinance. It is well settled that no one is entitled to an alcoholic beverage license as a matter of right. See Paul v. Gloucester, 50 N.J.L. 585 (E. & A. 1888); Meehan v. Excise Commissioners, 73 N.J.L. 382 (Sup. Ct. 1906), aff'd 75 N.J.L. 557 (E. & A. 1908); Bumball v. Burnett, 115 N.J.L. 254 (Sup. Ct. 1935). Thus, the mere fact that a vacancy exists in the quota fixed by ordinance does not mean that an application for a license of that particular class must be granted. Samuelian v. Ocean, Bulletin 985, Item 2. However, where the applicant is properly qualified and has met all legal requirements, the issuing authority may not deny the application without just cause. Jamison v. Liberty, Bulletin 626, Item 3.

In this case respondent has not questioned appellant's qualifications but, instead, has asserted that the single vacancy is being reserved for a veterans' organization and that the issuance of a license to appellant is not "necessary or advisable".

As to the first ground, respondent has endeavored to create a preference for a "veterans' Organization" which, so far as appears, has not yet applied for a club license and indeed, so far as appears, may not yet be qualified under the statute and regulations to receive a club license. While respondent's patriotic motives may be laudable its action, in terms of sound administration of the issuance of alcoholic beverage licenses, is clearly an improper discrimination.

As to the second ground, respondent has apparently applied the same rule of public necessity and convenience to an application for a club license as is applied in the case of plenary retail licenses. See, however, Ocean County Tavern Association v. Beach Haven et al., Bulletin 954, Item 2, where I said:

"The contention that there are sufficient outlets in the neighborhood adequately to supply the needs of the people living in the immediate vicinity would carry weight if the application were for a consumption or distribution license. The object of a club license, however, is not to supply the needs of the neighborhood. The holder of such a license cannot lawfully sell alcoholic beverages to the general public but must confine such sales to bona fide

members and their bona fide guests. The stated objection carries no weight so far as a club license is concerned. Re Irish American Association of Kearny, N. J. v. Kearny, Bulletin 293, Item 11; Re Branch 13, American Federation of Hosiery Workers, Bulletin 523, Item 5; Re Indian Lake Community Club, Inc., Bulletin 845, Item 8."

Since appellant appears to be fully qualified and since respondent's reasons for denying the application are not meritorious, respondent's action must be reversed.

Accordingly, it is, on this 21st day of January, 1954,

ORDERED that the action of respondent be and the same is hereby reversed, and the respondent is directed and ordered to issue to the appellant a license for the current fiscal year, pursuant to the Conclusions herein.

DOMINIC A. CAVICCHIA
Director.

2. DISCIPLINARY PROCEEDINGS - ALLOWING OBSCENE LANGUAGE AND CONDUCT ON LICENSED PREMISES - HOSTESS - ALLOWING PREMISES TO BE CONDUCTED AS A NUISANCE - LICENSE SUSPENDED FOR 90 DAYS.

In the Matter of Disciplinary Proceedings against)

CHARLES PORCURI)
T/a SUNSHINE TAVERN)
89 Garden Street)
Hoboken, N. J.,)

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-149, issued by the Board of Commissioners of the City of Hoboken.)

Samuel Jacobs, 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 the following charges:

"1. On Friday night, September 25, early Saturday morning, September 26, Friday night, October 9 and early Saturday morning, October 10, 1953, you allowed, permitted and suffered foul, filthy, and obscene language and conduct in and upon your licensed premises; in violation of Rule 5 of State Regulations No. 20.

"2. On Friday night, September 25, early Saturday morning, September 26, Friday night, October 2, early Saturday morning, October 3, Saturday night, October 3, Friday night, October 9 and early Saturday morning, October 10, 1953, you allowed, permitted and suffered Antoinette ---, a female employed on your licensed premises, to accept beverages at the expense of and as a gift from customers and patrons; in violation of Rule 22 of State Regulations No. 20.

"3. On Friday night, September 25, early Saturday morning, September 26, Friday night, October 2, early Saturday morning, October 3, Wednesday night, October 7, Friday night, October 9 and early Saturday morning, October 10, 1953, you allowed, permitted and suffered your licensed place of business to be conducted in such a manner as to become a nuisance in that you permitted unescorted females to frequent your licensed premises

and to solicit male patrons to purchase numerous drinks of alcoholic beverages for consumption by them and otherwise conducted your licensed place of business in a manner offensive to common decency and public morals; in violation of Rule 5 of State Regulations No. 20."

The file herein discloses that two ABC agents entered defendant's premises separately at about 10:30 p.m. on Friday, September 25, 1953, and remained in the premises until about 2 a.m. Saturday, September 26, 1953. About twenty males and five females were seated at the bar. A male bartender known as "Clem", a female bartender known as "Ann" and the licensee were working behind the bar. One agent sat at the bar near the entrance and the other agent sat at the center of the bar. One of the agents was seated next to a female patron known as "Kitty." At various times during the evening this agent observed three different male patrons kissing and fondling "Kitty" while she was seated at the bar, and heard filthy and obscene language used by her and the male patrons. The reports do not clearly show that defendant or either of his employees saw this conduct or heard this language although one agent reports that "Kitty's" tone of voice was above normal. One agent reported that after 1:30 a.m. he purchased a drink of alcoholic beverages for "Ann", the female bartender. He also reported that before he left the premises he asked "Clem" if "Kitty" was a good lay and "Clem" answered, "Sure, she's a good lay"; that he then asked if she was clean and that "Clem" answered, "She's all right." The other agent reports that he also heard male and female patrons using filthy and obscene language "that could be heard ten feet away" and that he heard an argument between a female patron known as "Doris" and two male patrons resulting in a fight which the licensee stopped.

Both of the aforesaid agents and another ABC agent entered defendant's premises separately at about 11 p.m. on Friday, October 2, 1953, and remained in the premises until about 1:30 a.m. Saturday, October 3, 1953. "Clem", "Ann" and the licensee were tending bar. Five female patrons (one of whom appeared to be slightly intoxicated) and fifteen male patrons were seated at the bar, but the patrons were quiet. One of the agents purchased for "Ann", the female bartender, a whiskey and soda prepared by "Clem."

One of the aforesaid agents and two other ABC agents entered defendant's premises separately at about 10 p.m. on Saturday, October 3, 1953, and remained in the premises about an hour and a half. "Clem" and the licensee were tending bar. One of the agents observed "Ann", who was then acting as a waitress, accepting two drinks of alcoholic beverages at the expense of male patrons. Shortly after the agents entered, a commotion started when a male patron pulled the arm of the aforesaid "Doris" who was drinking with another man. The licensee stopped this commotion.

Both of the aforesaid agents and another ABC agent entered defendant's premises separately at about 10:45 p.m. on Wednesday, October 7, 1953, and one of the agents remained in the premises for about an hour; the others left after a short period of time. "Clem" was tending bar. The licensee was seated at the bar talking to a male patron. During this visit one of the agents had a conversation with another female patron which indicated to the agent that the aforesaid "Kitty" was a prostitute. However, there is nothing to indicate that the bartender or the licensee heard this conversation.

One of the aforesaid agents and another ABC agent entered defendant's premises separately at about 10:30 p.m. on Friday, October 9, 1953. "Clem", "Ann" and the licensee were tending bar. About half of the forty patrons present were females. The aforesaid "Doris" went over to a male patron and started an argument, as a result of which the male patron

forcibly pushed "Doris." Thereupon another male patron entered the argument, during the course of which filthy and obscene language was used and the two men almost came to blows. The licensee came from behind the bar and ejected from the premises the male patron who had pushed "Doris." At about 11:30 p.m. the aforesaid "Kitty" entered the premises. While she was dancing with one of the agents she agreed to go elsewhere with him to have sexual intercourse upon payment to her of five dollars. There is nothing to show that the licensee or either of his bartenders heard this conversation. In fact, when the agent thereafter asked "Ann" and the licensee about "Kitty", both denied that they knew anything about her. During this visit the agents observed that a number of drinks of alcoholic beverages were purchased for "Ann", the bartender, by male patrons and one of the agents purchased a drink for her. Shortly after midnight the agents identified themselves to the licensee.

With respect to charge (3) the file discloses that, except when the licensee and his employees were suspicious that agents of this Division were present, the licensed business was conducted in a very loose manner. Numerous arguments broke out, sometimes accompanied by extremely foul, filthy and obscene language and, occasionally, physical violence; unescorted females frequented the licensed premises, some boldly asking male patrons to buy drinks for them while others, more subtle, attached themselves to male patrons for considerable periods of time during which they consumed numerous drinks paid for by these male patrons and served by the ever-willing licensee and his employees. On at least one occasion a number of these females "shuttled" between various male patrons, drinking with each in turn.

Defendant, who has been operating only a short time, has no prior record. Considering all the facts of this case, including the plea entered herein, I shall suspend defendant's license for a period of ninety days. Cf. Re Pone, Bulletin 963, Item 2; Re Guittari, Bulletin 921, Item 2; Re Volino and Maheltz, Bulletin 978, Item 3.

Accordingly, it is, on this 28th day of January, 1954,

ORDERED that Plenary Retail Consumption License C-149, issued by the Board of Commissioners of the City of Hoboken to Charles Porcuro, t/a Sunshine Tavern, for premises 89 Garden Street, Hoboken, be and the same is hereby suspended for ninety (90) days, commencing at 2 a.m. February 4, 1954, and terminating at 2 a.m. May 5, 1954.

DOMINIC A. CAVICCHIA
Director.

AUTOMATIC SUSPENSION - LICENSE PREVIOUSLY SUSPENDED BY LOCAL ISSUING AUTHORITY - APPLICATION TO LIFT GRANTED.

In the Matter of a Petition by)

NEW LATIN QUARTER, INC.)
132 Orchard Street)
Newark, N. J.,)

ON PETITION

CONCLUSIONS AND ORDER

To Lift the Automatic Suspension)
of Plenary Retail Consumption)
License C-947 issued by the Municipal)
Board of Alcoholic Beverage Control)
of the City of Newark.)
-----)

Parsonnet, Weitzman & Oransky, Esqs., Attorneys for Petitioner.

BY THE DIRECTOR:

It appears from a verified petition filed herein that on December 16, 1953, Henry Karwell, an officer of New Latin Quarter, Inc., was placed on probation until a fine of \$200.00 was paid after he had pleaded non vult in the Essex County Court to an indictment alleging that he sold alcoholic beverages to a minor, in violation of R. S. 33:1-77. Said conviction has resulted in the automatic suspension of the license held by New Latin Quarter, Inc. for the balance of its term. R.S. 33:1-31.1. On January 13, 1954, at 2:55 p.m., the license certificate was picked up by ABC agents, and no alcoholic beverage activity has been conducted on the licensed premises since that time. The petition herein prays that the automatic suspension be lifted.

It appears from the records of the Division of Alcoholic Beverage Control that on August 11, 1953, the Municipal Board of Alcoholic Beverage Control of the City of Newark suspended the license held by New Latin Quarter, Inc. for a period of fifteen days, less five for the plea, after it had pleaded non vult in disciplinary proceedings to a charge alleging that it permitted the sale of alcoholic beverages to a minor, in violation of Rule 1 of State Regulations No. 20. Said suspension was effective for a period of ten days commencing at 7 a.m. August 17, 1953.

The complaint in the criminal proceedings and the charge in the disciplinary proceedings were based upon the same facts. The case concerns the sale of alcoholic beverages to a minor who was then seventeen years of age.

A review of the facts of the case indicates that the suspension heretofore imposed by the municipal issuing authority was adequate under the circumstances of the case. Hence the relief sought herein will be granted.

Accordingly, it is, on this 14th day of January, 1954,

ORDERED that the automatic suspension of License C-947, held by New Latin Quarter, Inc., for premises 132 Orchard Street, Newark, be and the same is hereby lifted and said license is hereby restored to full force and operation, effective immediately.

DOMINIC A. CAVICCHIA
Director.

4. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against
 KENNETH & ETHEL ANNA BIRD
 T/a THE SPOT
 South Side of Highway 22-28
 Union Township (Hunterdon County)
 P.O. R.D. Hampton, N. J.,
 Holders of Plenary Retail Consumption License C-1 for the 1952-53 and 1953-54 licensing years, issued by the Township Committee of the Township of Union (Hunterdon County).

CONCLUSIONS AND ORDER

Sidney Simandl, Esq., Attorney for defendant-licensees.
 David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants have pleaded not guilty to the following charge:

"On Thursday night, May 7 and early Friday morning May 8, 1953, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to Richard E. ---, a person under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing held herein, Richard E. ---, 19 years of age, testified that at 11 p.m., on May 7, 1953, he and a companion, William S. Chambers, visited defendants' licensed premises; that they proceeded to the bar and occupied seats two stools apart from each other; that he met John Nuniviller and Kenneth Moore at the bar in the premises; that he consumed the contents of four or five bottles of beer which were served to him by a male bartender about "thirty or forty" who had a "Thin mustache. Looked like a mustache, or maybe he didn't shave, I don't know"; that the bartender did not question him as to his age; that about 12 midnight, John Nuniviller, William S. Chambers, Kenneth Moore and he left the defendants' licensed premises but returned later the following morning, at which time he was again served beer. He further testified that he could not identify the male bartender who served him but he did remember one Marjorie Rinker, employed by the defendants as a waitress, being on the premises on the night in question. He further testified that he was employed by the same company which employed John Nuniviller and Kenneth Moore.

William S. Chambers testified that he accompanied Richard E. --- to defendants' licensed premises on the evening of May 7, 1953 and that John Nuniviller and Kenneth Moore were in the premises when they arrived; that Richard E. --- was served "four or five" bottles of beer by the bartender, whom he could not identify; that Richard E. ---, John Nuniviller, Kenneth Moore and he left the premises together and that the four returned "a little before two a.m."; that thereafter Richard E. --- was served "at least three" bottles of beer by the bartender. He also identified Marjorie Rinker as a waitress in defendants' premises at the time in question.

It was stipulated by the attorneys for the respective parties herein that the two ABC agents were directed on May 20, 1953 by Richard E. --- and William S. Chambers to defendants' licensed premises and that the four entered the premises but the youths did not

identify defendant Kenneth Bird as the person who sold them the beer on May 7 and 8, 1953. Both agents testified that neither youth stated that the person who served him wore glasses or had a mustache.

Kenneth Bird, one of the licensees, testified that he never had a mustache and that he was the only bartender on duty on the night of May 7 and morning of May 8, 1953; that Marjorie Rinker, the waitress, also was working in the premises at that time; that although John Nuniviller and Kenneth Moore were seated at a table in the licensed premises during the evening of May 7 and morning of May 8, 1953, neither Richard E. --- nor William S. Chambers was there; that on May 20, 1953, two ABC agents came into the premises with Richard E. --- and William S. Chambers and that the two youths said in his presence that they had never seen him but that they were served by "a bartender that wore glasses and had a mustache -- a black mustache"; that he had never seen Richard E. --- or William S. Chambers until May 20, 1953.

James Petro, produced as a witness by defendant, testified that on May 7, between 7 and 7:30 p.m., he arrived at defendants' licensed premises and remained there until between one and 1:30 the following morning; that he did not see Richard E. --- or William S. Chambers during the time he was in the premises; that between 11 and 11:30 p.m. on May 7, 1953, Kenneth Moore and John Nuniviller came into the premises and sat at a table; that he joined them for an hour and a half, during which time they had "a few drinks together"; that Kenneth Bird, one of the licensees, was the only person tending bar that night.

John Nuniviller testified that early on the evening of May 7, 1953, he was in defendants' licensed premises but left there to go back to the cabin where he lived and which was owned by defendants; that he returned again to the licensed premises "around 11 o'clock" and sat at a table with Kenneth Moore and James Petro, where he remained until "the place closed"; that although he knew Richard E. --- and William S. Chambers, he did not see them at the bar in defendants' premises on the night of May 7, 1953; that both he and Richard E. --- worked for a construction company but that he (John Nuniviller) quit his job on May 7, 1953 and on May 10, 1953 left for Ohio; that Kenneth Bird, one of the licensees, was tending bar; that Kenneth Bird's son was in the kitchen; and that Marjorie Rinker, the waitress, was working that evening.

Defendants produced two additional witnesses who testified that they were in defendants' licensed premises on the evening of May 7, 1953 and morning of May 8, 1953 but that they did not see Richard E. --- or William S. Chambers present in the premises during that time. These witnesses, together with two other witnesses who were not present at the time in question, agreed that they had never seen a bartender in defendants' licensed premises with glasses or a mustache. Marjorie F. Rinker, a waitress, testified that she worked from 6 p.m. on May 7, 1953 until 3 a.m. on May 8, 1953; that, although she saw John Nuniviller, Kenneth Moore and James Petro seated at a table, she did not see either Richard E. --- or William S. Chambers in the premises that night; that Kenneth Bird, one of the licensees, was tending bar and that she never saw any person with a mustache tending bar either on that evening or any other time while she worked in the premises. Eva Rapp, another waitress employed by defendants, testified that she was present on May 20, 1953, when two ABC agents and Richard E. --- and William S. Chambers were in the premises, and that one of the youths stated that the man who served them had a mustache and wore glasses. John Mathews, also a witness produced by defendants, testified that he was in the premises of defendants during the evening of May 7, 1953 until about 2 a.m., the following morning, and that, although he saw James Petro, John Nuniviller and Kenneth Moore in the premises that night, he could not be sure whether they sat at the bar or not as they appeared to be having a private party. Furthermore, he testified he did not see either Richard E. --- or William S. Chambers there that evening. Moreover, he testified that he was present

on May 20, 1953 when the two youths came into the licensed premises with two ABC agents and that he heard one of the youths describe the man who served them as one having a mustache and glasses.

On July 2, 1953, which was the third day that the instant hearing continued, both Richard E. --- and William S. Chambers, who were recalled as rebuttal witnesses by the Division, testified that they saw John Nuniviller at work the week of May 11, 1953. In view of this testimony, which contradicted that of John Nuniviller, the attorney for the defendants requested permission to obtain the work records from the employer of John Nuniviller and Kenneth Moore to ascertain whether or not the two men were employed during the week beginning May 11, 1953. Such permission was granted. On August 6, 1953, the attorney for the defendants, at the continued hearing, stated that since his investigation showed that there was no one who could give the data required as to whether or not John Nuniviller was working he "abandoned" the idea. The Division produced a witness, one William Marks, who testified that he was superintendent of construction for the company which employed both John Nuniviller and Kenneth Moore and that he was in charge of the attendance records of the company's employees. He testified that he personally "checks each crew every day" and that John Nuniviller was on the job from Monday, May 11, 1953, through Thursday, May 14, 1953, when he was discharged; that Kenneth Moore was on the job from Monday, May 11, 1953 to Thursday, May 14, 1953, inclusive, and that he reported for work on Friday, May 15, 1953, for which he was credited with two hours' time. The original daily work report and the payroll sheet confirming the fact that both John Nuniviller and Kenneth Moore worked during the week beginning May 11, 1953 were introduced in evidence and marked as exhibits in the case (Exhibits S-2 and S-3).

I have carefully read the entire record and I am convinced that, in the main, the testimony of the minor and his companion described with reasonable accuracy the events which occurred in defendants' licensed premises on the evening of May 7, 1953. Both Richard E. --- and William S. Chambers identified Marjorie Rinker, a waitress employed by defendants, as having been on the licensed premises at the times in question. This is admitted by the defendants in the testimony of Kenneth Bird, one of the licensees, and also the testimony of Marjorie Rinker, herself, and other witnesses produced by defendants who alleged that they were in the licensed premises at the times in question. No reason appears why the minor and his companion should have deliberately given false testimony. John Nuniviller's testimony was shown to have been untrue with respect to the termination of his employment on May 7, 1953. Kenneth Moore, who was alleged to have been one of the men at defendants' licensed premises on May 7 and May 8, 1953, was not produced as a witness in the case. It was explained by the defendants that he had left the State and that they were unable to contact him in order to have him return to testify. The failure of Richard E. --- and William S. Chambers to identify the specific person or persons who served them is not fatal in disciplinary proceedings. See Re La Corte, Bulletin 469, Item 1; Re Cohen, Bulletin 495, Item 6; Re Dante, Bulletin 771, Item 9. I conclude that the minor was present on defendants' licensed premises and that alcoholic beverages were sold and served to him and consumed by him as related in his testimony.

From all the evidence, I find defendants guilty as charged.

Defendants have no prior adjudicated record. The minimum penalty for sale of alcoholic beverages to a minor 19 years of age is ten days. Re Casamento, Bulletin 922, Item 12. Therefore, I shall suspend defendants' license for a period of ten days.

Although this proceeding was instituted during the 1952-53 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1953-54. State Regulations No. 16.

Accordingly, it is, on this 8th day of January, 1954,

ORDERED that Plenary Retail Consumption License C-1 for the 1953-54 licensing period, issued by the Township Committee of the Township of Union (Hunterdon County) to Kenneth & Ethel Anna Bird, t/a The Spot, South Side of Highway 22-28, Union Township (Hunterdon County), be and the same is hereby suspended for a period of ten (10) days, commencing at 3 a.m. January 18, 1954, and terminating at 3 a.m. January 28, 1954.

DOMINIC A. CAVICCHIA
Director.

DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against
CORRADO MONTESCHIO
T/a CONNIE'S INN
State Hwy. Route #30
Lebanon Township
P.O. Glen Gardner, N. J.,

CONCLUSIONS
AND ORDER

Holder of Plenary Retail Consumption License C-7 for the 1952-53 and 1953-54 licensing years, issued by the Township Committee of the Township of Lebanon.

Sidney Simandl, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to the following charge:

"On Thursday night, May 7 and early Friday morning, May 8, 1953, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages directly or indirectly, at your licensed premises to Richard E. ---, a person under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing held herein, Richard E. ---, 19 years of age, testified that after they left the premises of Kenneth and Ethel Anna Bird (see Re Bird, decided herewith), he, William S. Chambers, John Nuniviller and Kenneth Moore, entered defendant's licensed premises about 12:30 a.m. on May 8, 1953; that a man, whom he identified as Emory Kaub, was tending bar; that during the time he spent in defendant's premises he was served and consumed four or five bottles of beer; that Emory Kaub did not question him regarding his age; and that he and his companions left defendant's premises at 1:00 a.m. He further testified that he was employed by the same company which employed John Nuniviller and Kenneth Moore.

William S. Chambers corroborated the testimony of Richard E. --- with reference to their visit at 12:30 a.m., on May 8, 1953, to the defendant's licensed premises with John Nuniviller and Kenneth Moore and the fact that Richard E. --- was served and consumed beer at the time in question; that a bartender, subsequently identified as Emory Kaub, without questioning Richard E. --- as to his age, served him beer; and that the four of them remained in defendant's premises for approximately one-half hour. William S. Chambers also testified that on May 20, 1953, he,

Richard E. --- and two ABC agents entered defendant's licensed premises, at which time Richard E. --- and he identified Emory Kaub as the person tending bar who served them on the morning in question.

It was stipulated by the attorneys for the respective parties herein, that the two ABC agents if called as witnesses, would testify that on May 20, 1953 they were directed by Richard E. ---, the minor, and William S. Chambers to the defendant's licensed premises; that the youths identified the premises as the place where Richard E. --- was served beer on May 8, 1953 and upon entering identified Emory Kaub, the bartender, as the person who made service of alcoholic beverages.

The defendant testified that he was tending bar on the morning of May 8, 1953; that he never saw either Richard E. --- or William S. Chambers prior to May 20, 1953, when they came into his premises with the ABC agents and in his presence identified his bartender (Emory Kaub) as the person who served them on May 8, 1953. He further testified that, although he employed Emory Kaub the week previous to May 11, 1953, Emory Kaub did not start to work for him until Monday night, May 11, 1953; that one Dick Dilts worked for him either on Mondays or Tuesdays over a period of three months but that said employment was not entered in an expense book which his accountant kept for him because no salary was paid to said Dick Dilts for his services; and that his accountant entered in the expense book, at his direction, the name of Emory Kaub as an employee whose services began on May 11, 1953. The defendant further testified that he did not pay Emory Kaub any salary to the date of the hearing, although a designated sum of money, apparently salary for Emory Kaub, was entered in said book. The latter statement was made after Emory Kaub testified that he had "no set salary at all" nor did he receive any wages to date. Emory Kaub testified that he was living with defendant on May 7th and 8th, 1953, and that he left for his home in another State on the evening of May 8, 1953 and did not return until Monday afternoon, May 11, 1953. He further testified that the first time he ever saw Richard E. --- and William S. Chambers was when they came into defendant's premises on May 20, 1953 with the two ABC agents.

Defendant produced as a witness one Bertha Price, who testified that she and the man for whom she is employed as a housekeeper, entered defendant's licensed premises at 11:30 p.m., May 7, 1953 and left the premises at 1:15 a.m., May 8, 1953; that the defendant-licensee was tending bar during the time spent in the premises; that she became aware of the fact that defendant had been charged with a violation "If I'm not mistaken about a week -- a week and a half ago"; that she remembered the night of May 7, 1953 as she and her employer were celebrating his birthday in defendant's licensed premises on that date; and that she never saw either Richard E. --- or William S. Chambers previous to June 16th, the day of the hearing.

John Nuniviller testified that he never visited defendant's licensed premises and did not know where defendant's licensed premises are located. He further testified that Richard E. --- and he worked for a construction company but that he quit his job on May 7, 1953 and on May 10, 1953 left for Ohio.

On July 2, 1953, which was the third day that the instant hearing continued, both Richard E. --- and William S. Chambers, who were recalled as rebuttal witnesses by the Division, testified that they saw John Nuniviller at work the week of May 11, 1953. In view of this testimony, which contradicted that of John Nuniviller, the attorney for the defendant requested permission to obtain the work records from the employer of John Nuniviller and Kenneth Moore to ascertain whether or not the two men were employed during the week beginning May 11, 1953. Such permission was granted. On August 6, 1953, at a continued hearing, the attorney for the defendant stated that since his investigation showed that there was no one who could give the data required as to whether or not John Nuniviller was working during the week beginning May 11, 1953 he "abandoned" the idea. The Division produced a witness, one William Marks, who testified that he was superintendent of construction for the company which employed both John Nuniviller and Kenneth Moore and that he was in

charge of the attendance records of the company's employees. He testified that he personally "checks each crew every day" and that John Nuniviller was on the job from Monday, May 11, 1953, through Thursday, May 14, 1953, when he was discharged; that Kenneth Moore was on the job from Monday, May 11, 1953 to Thursday, May 14, 1953, inclusive, and that he reported for work on Friday, May 15, 1953, for which he was credited with two hours' time. The original daily work reports and the payroll sheet confirming the fact that both John Nuniviller and Kenneth Moore worked during the week beginning May 11, 1953 were introduced in evidence and marked as exhibits in the case (Exhibits S-2 and S-3).

I have carefully read the entire record and I am convinced that, in the main, the testimony of the minor and his companion described with reasonable accuracy the events which occurred in defendant's licensed premises on the morning of May 8, 1953. Both Richard E. --- (the minor) and William S. Chambers identified Emory Kaub as the person who served them on May 8, 1953. No reason appears why the minor and his companion should have deliberately given false testimony. John Nuniviller's testimony was shown to have been untrue with respect to the termination of his employment on May 7, 1953. Kenneth Moore, who was alleged to have been one of the men at defendant's licensed premises on May 8, 1953, was not produced as a witness in the case. It was explained by the defendant that Moore had left the State and that he was unable to contact him in order to have him return here and testify. I conclude that the minor was present on defendant's licensed premises and that alcoholic beverages were sold and served to him and consumed by him as related in his testimony.

From all the evidence, I find defendant guilty of sale and service of alcoholic beverages to a minor on May 8, 1953. There being no evidence that the minor or his companion were there on May 7, 1953, so much of the charge relating to May 7, 1953 will be dismissed.

Defendant has no prior adjudicated record. The minimum penalty for sale of alcoholic beverages to a minor 19 years of age is ten days. Re Casamento, Bulletin 922, Item 12. Therefore, I shall suspend defendant's license for a period of ten days.

Although this proceeding was instituted during the 1952-53 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1953-54. State Regulations No. 16.

Accordingly, it is, on this 8th day of January, 1954,

ORDERED that Plenary Retail Consumption License C-7 for the 1953-54 licensing period, issued by the Township Committee of the Township of Lebanon to Corrado Monteschio, t/a Connie's Inn, State Hwy. Route #30, Lebanon Township, be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. January 18, 1954 and terminating at 2:00 a.m. January 28, 1954.

DOMINIC A. CAVICCHIA
Director.

6. DISCIPLINARY PROCEEDINGS - SALE TO MINOR - LICENSE SUSPENDED FOR 10 DAYS.

In the Matter of Disciplinary Proceedings against

WILLIAM HOWARD ENGLE

Route #28

1 mile West White House Station

Readington Township

P.O. White House Station, N. J.,

Holder of Plenary Retail Consumption

License C-6, issued by the Township

Committee of the Township of Readington.)

CONCLUSIONS
AND ORDER

Sidney Simandl, Esq., Attorney for Defendant-licensee.
David S. Piltzer, Esq., appearing for Division of Alcoholic
Beverage Control.

BY THE DIRECTOR:

Defendant has pleaded not guilty to the following charge:

"On Thursday night, May 7 and early Friday morning, May 8, 1953, you sold, served and delivered and allowed, permitted and suffered the sale, service and delivery of alcoholic beverages, directly or indirectly, at your licensed premises to Richard E. ---, a person under the age of twenty-one (21) years, and allowed, permitted and suffered the consumption of alcoholic beverages by such person in and upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing held herein Richard E. ---, 19 years of age, testified that, after they left the premises of Corrado Monteschio (see Re Monteschio, decided herewith), he, William S. Chambers, John Nuniviller and Kenneth Moore entered defendant's licensed premises at about 1:15 a.m. on May 8, 1953; that he consumed the contents of three bottles of beer which were served to him by a male bartender (definitely not the defendant herein) who did not question him as to his age; that he could not identify the bartender who served him as he was occupied playing darts and was not interested in the bartender. He further testified that he was employed by the same company which employed John Nuniviller and Kenneth Moore.

William S. Chambers corroborated the testimony of Richard E. --- with reference to their visit at 1:15 a.m. on May 8, 1953 to the defendant's licensed premises with John Nuniviller and Kenneth Moore and that Richard E. --- was served and consumed beer at the time in question. He also testified that he could not identify the male bartender who served them.

It was stipulated by the attorneys for the respective parties herein that the two ABC agents, if called as witnesses, would testify that on May 20, 1953 they were directed by Richard E. --- and William S. Chambers to the defendant's licensed premises; that the two youths identified the premises as the place where Richard E. --- was served and consumed beer on May 8, 1953, but that neither youth was able to identify the person who made service thereof.

Defendant testified that he was tending bar on the morning of May 8, 1953; that he did not remember seeing either Richard E. --- or William Chambers in the premises at the time; that on May 20, 1953 two ABC agents came into the premises with Richard E. --- and William S. Chambers at which time the two youths said that he had never served them; that on the following Friday night "a night or two later" both of his bartenders were in the premises when the agents and the boys came there and the boys stated that neither of the bartenders had served them on the night in question.

John Nuniviller testified that he never visited defendant's licensed premises and did not know where defendant's licensed premises

are located. He further testified that Richard E. --- and he worked for a construction company; that he quit his job on May 7, 1953 and on May 10, 1953 left for Ohio.

On July 2, 1953, which was the third day that the instant hearing continued, both Richard E. --- and William S. Chambers, who were recalled as rebuttal witnesses by the Division, testified that they saw John Nuniviller at work the week of May 11, 1953. In view of this testimony, which contradicted that of John Nuniviller, the attorney for the defendant requested permission to obtain the work records from the employer of John Nuniviller and Kenneth Moore to ascertain whether or not the two men were employed during the week beginning May 11, 1953. Such permission was granted. On August 6, 1953 at a continued hearing, the attorney for the defendant stated that since his investigation showed that there was no one who could give the data required as to whether or not John Nuniviller was working during the week beginning May 11, 1953 he "abandoned" the idea. The Division produced a witness, one William Marks, who testified that he was superintendent of construction for the company which employed both John Nuniviller and Kenneth Moore and that he was in charge of the attendance records of the company's employees. He testified that he personally "checks each crew every day" and that John Nuniviller was on the job from Monday, May 11, 1953, through Thursday, May 14, 1953, when he was discharged; that Kenneth Moore was on the job from Monday, May 11, 1953, to Thursday, May 14, 1953, inclusive, and that he reported for work on Friday, May 15, 1953, for which he was credited with two hours' time. The original daily work reports and the payroll sheet confirming the fact that both John Nuniviller and Kenneth Moore worked during the week beginning May 11, 1953 were introduced in evidence and marked as exhibits in the case (Exhibits S-2 and S-3).

I have carefully read the entire record and I am convinced that, in the main, the testimony of the minor and his companion described with reasonable accuracy the events which occurred on defendant's licensed premises on the morning of May 8, 1953. No reason appears why the minor and his companion should have deliberately given false testimony. John Nuniviller's testimony was shown to have been untrue with respect to the termination of his employment on May 7, 1953. Kenneth Moore, who was alleged to have been one of the men at defendant's licensed premises on May 8, 1953, was not produced as a witness in the case. It was explained by the defendant that Moore had left the State and that he was unable to contact him in order to have him return to testify. The failure of Richard E. --- and William S. Chambers to identify the specific person or persons who served them is not fatal in disciplinary proceedings. See Re La Corte, Bulletin 469, Item 1; Re Cohen, Bulletin 495, Item 6; Re Dante, Bulletin 771, Item 9. I conclude that the minor was present on defendant's licensed premises at the time in question and that alcoholic beverages were sold and served to him and consumed by him as related in his testimony.

From all the evidence I find defendant guilty of sale and service of alcoholic beverages to a minor on May 8, 1953. There being no evidence that the minor or his companion were there on May 7, 1953, so much of the charge which related to May 7, 1953 will be dismissed.

Defendant has no prior adjudicated record. The minimum penalty for sale of alcoholic beverages to a minor 19 years of age is ten days. Re Casamento, Bulletin 922, Item 12. Therefore, I shall suspend defendant's license for a period of ten days.

Although this proceeding was instituted during the 1952-53 licensing period, it does not abate but remains fully effective against the renewal license for the fiscal year 1953-54. State Regulations No. 16.

Accordingly, it is, on this 8th day of January, 1954,

ORDERED that Plenary Retail Consumption License C-6, issued for the 1953-54 licensing year by the Township Committee of the Township of

Readington to William Howard Engle, Route #28, 1 mile West White House Station, Readington Township; be and the same is hereby suspended for a period of ten (10) days, commencing at 2:00 a.m. January 18, 1954, and terminating at 2:00 a.m. January 28, 1954.

DOMINIC A. CAVICCHIA
Director.

7. STATE LICENSES - NEW APPLICATIONS FILED.

Murray M. Radler
786 Broad Street, Newark, N. J.
Application filed January 27, 1954 for transfer of Plenary Wholesale License W-44 from 11 Commerce Street, Newark, N. J.

Eastern Freight Ways, Inc.
Moonachie Avenue, Carlstadt, N. J.
Application filed February 1, 1954 for Transportation License.

George A. Conte and Theodore Weeks
Barnegat Light Yacht Basin at 18th Street, Barnegat Light, N. J.
"Dolphin II"
Application filed February 5, 1954 for Plenary Retail Transit License

DOMINIC A. CAVICCHIA
Director.

8. DISCIPLINARY PROCEEDINGS - SUSPENSION REIMPOSED AFTER STAY DENIED BY APPELLATE DIVISION.

In the Matter of Disciplinary Proceedings against)
SCARNE ENTERPRISES, INC.)
T/a MONTE CARLO)
Route #46 & Frederick Street)
(formerly Route #6))
Little Ferry, N. J.,)
Holder of Plenary Retail Consumption License C-5, issued by the Mayor and Council of the Borough of Little Ferry.)

ORDER

BY THE DIRECTOR:

On December 29, 1953, the defendant's license was suspended for a period of 90 days, effective January 5, 1954. On January 4, 1954, the defendant filed a notice of appeal with the Superior Court, Appellate Division, and obtained a temporary stay of the suspension. On January 11, 1954, the Court denied the appellant's application for a stay pending the outcome of the within appeal. The suspension may now, therefore, be reimposed.

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

ORDERED that the suspension of 90 days, heretofore imposed upon Plenary Retail Consumption License C-5, issued by the Mayor and Council of the Borough of Little Ferry to Scarne Enterprises, Inc., t/a Monte Carlo, Route #46 & Frederick Street (formerly Route #6), Little Ferry, be and the same is hereby reimposed, commencing at 3:00 a.m. January 18 1954, and terminating at 3:00 a.m. April 18, 1954.

Dominic A. Cavicchia
Dominic A. Cavicchia
Director.