

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

April 27, 1953

BULLETIN 966

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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 966

APRIL 27, 1953.

1. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS - LICENSED PREMISES NOW CLOSED - ORDER FIXING DATES OF SUSPENSION TO BE ENTERED WHEN LICENSEE RESUMES OPERATION.

In the Matter of Disciplinary Proceedings against

WILLIAM L. KING & ALICE W. KING
T/a BLACKSTONE HOTEL
234 East Cedar Ave. & 235 East Schellenger Ave.
Wildwood, N. J.,

CONCLUSIONS
AND ORDER

Holders of Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the City of Wildwood.

Anthony J. Cafiero, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to the following charge:

"On July 11, 12 and 13, 1952, 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 William P. ---, Patrick J. --- and Robert P. ---, U. S. Army, persons under the age of twenty-one (21) years and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing held herein the three minors named in the charge, who are 17, 19, and 18 years of age respectively, appeared and testified. Despite some discrepancies in the details, the testimony of all three minors was substantially to the same effect and the testimony of each, in general, corroborates the testimony of the others.

From their testimony it appears that, on the night of Friday, July 11, 1952, the three minors traveled from Philadelphia to Wildwood in an automobile which had been stolen by one of them, arriving sometime between 11:00 p.m. and midnight. Shortly after their arrival they entered defendants' licensed premises and proceeded to the bar of the Emerald Room (one of defendants' two public bars) where they ordered and were served at least three bottles of beer each. The minors were unable to identify the bartender or bartenders who served them but each testified that, as each round of drinks was ordered a bartender placed a bottle of beer on the bar before each of the minors, that payment was made by two of them (the youngest minor being without funds) and that each consumed the beer served to him. They further testified that they remained on the premises enjoying the entertainment (which they identified and which defendants did not deny) until after it ceased and that, thereafter, they left at approximately 2:15 a.m. to 2:30 a.m. on Saturday morning, July 12, 1952.

The 18-year-old minor testified that, while he remained at a hotel in Wildwood, the other two minors returned to Philadelphia because one of them had to work that day, but that they agreed to meet at defendants' licensed premises that same night (Saturday, July 12, 1952) at 11 o'clock.

The two minors who returned to Philadelphia testified that, upon their arrival in Wildwood Saturday night, July 12, 1952 (in another stolen car), they went to the Emerald Room on defendants' licensed premises between 11:00 p.m. and 12:00 midnight to look for their companion who had remained in Wildwood. They also testified that they had to purchase a dollar's worth of tickets (each) at the door before they could enter; that these tickets were purchased by the 19-year-old minor (the 17-year-old minor still being without funds); that they proceeded to the bar where they each consumed several bottles of beer served by a bartender whom they paid in tickets and that, not finding their companion, they left the premises for a short period and returned at approximately 12:30 a.m., Sunday morning, July 13, 1952, at which time they entered without buying any tickets and found their companion at the bar drinking beer. They further testified that they then remained together drinking beer and watching the entertainment, leaving between 2:15 a.m. and 2:30 a.m. after the show was over.

Their companion, who had remained in Wildwood, testified that he visited defendants' licensed premises around midnight of Saturday, July 12, 1952; that he entered alone, stopping at the door to purchase a dollar's worth of tickets; that he ordered beer from a bartender who placed a bottle of beer and a glass in front of him and, in payment therefor, the bartender tore the ticket in half and placed one half of it in the cash register; that he (the minor) consumed the beer; that, as he ordered his second bottle of beer, the other two minors, aforementioned, came in and that, thereafter, they drank beer together until they left at 2:30 a.m. Sunday, July 13, 1952 after the music had stopped.

All of the minors testified that, at no time on any of the occasions when they were upon defendants' licensed premises, were they questioned with respect to their ages or required to submit proof thereof. All of them testified that they thought the beer served was Pabst beer. While none of the minors could identify any of the bartenders who, they claim, served them on the occasions aforementioned, two of them recognized William L. King and several of the employees as persons they had seen at the licensed premises at some time.

An ABC agent testified that, on July 21, 1952, the three minors directed him and other officers to defendants' premises which the minors identified from the outside and inside as the place where they had bought and consumed beer on the occasions aforementioned. It was stipulated that the other agent's testimony would be the same.

On behalf of defendants a number of witnesses testified, including William L. King, one of the licensees who acts as manager; his daughter who helps supervise the licensed premises, two doormen, two bartenders who work in the Emerald Room and one who works at a service bar and one member of the local issuing authority.

In addition to denying categorically the charge, these witnesses denied having seen any of the three minors upon the licensed premises on any of the occasions aforementioned. Mr. King and the doorman testified that the doors are never unattended and that, in effect, the minors could not have entered unnoticed. It was denied that the licensees serve Pabst beer, the testimony being that, since June 21, 1952 they have stocked only Schlitz beer. It was admitted,

however, that both brands are sold in brown bottles which appear somewhat alike, except for their labels. Mr. King testified that large crowds of people are accommodated Friday and Saturday nights in the summer months and that there is a very large turnover. It was admitted that, on Saturday nights only, there is an admission charge and that tickets are sold as testified by the minors and that the patrons are, in the main, transients.

The issuing authority member testified that, in his opinion the licensees are law-abiding citizens of the community but admitted that he had not been upon the licensed premises on any of the occasions mentioned in the charge herein.

Defendants' attorney objected to the admission of testimony of the minors with reference to their respective ages. "A person is competent to testify as to his or her own age, irrespective of the consideration that the fact of age is one of the essentials necessary to be established in order to constitute the violation charged. State v. Huggins, 83 N.J.L. 43; State v. Girone, 91 N.J.L. 498; Re Slansky, Bulletin 569, Item 7." Re Graber, Bulletin 941, Item 6.

Defendants' attorney also argues that because (1) the minors stole automobiles and (2) one of them was discharged from the armed forces as "undesirable", their testimony is not worthy of belief, and contends that he was denied an opportunity to examine into the criminal records of all three minors. With respect to this last contention a careful reading of the stenographic record discloses that counsel questioned the two older minors fully on their previous criminal records and failed to ask the youngest minor any questions as to prior convictions.

With respect to counsel's contention that the testimony of the minors is not worthy of belief, I cannot agree. While their unlawful acts do nothing to enhance their general reputation and while the fact of conviction of crime may be introduced to affect their credibility, it does not necessarily follow that the mere conviction of crime requires the rejection of their testimony. I have carefully read the entire record and I believe the testimony of the minors. Indeed part of their testimony, especially with respect to the location and description of the licensed premises and the licensees' method of doing business, is actually corroborated by the evidence adduced on behalf of defendants. No reason appears why the three minors should have deliberately given false testimony. Nor is their failure to identify the specific person or persons who served them fatal in disciplinary proceedings. See Re LaCorte, Bulletin 469, Item 1; Re Cohen, Bulletin 495, Item 6; Re Dante, Bulletin 771, Item 9. I conclude that they were present on defendants' premises and that alcoholic beverages were sold and served to them and consumed by them at the times mentioned in the charge.

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

Defendants have no prior adjudicated record. The minimum penalty for sale of alcoholic beverages to three minors is fifteen days. Re Harbor Inn, Inc., Bulletin 949, Item 9; Re Camarda, Bulletin 946, Item 3; Re Pross, Bulletin 929, Item 5; Re Drenguba, Bulletin 874, Item 13. However, where one of the three minors is only 17 years of age the minimum penalty is twenty days. Re Primiceri, Bulletin 948, Item 5. Therefore I shall suspend defendants' license for twenty days.

Investigation discloses that defendants' business is conducted on a seasonal basis and that the premises are now closed. Thus, no effective penalty can be imposed at the present time. The effective

dates for the suspension will be fixed by further order which will be entered by me herein after the licensed premises shall have opened for business for the 1953 season. Cf. Re Solomon, Bulletin 586, Item 2; Re Stock, Bulletin 948, Item 12.

Accordingly, it is, on this 15th day of April, 1953,

ORDERED that Plenary Retail Consumption License C-5, issued by the Board of Commissioners of the City of Wildwood to William L. King & Alice W. King, t/a Blackstone Hotel, 234 East Cedar Ave. & 235 East Schellenger Ave., Wildwood, or any further license issued to said William L. King & Alice W. King, t/a Blackstone Hotel, or any license issued to any other person for the same premises, be and the same is hereby suspended for a period of twenty (20) days, the time to be fixed by subsequent order as aforesaid.

DOMINIC A. CAVICCHIA
Director.

2. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS.

In the Matter of Disciplinary Proceedings against)

HAROLD BINNS, MARGARET M. BINNS &)
SARAH J. BINNS)
T/a FAIRVIEW CAFE)
3613-15-17 Pacific Ave.)
Wildwood, N. J.,)

CONCLUSIONS
AND ORDER

-----)
Holders of Plenary Retail Consumption License C-23, issued by the Board of Commissioners of the City of Wildwood.)
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Anthony J. Cafiero, Esq., Attorney for Defendant-licensees.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendants pleaded not guilty to the following charge:

"On July 13, 1952, 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 William P. ---, Patrick J. --- and Robert P. ---, U. S. Army, persons under the age of twenty-one (21) years and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing held herein the three minors named in the charge, who are 17, 19, and 18 years of age respectively, appeared and testified. Despite some discrepancies in the details, the testimony of all three minors was substantially to the same effect and the testimony of each, in general, corroborates the testimony of the others.

From their testimony it appears that, after spending the previous night in Wildwood, they entered defendants' licensed premises some time between 1:00 p.m. and 2:00 p.m. on Sunday, July 13, 1952; that they all wore bathing suits; that there was no admission charge; that they stopped briefly at one of defendants' two bars where they ordered and were served a glass of beer (each); that the beer was served by a bartender; that each minor consumed his glass of beer; that thereafter they went to the other bar where they pooled their money and consumed another eight or nine glasses of beer (each), which beer was served by a bartender or bartenders from beer taps; that they also had sandwiches (ham and ham and cheese); and that they left defendants' licensed premises at 2:30 p.m. to go to another licensed premises nearby to see and hear a "jam session" which started at 3:00 p.m. They also testified that they watched television in one of defendants' bars; that there was no other entertainment except a juke box; and that, although there was a piano in one of the bars, it was not being played while they were there. All three minors testified that they were not questioned as to their ages by anyone at defendants' licensed premises.

Two of the minors testified that they had been in defendants' licensed premises on previous occasions. One of the minors testified that the beer served to them was Piel's draught beer while the others did not remember the brand name. However, all testified that they were served glasses of beer, not bottles of beer, and that they were charged 10¢ a glass. None of them was able to identify any of the bartenders who served them. One of the minors testified that the sandwiches were served by a bartender while another testified that a woman served them. Additionally, at first blush, the testimony of the minors might appear to be contradictory with respect to which of the two bars they first stopped at and which of the two bars they were at while consuming the eight or nine glasses of beer. However, a careful reading of the entire record discloses that the confusion, if any, arises from the fact that the two bars were variously referred to by counsel and the witnesses (on both sides) as the "old bar", "new bar", "straight bar" and "round bar" or "semi-oval bar". From all of the evidence, including two photographs introduced in evidence by defendants, it appears that the minors first drank one glass of beer (each) at the "new" or "round" bar where the piano is located and thereafter went to the "old" or "long straight" bar (which has rounded ends) where the television set is located. Most of their time was spent at the latter bar while they watched television (a baseball game) and consumed numerous glasses of beer.

An ABC agent testified that, on July 21, 1952, the minors directed him and other officers to defendants' licensed premises which they identified from the outside and from the inside as the place where they purchased and consumed beer on Sunday, July 13, 1952. He further testified that there are two bars at defendants' licensed premises (one a "straight" bar with curved ends and the other a "semi-oval" bar) and that the minors had pointed out the "straight" bar and had said that they "cruised in" the other bar "... to see what was going on". It was stipulated that the other agent's testimony would be the same.

Harold Binns, one of the licensees, in addition to categorically denying the charge, testified that he was at the licensed premises between 1:30 p.m. and 2:30 p.m. on the Sunday in question; that he both sat and walked around; that there were approximately 60 patrons upon the premises (including both bars); that the pianist usually starts to play at 2:00 p.m. on Sundays and that he believes that said pianist was punctual that day. He further testified that he had not seen the minors prior to the night they entered with the agents to identify the premises. He admitted that he sells Piel's beer (and other brands) and identified the two bars. The "new" bar has a rounded or curved portion, while the "old" bar apparently is straight.

Margaret Binns, another of the licensees, testified that she was at the licensed premises on the Sunday afternoon in question; that she made and served sandwiches that day (including ham sandwiches); that she did not remember seeing the minors, but admitted that "all my Sundays are the same".

One of the bartenders testified that he worked at the "old" or "straight" bar on Sunday, July 13, 1952 from 9:00 a.m. to 12:00 noon and at the "new" bar from 12:00 noon to 5:00 p.m. with one other bartender; that the two bars are in different rooms but are connected by a door and that he did not see or serve the minors that day.

The other bartender testified that he worked at the "old" bar both morning and afternoon on the Sunday in question; that he alone tended bar at the "old" bar in the afternoon; that he did not see the minors at that bar; and that he did not "think" he served them. He further testified that the pianist was playing the piano in the "new" bar between 1:30 p.m. and 2:30 p.m. on that day; that the television set is in the "old" bar; and that bathers are welcome in the licensed premises.

The pianist testified that he played the piano in the "new" bar from 2:00 p.m. on the Sunday in question but admitted that all Sundays "... are pretty much alike". He further testified that, although the two bars are separated by a wall extending from floor to ceiling, there is a small opening and a doorway between them and two loud speakers make his music audible in both rooms.

The doorman testified that he circulated around the interior of defendants' licensed premises between 1:30 p.m. and 2:30 p.m. on the Sunday in question; that there were 20 patrons in the old bar and from 20 to 25 in the new bar but that he did not see the three minors.

A member of the local issuing authority testified that the licensees are law-abiding citizens of the community and bear a good reputation but admitted that he had not been upon the licensed premises on any of the occasions mentioned in the charge herein.

Defendants' attorney objected to the admission of testimony of the minors with reference to their respective ages. "A person is competent to testify as to his or her own age, irrespective of the consideration that the fact of age is one of the essentials necessary to be established in order to constitute the violation charged. State v. Huggins, 83 N.J.L. 43; State v. Girone, 91 N.J.L. 498; Re Slansky, Bulletin 569, Item 7." Re Graber, Bulletin 941, Item 6.

Defendants' attorney also argues that because (1) the minors stole automobiles and (2) one of them was discharged from the armed forces as "undesirable", their testimony is not worthy of belief and contends that he was denied an opportunity to examine into the criminal records of all three minors. With respect to this last contention a careful reading of the stenographic record discloses that, in another case (Re King, Bulletin 966, Item 1) involving the same minors and heard earlier on the same day as the instant case and decided simultaneously herewith, counsel questioned the two older minors fully on their previous criminal records and failed to ask the youngest minor any questions as to prior convictions. In the instant case none of the minors was questioned on this subject.

With respect to counsel's contention that the testimony of the minors is not worthy of belief, I cannot agree. While their unlawful acts do nothing to enhance their general reputation and while the fact of conviction of crime may be introduced to affect their

credibility, it does not necessarily follow that the mere conviction of crime requires the rejection of their testimony. I have carefully read the entire record and I believe the testimony of the minors. That part of their testimony which deals with the location and description of the licensed premises, the sale of draught beer, service of sandwiches and the licensees' general business practices, is actually corroborated by the testimony of some of defendants' witnesses. No reasons appear why the three minors should have deliberately given false testimony. Nor is their failure to identify the specific person or persons who served them fatal in disciplinary proceedings. See Re LaCorte, Bulletin 469, Item 1; Re Cohen, Bulletin 495, Item 6; Re Dante, Bulletin 771, Item 9. I conclude that they were present on defendants' premises and that alcoholic beverages were sold and served to them and consumed by them as related in their testimony.

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

Defendants have no prior adjudicated record. The minimum penalty for sale of alcoholic beverages to three minors is fifteen days. Re Harbor Inn, Inc., Bulletin 949, Item 9; Re Camarda, Bulletin 946, Item 3; Re Pross, Bulletin 929, Item 5; Re Drenguba, Bulletin 874, Item 13. However, where one of the three minors is only 17 years of age the minimum penalty is twenty days. Re Primiceri, Bulletin 948, Item 5. Therefore I shall suspend defendants' license for twenty days.

Accordingly, it is, on this 15th day of April, 1953,

ORDERED that Plenary Retail Consumption License C-23, issued by the Board of Commissioners of the City of Wildwood to Harold Binns, Margaret M. Binns & Sarah J. Binns, t/a Fairview Cafe, 3613-15-17 Pacific Avenue, Wildwood, be and the same is hereby suspended for a period of twenty (20) days, commencing at 2:00 a.m. April 22, 1953, and terminating at 2:00 a.m. May 12, 1953.

DOMINIC A. CAVICCHIA
Director.

3. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 20 DAYS - LICENSED PREMISES NOW CLOSED - ORDER FIXING DATES OF SUSPENSION TO BE ENTERED WHEN LICENSEE RESUMES OPERATION.

In the Matter of Disciplinary Proceedings against)

BENJAMIN MARTIN)
T/a THE RIPTIDE)
245-47-49 East Oak Ave.)
Wildwood, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-9, issued by the Board of Commissioners of the City of Wildwood.)

-----)
Anthony J. Cafiero, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On July 13, 1952, 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 William P. ---, Patrick J. --- and Robert P. ---, U. S. Army, persons under the age of twenty-one (21) years and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing held herein the three minors named in the charge, who are 17, 19, and 18 years of age respectively, appeared and testified. Despite some discrepancies in the details, the testimony of all three minors was substantially to the same effect and the testimony of each, in general, corroborates the testimony of the others.

From their testimony it appears that, on Sunday, July 13, 1952, the three minors entered defendant's licensed premises between 2:30 p.m. and 3:00 p.m. to see and hear the "jam session" which was scheduled to begin at 3:00 p.m.; that they all wore bathing suits; that they were not charged an admission fee; that the bar is oval with the stage in the center background; that they went to the end of the bar away from the door; that the premises were not yet crowded but later became so; that, at first, all three were at the bar where each ordered, was served and consumed a bottle of beer, for which the 19-year-old minor paid the bartender 60¢ or 80¢ per bottle, but that, thereafter, said minor remained at the bar while his two companions took seats in a booth nearby. They further testified that, thereafter, each was served and consumed two or three more bottles of beer; that the bartender served the 19-year-old minor, who consumed his beer at the bar, while the 17-year-old minor ordered and received from the bartender two bottles of beer (each round) which the said minor transported to the booth located several feet away, where he and the 18-year-old minor consumed it. They also testified that one group of entertainers was known as the "Treniers"; that they stayed on the licensed premises drinking bottles of beer (3 or 4 each); that, some time between 4:30 p.m. and 5:30 p.m., the 17-year-old minor was ejected from the premises; that the only thing to which they could attribute his ejection was the fact that he ignored the

bartender's request that he order more beer and that they all departed from the premises together. The 19-year-old minor testified that he "got loaded" and "blacked out" and does not remember the events of the latter part of the afternoon or evening.

None of the minors identified any of the bartenders who served him but one of the minors testified that he could identify the bartender who served him and that, earlier on the day of the hearing he had seen that man in the courtroom but that "He isn't here now". He further testified that the bartender had worn a T shirt (a short-sleeved pull-over shirt without buttons). He did not remember whether or not the T shirt had any distinguishing markings. The licensee admitted that he had another bartender in addition to those who were then present in the courtroom; that said bartender had been in court the morning of the hearing but had been excused by defendant. He testified, however, that said bartender had not been employed regularly as such until after July 13, 1952 but admitted that he had been employed on a part-time basis from time to time since the end of May and including the month of July 1952. Other witnesses for defendant testified that all of the bartenders wear T shirts bearing on the front the legend "Ben Martin's Club Riptide, Wildwood, New Jersey" and that each has something different on the back, except for one which is blank.

With respect to whether or not any of them was questioned as to age, the youngest minor testified that he was not questioned and that he did not hear either of his companions questioned. The 18-year-old minor testified that he was not questioned at the door as he entered but was questioned by a policeman in the men's room where he went when he first entered defendant's licensed premises and that he showed a stolen draft registration card which he had concealed in his sock. The 19-year-old minor testified that his 18-year-old companion was questioned as to his age. Specifically he testified that "I think it was the cop on the door" (italics added) who asked the question; that he "believed" that his companion had a card in a wallet concealed in his bathing trunks.

Defendant's attorney stressed the foregoing testimony concerning the draft registration card as a "glaring discrepancy" but a careful examination of all of the testimony discloses that, when the minors first entered, the 18-year-old minor went to the men's room while the others went to the bar where they ordered beer and that when the 18-year-old minor joined them at the bar they had a beer waiting for him. Thus it appears that when he was questioned by the officer who had been "on the door" but who had left the door and gone to the men's room where he questioned the 18-year-old minor, said minor was alone. The testimony of the 19-year-old minor on this subject is replete with "I think" and "I believe" and the only reasonable and probable inference to be drawn from all of the applicable evidence is that he did not witness the interrogation but later learned of the incident from his companion.

An ABC agent testified that, on July 21, 1952, the three minors directed him and other officers to defendant's licensed premises which the minors identified from the outside and inside as the place where they had bought and consumed beer on the afternoon of Sunday, July 13, 1952. It was stipulated that the other agent's testimony would be the same.

On behalf of defendant a number of witnesses testified, including the licensee, seven bartenders, two special officers and one member of the local issuing authority.

In addition to categorically denying the charge the licensee testified that his licensed premises can accommodate 400 people or

more; that he has a large turnover; that, on Saturday and Sunday afternoons, there are "jam sessions" in his barroom and that, on such occasions, his employees all wear T shirts. He further testified that he serves Ballantine beer at 60¢ a bottle. On cross-examination he admitted that "it is possible" that some of his bartenders may have served the minors on the day in question. All of the bartenders, each of whom worked at a different portion of the bar on the Sunday in question, denied seeing the boys on the licensed premises or serving them beer on that day. The bartender who worked in that portion of the bar where the minors claim to have been drinking on the Sunday in question testified that he wore a T shirt with the aforementioned inscription on the front but that there was nothing on the back of his shirt. He further testified that he served between 40 and 60 different people on that afternoon and he could not tell by name any of the persons whom he served that afternoon.

One of the special officers and one of the bartenders testified that, on the Sunday afternoon in question, they saw the three minors who were then endeavoring to enter the licensed premises; that when they failed to show proof of age they were told to "hit the road", which they promptly did, and that the reason they remember the incident so well is that the 19-year-old minor wore the same blue trousers which he was wearing on the day of the hearing with the same rip in the right trouser pocket. The special policeman further testified that he thought the youngest minor wore "shabby pants" but that he does not know how the third minor was dressed. He also testified that he stopped 25 or 30 people that day, some dressed in street clothes and some wearing bathing suits.

The issuing authority member testified that, in his opinion the licensee is a law-abiding citizen of the community and bears a good reputation but admitted that he had not been upon the licensed premises on any occasions mentioned in the charge herein.

The three minors testified in rebuttal that they all wore bathing suits when they were in defendant's licensed premises on Sunday afternoon, July 13, 1952 and all denied that they had been stopped or questioned by anyone at the door of the licensed premises. The 19-year-old minor testified that the special policeman had stopped him a week earlier (Sunday, July 6, 1952) at which time he was alone and was wearing the same trousers as he was wearing on the day of the hearing. He further testified that, on July 6, 1952, he was dressed similar to the manner in which he was dressed on the day of the hearing.

Defendant's attorney objected to the admission of testimony of the minors with reference to their respective ages. "A person is competent to testify as to his or her own age, irrespective of the consideration that the fact of age is one of the essentials necessary to be established in order to constitute the violation charged. State v. Huggins, 83 N.J.L. 43; State v. Girone, 91 N.J.L. 498; Re Slansky, Bulletin 569, Item 7." Re Graber, Bulletin 941, Item 6.

Defendant's attorney also argues that because (1) the minors stole automobiles and (2) one of them was discharged from the armed forces as "undesirable", their testimony is not worthy of belief and contends that he was denied an opportunity to examine into the criminal records of all three minors. With respect to this last contention a careful reading of the stenographic record discloses that, in another case (Re King, Bulletin 966, Item 1) involving the same minors and heard earlier the same day as the instant case and decided simultaneously herewith, counsel questioned the two older minors fully on their previous criminal records and failed to ask the youngest minor any questions as to prior convictions. In the instant case none of the minors was questioned on this subject.

Defendant's attorney has adverted to certain testimony of the minors which he asserts is either "utterly ridiculous" or contradictory. For example, he contends that their claim that they were ejected because they were not buying fast enough is ridiculous because the bartenders had all they could do to serve their customers "without being concerned whether other patrons were making purchases in sufficient frequency". However, the bartender who was working at that portion of the bar where the minors claimed to have been drinking testified that between 2:30 p.m. and 4:30 p.m. on the Sunday in question he served no more than 40 people at one time and approximately only 60 different people in the entire two-hour period. Under those circumstances it would be entirely possible for a bartender to notice whether or not a customer were buying little or much beer.

Defendant's attorney makes much of the fact that the 19-year-old minor who testified that he had recognized as the person who served him a man who had been in the courtroom earlier on the day of the hearing but who was not present while he was testifying later in the day and that said minor failed to identify either of the special officers or any other person who was present on the licensed premises on the Sunday in question. He contended that this fact was significant in view of the fact that said minor, on rebuttal, testified that one of the doormen had stopped him on the previous Sunday (July 6, 1952). It is true that, on cross-examination, after testifying that he had seen in the courtroom the person who had served him he was asked "Q. Was there anybody else that you can identify that was present on the premises that afternoon?" to which he replied "No". Counsel contends that the special policeman, the licensee and others were asked to stand up, but a careful examination of the stenographic record of the hearing discloses that none of them was asked to rise while this witness was in the courtroom. On the contrary the witness was requested to look around the courtroom (where there were then between 15 and 20 people) for the purpose of endeavoring to identify the person whom he claims he recognized as the bartender who served him on the afternoon in question, as aforementioned. I do not view his failure to recognize the special officer at that time as seriously impairing his credibility. Nor do I so consider the fact that the same witness, while testifying that the bartenders wore T shirts, failed to recall the distinctive markings on those shirts, particularly in view of the fact that the back of the shirt of the bartender who was stationed at the place where the minors claimed to have been drinking on the afternoon in question was admitted to have been blank.

The most serious apparent discrepancy in the testimony of the minors is the difference in the testimony of the 19-year-old minor and the 18-year-old minor with respect to the latter being questioned as to his age. This matter has been hereinabove dealt with at length and I am convinced that the difference in their testimony is accounted for by the fact that the minor who was questioned knew the facts firsthand while his companion only knew what he had been told.

With respect to counsel's contention that the testimony of the minors is not worthy of belief, I cannot agree. While their unlawful acts do nothing to enhance their general reputation and while the fact of conviction of crime may be introduced to affect their credibility, it does not necessarily follow that the mere conviction of crime requires the rejection of their testimony.

I have carefully read the entire record and despite the matters hereinabove mentioned I am convinced that, in the main, the testimony

of the minors describes with reasonable accuracy the events which occurred at defendant's licensed premises on the Sunday afternoon in question. The part of their testimony which deals with the location and description of defendant's licensed premises, the entertainment provided and the defendant's method of doing business is actually corroborated by the evidence adduced on behalf of defendants. No reason appears why the three minors should have deliberately given false testimony. Nor is their failure to identify the specific person or persons who served them fatal in disciplinary proceedings. See Re LaCorte, Bulletin 469, Item 1; Re Cohen, Bulletin 495, Item 6; Re Dante, Bulletin 771, Item 9. Furthermore I cannot ignore the fact that one of defendant's employees who was recognized by one of the minors before the hearing began was dismissed by defendant and was not present at the hearing. I conclude that the minors were present on defendant's premises and that alcoholic beverages were sold and served to them and consumed by them as related in their testimony.

From all of the evidence I find defendant guilty as charged.

Defendant has no prior adjudicated record. The minimum penalty for sale of alcoholic beverages to three minors is fifteen days. Re Harbor Inn, Inc., Bulletin 949, Item 9; Re Camarda, Bulletin 946, Item 3; Re Pross, Bulletin 929, Item 5; Re Drenguba, Bulletin 874, Item 13. However, where one of the three minors is only 17 years of age the minimum penalty is twenty days. Re Primiceri, Bulletin 948, Item 5. Therefore, I shall suspend defendant's license for twenty days.

Investigation discloses that defendant's business is conducted on a seasonal basis and that the premises are now closed. Thus, no effective penalty can be imposed at the present time. The effective dates for the suspension will be fixed by further order which will be entered by me herein after the licensed premises shall have opened for business for the 1953 season. Cf. Re Solomon, Bulletin 586, Item 2; Re Stock, Bulletin 948, Item 12.

Accordingly, it is, on this 15th day of April, 1953,

ORDERED that Plenary Retail Consumption License C-9, issued by the Board of Commissioners of the City of Wildwood to Benjamin Martin, t/a The Riptide, 245-47-49 East Oak Avenue, Wildwood, or any further license issued to said Benjamin Martin, t/a The Riptide, or any license issued to any other person for the same premises, be and the same is hereby suspended for a period of twenty (20) days, the time to be fixed by subsequent order as aforesaid.

DOMINIC A. CAVICCHIA
Director.

4. DISCIPLINARY PROCEEDINGS - SALE TO MINORS - LICENSE SUSPENDED FOR 15 DAYS - LICENSED PREMISES NOW CLOSED - ORDER FIXING DATES OF SUSPENSION TO BE ENTERED WHEN LICENSEE RESUMES OPERATION.

In the Matter of Disciplinary Proceedings against)

HARRY W. ROESCH)
T/a THE BEACHCOMBER)
218 East Schellenger Ave.)
Wildwood, N. J.,)

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-34, issued by the Board of Commissioners of the City of Wildwood.)

-----)
Anthony J. Cafiero, Esq., Attorney for Defendant-licensee.
Edward F. Ambrose, Esq., appearing for Division of Alcoholic Beverage Control.

BY THE DIRECTOR:

Defendant pleaded not guilty to the following charge:

"On July 12, 1952, 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 William P. --- and Patrick J. ---, persons under the age of twenty-one (21) years and allowed, permitted and suffered the consumption of alcoholic beverages by such persons upon your licensed premises; in violation of Rule 1 of State Regulations No. 20."

At the hearing held herein the two minors named in the charge, who are 17 and 19 years of age, respectively, appeared and testified. Despite some discrepancies in the details, both testified substantially to the same effect.

From their testimony it appears that, some time between 11:45 p.m. and midnight on Saturday, July 12, 1952, both minors entered defendant's licensed premises by way of the Schellenger Avenue entrance; that they saw a policeman at the door; that, as they entered, they were stopped by a man who told them that they would have to pay an admission fee of 75¢ each; that the 19-year-old minor paid for both; that they found two seats at the bar where the 19-year-old minor ordered "two beers" from a bartender who placed a bottle of beer and a glass before each of them; that the same minor paid for both bottles of beer and that they each consumed the contents of their respective bottles. They further testified that they heard Don Cornell and Sarah Vaughn, two well-known entertainers during the time that they were in defendant's licensed premises and that, failing to find a friend for whom they were looking, they left the premises at approximately 12:30 a.m. Sunday, July 13, 1952, without having any further drinks. One of the minors said that he thought the beer was Pabst beer but the other minor did not remember what brand of beer he drank.

An ABC agent testified that, on July 21, 1952, both minors directed him and other officers to defendant's licensed premises which the minors identified from the outside and inside as the place where they had bought and consumed beer on the night of July 12 and early morning of July 13, 1952. The agent also testified that they

were stopped at the door by a man taking admission fees and that defendant has two bars. It was stipulated that the other agents' testimony would be the same.

Numerous witnesses testified for the defendant including the licensee, his manager, his cashier, two special policemen, eight bartenders, the man who schedules the entertainment, a patron, a neighbor and one of the members of the local issuing authority. All of the bartenders denied ever having served the minors at defendant's licensed premises. Defendant categorically denied the charge but testified that he had seen both minors together on the night in question. His testimony may be summarized as follows: On that night he had two doormen outside and two men inside (the two inside men presumably being the cashier and the man who assists him); that it was a busy night; that he can accommodate 500 people at a time, with a nightly turnover of 1800; that he has three complete shows a night (beginning at 9:00 p.m.) each of which runs for a half hour; that he left his licensed premises at 1:40 a.m., Sunday, July 13, 1952 to catch a bus to go home; that, while waiting for a bus at Pacific Avenue he saw the two minors walking north on Pacific Avenue; that they were "staggering" and were "boisterous"; that he heard one of them say "Let's make the Beachcomber"; that he (the licensee) followed them to his licensed premises and shouted to his doorman, who was checking cards of two other young men, "Don't let them damn drunks in there"; that the other doorman, who had been across the street for coffee, heard him and dashed across to the licensed premises and pulled the 19-year-old minor out of the licensed premises, he having proceeded as far as the cashier near the door. The licensee was positive in his identification of the minors, particularly the 19-year-old who he claims was troublesome and described him as wearing trousers and a solid white or blue sport shirt, open at the neck, adding "... He looked the same as he does now, hair all over his face and everything else". (The said minor was then seated in the courtroom with fairly long hair somewhat disheveled.) The licensee described the younger minor as wearing trousers and a khaki shirt.

The licensee further testified that he usually leaves his licensed premises on Saturday nights at the peak of the business sometime between 11:30 p.m. and 1:40 a.m. Sunday. He further testified that he was not at the licensed premises on July 21, 1952 when the minors identified the premises but talked with his manager that same night and that he also talked with one of the policemen that night concerning the incident involving the two young men. On cross-examination defendant was asked when it was that he concluded that the two minors who were involved in the alleged incident, and whom he claimed he had not seen between the alleged incident and the day of the hearing, were the same minors who identified his licensed premises to the ABC agents. In answer defendant gave conflicting answers. At first he testified "It was shortly after. I think it was the same evening that the ABC had the two boys there..." He was then asked "Q. How then did you come to the conclusion that the two young men who had been brought to the place for identification were the same two men that you had seen stagger into the place some two or three weeks ago?" He answered "A. Sir, I didn't form any conclusion until today". He later testified as follows:

"Q. On that particular night when the ABC men were there, that was the night you came to the conclusion that these two men were the two men that you saw staggering into your place?

"A. Yes.

* * * * *

"Q. You came to that conclusion that night even though you had not seen them that night for identification?

"A. Not positive."

From the testimony of defendant and the two doormen the troublesome young man was dragged out of defendant's premises almost instantaneously upon gaining entry to the lobby or vestibule. The cashier, however, testified that the two young men entered single file; that he asked the 19-year-old minor for 75¢; that the minor said "What for" and then "... stood there and nothing happened until the policeman came in the door and grabbed him and went out". The employee who schedules the entertainment and assists the cashier testified that there was a "rumpus" over the 75¢ admission charge. All of this would seem to indicate the lapse of some time and appears inconsistent with the theory that defendant followed the two young men to his licensed premises for the express purpose of preventing them from entering the premises and even shouted a warning to his doorman to keep them out.

None of defendant's witnesses, including the patron who testified that he remembered such an incident, and offered to help the policeman and the neighbor who maintains a sandwich shop nearby and who also testified that she remembered such an incident, were able adequately to explain how they fixed the time and date of the incident.

Defendant's manager denied ever seeing the minors before the night they entered with the ABC agents to identify the premises. In addition he testified that defendant sells only Schlitz beer.

On rebuttal the minors testified that, before they entered defendant's licensed premises before midnight, Saturday, July 12, 1952, they had been in a licensed premises almost directly across the street (Schellenger Avenue) from defendant's premises; that they had merely walked across the street; that they had not gone to Pacific Avenue; that they had no trouble with anyone at defendant's premises; that the older minor whom defendant's witnesses identified as the troublesome one was dressed in trousers and dark blue shirt open at the neck with his hair "slicked down" with hair oil and that the younger minor was dressed in a brown suit (matching coat and trousers). Both denied that they were intoxicated or noisy. The 19-year-old minor whose hair was somewhat long and disheveled at the hearing testified that he usually wears his hair shorter and that he had not had a haircut between the time of his arrest (July 14, 1952) and the day of the hearing (August 12, 1952). Moreover he testified on cross-examination that "I am certain I was never chased from the Beachcomber".

The issuing authority member testified that, in his opinion the licensee is law-abiding and bears a very good reputation in the community but admitted that he had not been upon the licensed premises at the time mentioned in the charge herein.

Defendant's attorney objected to the admission of testimony of the minors with reference to their respective ages. "A person is competent to testify as to his or her own age, irrespective of the consideration that the fact of age is one of the essentials necessary to be established in order to constitute the violation charged. State v. Huggins, 83 N. J. L. 43; State v. Girone, 91 N. J. L. 498; Re Slansky, Bulletin 569, Item 7." Re Graber, Bulletin 941, Item 6.

Defendant's attorney also argues that because (1) the minors stole automobiles and (2) one of them was discharged from the armed forces as "undesirable", their testimony is not worthy of belief and contends that he was denied an opportunity to examine into the criminal records of all three minors. With respect to this last

contention a careful reading of the stenographic record discloses that, in another case (Re King, Bulletin 966, Item 1) involving the same minors and heard earlier on the same day as the instant case and decided simultaneously herewith, counsel questioned the two older minors fully on their previous criminal records and failed to ask the youngest minor any questions as to prior convictions. In the instant case none of the minors was questioned on this subject.

With respect to counsel's contention that the testimony of the minors is not worthy of belief, I cannot agree. While their unlawful acts do nothing to enhance their general reputation and while the fact of conviction of crime may be introduced to affect their credibility, it does not necessarily follow that the mere conviction of crime requires the rejection of their testimony.

Defendant's attorney contends that the minors could not have seen both feature entertainers because the entire show would take approximately an hour and a half. According to defendant's own witnesses the complete show takes only a half hour and is presented three times a night.

Defendant's attorney further contends that the minors' accusation "was probably made in an attempt to retaliate against the licensee because admission was refused". This is not supported by the record. On the contrary, after carefully considering all of the testimony I am convinced that the facts related by the minors are true. The part of the minors' testimony which deals with the location and description of defendant's licensed premises, his method of doing business and the entertainment provided at his licensed premises on the night in question is actually corroborated by defendant's witnesses. No reason appears why the three minors should have deliberately given false testimony. Nor is their failure to identify the specific person or persons who served them fatal in disciplinary proceedings. See Re LaCorte, Bulletin 469, Item 1; Re Cohen, Bulletin 495, Item 6; Re Dante, Bulletin 771, Item 9. I conclude that they were present on defendant's premises and that alcoholic beverages were sold and served to them and consumed by them as related in their testimony.

I am equally convinced that, if an incident such as was described by the defendant and his witnesses actually occurred, it involved persons other than the two minors named in the charge and that this is a case of mistaken identity.

From all of the evidence I find defendant guilty as charged.

Defendant has no prior adjudicated record. In view of the fact that one of the minors is only 17 years of age, I shall suspend defendant's license for fifteen days. Re Heslin & Scott, Bulletin 947, Item 5; Re Cedar Bar of Bergen County, Inc., Bulletin 942, Item 5; Re Jacek, Bulletin 933, Item 5; Re Rosenthal & Geller, Bulletin 843, Item 4.

Investigation discloses that defendant's business is conducted on a seasonal basis and that the premises are now closed. Thus, no effective penalty can be imposed at the present time. The effective dates for the suspension will be fixed by further order which will be entered by me herein after the licensed premises shall have opened for business for the 1953 season. Cf. Re Solomon, Bulletin 586, Item 2; Re Stock, Bulletin 948, Item 12.

Accordingly, it is, on this 15th day of April, 1953,

ORDERED that Plenary Retail Consumption License C-34, issued by the Board of Commissioners of the City of Wildwood to Harry W. Roesch, t/a The Beachcomber, 218 East Schellenger Avenue, Wildwood, or any further license issued to said Harry W. Roesch, t/a The Beachcomber, or any license issued to any other person for the same premises, be and the same is hereby suspended for a period of fifteen (15) days, the time to be fixed by subsequent order as aforesaid.

DOMINIC A. CAVICCHIA
Director

5. DISCIPLINARY PROCEEDINGS - SOLICITOR CONVICTED OF CRIME INVOLVING MORAL TURPITUDE (EXTORTION) - PERMIT REVOKED.

In the Matter of Disciplinary Proceedings against

U. HARRY PERLMUTTER
10 Lehigh Avenue
Newark 8, N. J.,

CONCLUSIONS
AND ORDER

Holder of Solicitor's Permit No. 287, issued by the Director of the Division of Alcoholic Beverage Control.

George R. Sommer, 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 a charge alleging that after the time he made application for his current solicitor's permit he was convicted of a crime involving moral turpitude, which conviction, had it occurred prior to the making of the application for said permit, would have prevented the issuance thereof as contrary to R.S. 33:1-25.

The file herein discloses that on February 25, 1953, defendant was convicted of the crime of extortion (N.J.S. 2A:105-1), and as a result thereof was sentenced by a Judge of the Essex County Court, Law Division, to State Prison, for a minimum term of two years and for a maximum term of three years, and to pay a fine of \$1,000.00. The crime of extortion, in the opinion of the Director, is a crime which involves the element of moral turpitude. Re Bulletin 2, Item 8.

By virtue of the aforesaid conviction, defendant became ineligible to hold a liquor license or permit under the Alcoholic Beverage Law, R.S. 33:1-25,26.

Under the circumstances, the solicitor's permit issued to and presently held by defendant, but now in the possession of this Division, will be revoked.

Accordingly, it is, on this 30th day of March, 1953,

ORDERED that Solicitor's Permit No. 287, issued by the Director of the Division of Alcoholic Beverage Control to U. Harry Perlmutter, 10 Lehigh Avenue, Newark, be and the same is hereby revoked, effective immediately.

DOMINIC A. CAVICCHIA
Director

6. DISCIPLINARY PROCEEDINGS - UNLABELLED BEER TAP - LICENSE SUSPENDED FOR 3 DAYS, LESS 1 FOR PLEA.

In the Matter of Disciplinary Proceedings against SOPHIE V. PRONIEWSKI, T/A RUSTIC INN, 638-640 Brunswick Avenue, Trenton 8, New Jersey,

CONCLUSIONS AND ORDER

Holder of Plenary Retail Consumption License C-197, issued by the Board of Commissioners of the City of Trenton.

Sophie V. Proniewski, Defendant-licensee, Pro se. William F. Wood, Esq., Appearing for Division of Alcoholic Beverage Conttol.

BY THE DIRECTOR:

Defendant pleaded non vult to a charge alleging that she allowed an unlabelled beer tap on her licensed premises in violation of Rule 26 of State Regulations No. 20.

The file herein discloses that on March 11, 1953, during the course of a routine inspection of defendant's licensed premises, an ABC agent found a barrel of Krueger's beer connected to a tap which bore no name of the brand of beer to be dispensed therefrom.

Defendant has no prior adjudicated record. I shall suspend defendant's license for three days (the minimum suspension imposed for a violation of this character). One day will be remitted for the plea entered herein, leaving a net suspension of two days. Re Byer, Bulletin 956, Item 9.

Accordingly, it is, on this 2nd day of April, 1953,

ORDERED that plenary retail consumption license C-197, issued by the Board of Commissioners of the City of Trenton to Sophie V. Proniewski, t/a Rustic Inn, for premises 638-640 Brunswick Avenue, Trenton, be and the same is hereby suspended for two (2) days, commencing at 2 a.m. April 13, 1953 and terminating at 2 a.m. April 15, 1953.

Dominic A. ... Director